

**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*

14 November 2012

## **NOTICE OF MEETING**

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held in the **COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD** on **WEDNESDAY, 21 NOVEMBER 2012 at 11:00 AM**, or at the conclusion of the Planning, Protective Services and Licensing Committee at 10.20 am, whichever is the later, which you are requested to attend.

Douglas Hendry  
Executive Director - Customer Services

## **BUSINESS**

### **1. APOLOGIES FOR ABSENCE**

### **2. DECLARATIONS OF INTEREST (IF ANY)**

### **3. MINUTES**

- (a) Planning, Protective Services and Licensing Committee (25 September 2012 at 10.30 am, Reconvened 17 October 2012 at 10.40 am) (Pages 1 - 2)
- (b) Planning, Protective Services and Licensing Committee 17 October 2012 (10.00 am) (Pages 3 - 4)
- (c) Planning, Protective Services and Licensing Committee 17 October 2012 (10.20 am) (Pages 5 - 6)
- (d) Planning, Protective Services and Licensing Committee 17 October 2012 (11.00 am) (Pages 7 - 14)
- (e) Planning, Protective Services and Licensing Committee 17 October 2012 (1.50 pm) (Pages 15 - 16)

- (f) Planning, Protective Services and Licensing Committee 18 October 2012  
(Pages 17 - 40)
  - (g) Planning, Protective Services and Licensing Committee 31 October 2012  
(Pages 41 - 72)
  - (h) Planning, Protective Services and Licensing Committee 5 November 2012  
(Pages 73 - 90)
4. **FOOD SAFETY ENFORCEMENT IN ARGYLL AND BUTE - OUTCOME OF FOOD SAFETY AGENCY AUDIT**  
Report by Head of Planning and Regulatory Services (Pages 91 - 100)
  5. **MR AND MRS R CAMPBELL: ERECTION OF A DWELLINGHOUSE WITH ATTACHED MUNITMENTS ROOM, CONSTRUCTION OF A NEW PRIVATE VEHICULAR ACCESS AND THE INSTALLATION OF A SEPTIC TANK AND SOAKAWAY: LAND SOUTH WEST OF BARCALDINE CASTLE, BENDERLOCH, OBAN (REF: 11/02209/PP)**  
Report by Head of Planning and Regulatory Services (to follow)
  6. **MR AND MRS R AND G MCINTYRE: ERECTION OF 5 DWELLINGHOUSES: LAND SOUTH EAST OF MAMORE FARM, PEATON ROAD, RAHANE (REF: 12/01287/PPP)**  
Report by Head of Planning and Regulatory Services (Pages 101 - 116)
  7. **MR DONALD BERRY: ERECTION OF DWELLINGHOUSE: LAND TO NORTH WEST OF 4 RUAIG, ISLE OF TIREE (REF: 12/01517/PP)**  
Report by Head of Planning and Regulatory Services (Pages 117 - 130)
  8. **HELENSBURGH CRICKET & RUGBY CLUB: IMPROVEMENTS TO SPORTS GROUND COMPRISING NEW VEHICULAR AND PEDESTRIAN ACCESS POINTS, INTERNAL ROADWAYS, FORMATION OF VIEWING MOUND AND BRIDGE CONNECTION TO ADJACENT SCHOOL PITCHES: HELENSBURGH CRICKET & RUGBY CLUB, RHU ROAD HIGHER, HELENSBURGH (REF: 12/01533/PP)**  
Report by Head of Planning and Regulatory Services (Pages 131 - 138)
  9. **MRS ROSEMARY NOON: ERECTION OF DWELLINGHOUSE: GARDEN GROUND OF 9 STAFFORD STREET WEST, HELENSBURGH (REF: 12/01688/PP)**  
Report by Head of Planning and Regulatory Services (Pages 139 - 154)
  10. **JD WETHERSPOON PLC: CHANGE OF USE OF RETAIL UNIT (CLASS 1) TO PUBLIC HOUSE (SUI GENERIS) AND EXISTING EXTERNAL AREA TO PAVEMENT CAFE, INSTALLATION OF NEW SHOP FRONT DOORS AND SLIDING FOLDING DOORS TO NORTH ELEVATION, MECHANICAL EXTRACT FOR KITCHEN AND FIREPLACE AND INSTALLATION OF AIR CONDITION CONDENSERS TO REAR YARD: CAITHNESS GLASS, RAILWAY PIER, OBAN (REF: 12/01833/PP)**  
Report by Head of Planning and Regulatory Services (Pages 155 - 172)

11. **MR PAUL MCFATRIDGE: ERECTION OF 4 SEMI-DETACHED DWELLINGHOUSES: LAND EAST OF LYNWOOD, NORTH CONNEL, OBAN (REF: 12/01908/PP)**  
Report by Head of Planning and Regulatory Services (Pages 173 - 188)
12. **ARGYLL COLLEGE UHI LTD: ERECTION OF EXTENSION: ARGYLL COLLEGE, ISLAY HIGH SCHOOL, FLORA STREET, BOWMORE, ISLE OF ISLAY (REF: 12/01984/PP)**  
Report by Head of Planning and Regulatory Services (Pages 189 - 196)
13. **COLINTRAIVE HOTEL: PAINTED ADVERTISEMENT ON SEA WALL: SEA WALL WEST OF A886 GENERALLY SOUTH WEST OF CUL MHOR (REF: 12/02153/ADV)**  
Report by Head of Planning and Regulatory Services (Pages 197 - 206)
14. **WINTER FESTIVAL STEERING GROUP: TEMPORARY CHANGE OF USE FOR FORMATION OF OPEN AIR MARKET INCLUDING THE ERECTION OF STALLS, FAIRGROUND RIDE, BOUNCY CASTLE AND MARQUEES: COLQUHOUN SQUARE, HELENSBURGH (REF: 12/02203/PP)**  
Report by Head of Planning and Regulatory Services (Pages 207 - 214)
15. **ARGYLL AND BUTE COUNCIL: UPGRADING OF SYNTHETIC GRASS SPORTS PITCH INCORPORATING A LARGER PITCH, NEW BALLSTOP FENCING AND FLOODLIGHTING: TIREE HIGH SCHOOL, CORNAIGMORE, ISLE OF TIREE (REF: 12/02228/PP)**  
Report by Head of Planning and Regulatory Services (Pages 215 - 222)
16. **UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING DECISIONS**  
Report by Head of Planning and Regulatory Services (Pages 223 - 224)
- E1 17. **ENFORCEMENT REPORT: 10/00319/ENAMEN**  
Report by Head of Planning and Regulatory Services (Pages 225 - 228)

The Committee will be asked to pass a resolution in terms of Section 50(A)(4) of the Local Government (Scotland) Act 1973 to exclude the public for items of business with an "E" on the grounds that it is likely to involve the disclosure of exempt information as defined in the appropriate paragraph of Part 1 of Schedule 7a to the Local Government (Scotland) Act 1973.

The appropriate paragraph is:-

- E1            **Paragraph 13** Information which, if disclosed to the public, would reveal that the authority proposes-
- (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (b) to make an order or direction under any enactment.

## **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE**

Councillor Gordon Blair

Councillor Robin Currie

Councillor George Freeman

Councillor David Kinniburgh

Councillor Robert Graham MacIntyre

Councillor Alex McNaughton

Councillor Sandy Taylor

Councillor Rory Colville

Councillor Mary-Jean Devon

Councillor Fred Hall

Councillor Alistair MacDougall

Councillor Donald MacMillan

Councillor James McQueen

Councillor Richard Trail

Contact: Fiona McCallum

Tel. No. 01546 604392

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE  
held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD  
on TUESDAY, 25 SEPTEMBER 2012**

**Present:** Councillor Sandy Taylor (Chair)

Councillor Robin Currie	Councillor Donald MacMillan
Councillor Mary-Jean Devon	Councillor Alex McNaughton
Councillor George Freeman	Councillor James McQueen
Councillor Robert G MacIntyre	

**Attending:** Charles Reppke, Head of Governance and Law  
Sheila MacFadyen, Senior Solicitor  
Inspector Tom Harper, Strathclyde Police

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Gordon Blair, Rory Colville, Fred Hall and David Kinniburgh.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF TAXI DRIVER'S LICENCE (C BERRY, CRAOBH HAVEN)**

The Chair advised that the applicant was not present and efforts by staff to contact him that morning had been unsuccessful. He advised Licensing Staff were unsure if the applicant had received notification of the Hearing and that information from Royal Mail's tracking service to confirm delivery of the notification had been unavailable. In that respect he advised that advice given was to defer the hearing to a future date.

The Chair ruled, and the Committee agreed, to adjourn this hearing and reconvene on Wednesday 17 October 2012 in Kilmory, Lochgilphead.

The Committee reconvened on Wednesday 17 October 2012 at 10.40am in the Council Chamber, Kilmory, Lochgilphead.

Present – Councillor Sandy Taylor (Chair)  
Councillor Gordon Blair  
Councillor Rory Colville  
Councillor Robin Currie  
Councillor Mary Jean Devon (Vice Chair)  
Councillor David Kinniburgh  
Councillor Alistair MacDougall  
Councillor Robert G MacIntyre  
Councillor Donnie MacMillan  
Councillor Alex McNaughton

Councillor James McQueen  
Councillor Richard Trail

Attending – Iain Jackson, Governance Officer  
Sheila MacFadyen, Senior Solicitor  
Mr Berry, Applicant

The Chair advised that a technical issue had arisen regarding the application and invited Sheila MacFadyen to speak.

Mrs MacFadyen advised that, in terms of Section 13 of the Civic Government (Scotland) Act 1982, Mr Berry's application could not be considered as he had not held a valid driving licence for the immediate 12 month period prior to the date of his application. She advised that after 2 December 2012 Mr Berry could re-apply and suggested that the application fee be waived for this.

### **Decision**

1. Noted that the application could be progressed no further.
2. Agreed that the fee be waived should Mr Berry apply for a licence after 2 December 2012.

(Reference: Report by Head of Governance and Law dated September 2012, submitted)

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE  
held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD  
on WEDNESDAY, 17 OCTOBER 2012**

**Present:** Councillor Sandy Taylor (Chair)

Councillor Rory Colville  
Councillor Robin Currie  
Councillor David Kinniburgh  
Councillor Donald MacMillan

Councillor Alex McNaughton  
Councillor James McQueen  
Councillor Richard Trail

**Attending:** Iain Jackson, Governance Officer  
Graeme Forrester, Solicitor  
Mr McAllister, Applicant

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were intimated from Councillors Mary-Jean Devon and Fred Hall.

**2. DECLARATIONS OF INTEREST**

None declared.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR ITINERANT METAL DEALER'S LICENCE (M. MCALLISTER, CAMPBELTOWN)**

The Chair welcomed everyone to the meeting and introductions were made. Thereafter the Chair outlined the procedure that would be followed.

Councillor Currie queried why this Application was before Members as there had been no objections made to it. Councillor Taylor advised that Applications which highlight previous criminal convictions come before the Committee for consideration regardless of whether or not objections have been made.

The Chair invited the Applicant to speak in support of his Application.

**Applicant**

Mr McAllister advised that he was applying for a Metal Dealer's licence so that he could work in his family run business which has been operating for generations. He advised that he had mistakenly thought he already had a licence as he had been granted a SEPA licence for scrap metal recycling. Once he realised his mistake he submitted this Application which was now before Members for consideration.

The Chair invited Members to ask questions.

**Members' Questions**

Councillor Taylor sought clarification on the type of licence Mr McAllister currently held and if this was granted under Civic Government legislation. Mr McAllister confirmed that the licence he held had been granted by SEPA for scrap metal recycling and that he did not currently hold a licence under Civic Government legislation.

Councillor Trail sought clarification on how the business was run as from the detail in the Application the scrap metal was bought and sold on very quickly. He asked if the business stored any scrap metal. Mr McAllister confirmed that on a day to day basis scrap metal was bought and taken to Glasgow to sell.

Councillor McQueen asked if this licence would enable Mr McAllister to be employed. Mr McAllister confirmed that if he was not granted the licence he would have to sign on.

Councillor MacMillan advised that he was aware of this family business which has been operating for many years and that he saw no reason why the licence should not be granted.

Councillor Kinniburgh agreed that he saw no reason why the licence could not be granted and noted that the criminal convictions had been drawn to Members' attention.

Councillor Colville supported Councillor MacMillan, confirming that this family run business has been operating for many years in Campbeltown.

### **Decision**

Agreed to grant a Metal Dealer's Licence to Mr McAllister.

(Reference: Report by Head of Governance and Law, submitted)



**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE  
held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD  
on WEDNESDAY, 17 OCTOBER 2012**

**Present:** Councillor Sandy Taylor (Chair)

Councillor Rory Colville	Councillor Alex McNaughton
Councillor Robin Currie	Councillor James McQueen
Councillor David Kinniburgh	Councillor Richard Trail
Councillor Donald MacMillan	

**Attending:** Iain Jackson, Governance Officer  
Graeme Forrester, Solicitor  
Mr McKinven, Applicant  
Mr McLardy, Applicant's representative

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were intimated from Councillors Mary-Jean Devon and Fred Hall.

**2. DECLARATIONS OF INTEREST**

None declared.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR WINDOW CLEANER'S LICENCE (W. MCKINVEN, LOCHGILPHEAD)**

The Chair welcomed everyone to the meeting and introductions were made. Thereafter the Chair outlined the procedure that would be followed and invited the Applicant to speak in support of his Application.

Mr McKinven sought and received clarification on why this Hearing was being held.

**Applicant**

Mr McKinven advised that he had applied for this Window Cleaner's licence as he wanted to be able to work to support his family and that he had recently moved into a new flat.

Mr McLardy advised that Mr McKinven previously did a scaffolding job and was now helping him clean windows. He advised that in the past people have worked for him on a short term basis and that he was looking to employ someone that would be able to take over from him in the future when he retired. He advised that Mr McKinven was keen to work as a window cleaner in the long term, that he was a great window cleaner, got on well with customers and that he was tough which you needed to be especially working during the winter months. He referred to Mr McKinven's previous convictions which related to domestic incidents which, in his opinion, did not relate to his work as a window cleaner. He advised that he needed someone who worked well with customers and that

Mr McKinven was the type of person he would like to work with.

The Chair invited Members to ask questions.

### **Members' Questions**

Councillor McNaughton queried the home address of Mr McKinven as the address given in the Application was different to the address given by the Police in their letter of representation. Mr McKinven advised that he had been between addresses and that one address was his mother's and one was his grandmother's.

Councillor McNaughton asked Mr McKinven to confirm which address he currently resided at. Mr McKinven confirmed that he had recently moved into a new flat and advised of his new address.

Councillor Currie advised that this Application was very straightforward and that the licence should be granted. He sought clarification on whether or not Mr McKinven was currently working as a window cleaner. It was confirmed that Mr McKinven had been working as an unlicensed window cleaner but had since stopped.

Councillor Trail asked Mr McKinven if he had previously held a window cleaner's licence and he replied no.

Councillor MacMillan asked Mr McLardy if he would be working with Mr McKinven for a while to make sure he knew all about the business of working as a window cleaner and Mr McLardy confirmed that he would.

### **Decision**

Agreed to grant a Window Cleaner's Licence to Mr McKinven. It was confirmed to Mr McKinven that the licence would be issued in 28 days time provided no Appeal on this decision was made to the Sheriff Court by the Police and that Mr McKinven would not be licensed to work as window cleaner during this 28 day period.

(Reference: Report by Head of Governance and Law, submitted)

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE  
held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD  
on WEDNESDAY, 17 OCTOBER 2012**

**Present:** Councillor Sandy Taylor (Chair)

Councillor Gordon Blair	Councillor Alistair MacDougall
Councillor Rory Colville	Councillor Robert G MacIntyre
Councillor Robin Currie	Councillor Donald MacMillan
Councillor Mary-Jean Devon	Councillor Alex McNaughton
Councillor George Freeman	Councillor James McQueen
Councillor David Kinniburgh	Councillor Richard Trail

**Attending:** Iain Jackson, Governance Officer  
Angus Gilmour, Head of Planning and Regulatory Services  
Sandra Davies, Planning Officer

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor Fred Hall.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. MINUTES**

- (a) Planning, Protective Services and Licensing Committee 19 September 2012 (9.30 am)

The Minutes of the Meeting of the Planning, Protective Services and Licensing Committee held on 19 September 2012 at 9.30am were approved as a correct record.

- (b) Planning, Protective Services and Licensing Committee 19 September 2012 (10.00 am)

The Minutes of the Meeting of the Planning, Protective Services and Licensing Committee held on 19 September 2012 at 10.00am were approved as a correct record.

- (c) Planning, Protective Services and Licensing Committee 19 September 2012 (10.30 am)

The Minutes of the Meeting of the Planning, Protective Services and Licensing Committee held on 19 September 2012 at 10.30am were approved as a correct record.

- (d) Planning, Protective Services and Licensing Committee 19 September 2012 (2.00 pm)

The Minutes of the Meeting of the Planning, Protective Services and Licensing Committee held on 19 September 2012 at 2.00pm were approved as a correct record.

- (e) Planning, Protective Services and Licensing Committee 25 September 2012 (10.00 am)

The Minutes of the Meeting of the Planning, Protective Services and Licensing Committee held on 25 September 2012 at 10.00am were approved as a correct record.

- (f) Planning, Protective Services and Licensing Committee 25 September 2012 (10.30 am)

The Minutes of the Meeting of the Planning, Protective Services and Licensing Committee held on 25 September 2012 at 10.30am were approved as a correct record.

- (g) Planning, Protective Services and Licensing Committee 25 September 2012 (11.00 am)

The Minutes of the Meeting of the Planning, Protective Services and Licensing Committee held on 25 September 2012 at 11.00am were approved as a correct record.

The Committee noted that the application had subsequently been withdrawn and that there would be no reconvened meeting held on 17 October 2012 to consider the application as stated in the Minute.

- (h) Planning, Protective Services and Licensing Committee 25 September 2012 (12.30 pm)

The Minutes of the Meeting of the Planning, Protective Services and Licensing Committee held on 25 September 2012 at 12.30pm were approved as a correct record.

- (i) Planning, Protective Services and Licensing Committee 25 September 2012 (1.45 pm)

The Minutes of the Meeting of the Planning, Protective Services and Licensing Committee held on 25 September 2012 at 1.45pm were approved as a correct record.

**4. SSE RENEWABLES DEVELOPMENTS (UK) LIMITED: ERECTION OF 10 WIND TURBINES (111.25M TO BLADE TIP), PERMANENT ANEMOMETER, ELECTRIC SUB-STATION AND ANCILLARY DEVELOPMENT: COUR WIND FARM, BY CARRADALE, EAST KINTYRE (REF: 10/00909/PP)**

The Head of Planning and Regulatory Services spoke to the terms of the report and advised that the application was for the erection of ten wind turbines at a height of 111.25m blade to tip, permanent anemometer, electric substation and ancillary development at Cour Wind Farm, by Carradale. He advised that there had been a total of 21 representations received 2 in support and 19 against the development and gave a summary of the issues raised. He advised that the application was consistent with Local Plan Policy, had economic sustainability, was the correct scale, on a suitable site and was recommended for approval subject to conditions and reasons; and a Section 75 agreement. He referred to Supplementary Report 3 that had been tabled to Members and advised that this late report was due to dialogue with the applicant, SNH and RSPB regarding the conditions attached to the recommendation for approval. He advised that amendments had been made to the conditions previously circulated and gave a summary of those amendments.

**Decision**

Agreed to grant planning permission subject to –

1. The prior conclusion of a legal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 to secure nature conservation interests, a programme of small-scale environmental improvements on the Cour Estate and to cover the decommissioning costs of the windfarm;
2. The conditions and reasons as set out in Supplementary Report 3 by the Head of Planning and Regulatory Services.

(Reference: Report by Head of Planning and Regulatory Services dated 1 August 2012, submitted; supplementary report 1 dated 10 October 2012, submitted; supplementary report 2 dated 16 October 2012, submitted and supplementary report 3 dated 17 October 2012, tabled)

**5. ARGYLL AND BUTE COUNCIL: AMENDMENT TO PLANNING PERMISSION REFERENCE 11/00007/PP (ALTERATIONS TO COLQUHOUN SQUARE INCLUDING ALTERATIONS TO ROAD LAYOUT, FORMATION OF SERVICE ACCESSES, PROVISION OF PARKING SPACES AND HARDSTANDING, INSTALLATION OF STREET FURNITURE, CYCLE STANDS AND BOLLARDS AND PROVISION OF LANDSCAPING) - ALTERATIONS TO ROAD LAYOUT, INCREASE IN SOFT LANDSCAPING AND DECREASE IN HARD LANDSCAPING: COLQUHOUN SQUARE, HELENSBURGH (REF: 12/01798/PP)**

The Planning Officer spoke to the terms of the report and advised that the application was for an amendment to planning permission granted for alterations for Colquhoun Square, Helensburgh. The amendments included alterations to the road layout, increase in soft landscaping and decrease in hard landscaping. She advised that there had been a total of 3 representations received and summarised the issues raised. She advised that the application was

recommended for approval subject to conditions and summarised the reasons that justified this recommendation.

### **Decision**

Agreed to grant planning permission subject to the following conditions and reasons:

1. The development shall be implemented in accordance with the details specified on the application form dated 20/8/12 and the approved drawing reference numbers GA(004), L(90)12, L(90)004, L(90)0010, L(90)007, A(90)053, A(90)018, A(90)054, A(90)020, A(90)019, A(90)011, A(90)010, A(90)015, A(90)021, A(90)017, A(90)001, 17 of 18 and 18 of 18 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.

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

2. Notwithstanding the details shown on the approved plan, the bollards on West Princes shall be set back 450 mm from the kerb line, full details of which shall be submitted to and approved in writing by the Planning Authority prior to the commencement of development.

*Reason: In the interests of road safety in order to ensure vehicle clearance.*

3. Development shall not begin until samples of materials to be used in construction of hard standings has been submitted to and approved in writing by the Planning Authority. Development shall thereafter be carried out using the approved materials or such alternative as may be agreed in writing with the Planning Authority.

*Reason: In order to integrate the development into its surroundings.*

4. Details of any works of public art or graphic information displays on plinths or bollards shall be submitted to and approved in writing by the Planning Authority prior to being placed on site.

*Reason: In the interests of visual amenity.*

(Reference: Report by Head of Planning and Regulatory Services dated 28 September 2012, submitted)

### **6. PROJECT PLAYPARK PARTNERSHIP: FORMATION OF PLAYPARK, LAND ADJACENT TO SWIMMING POOL, 118 HIGH STREET, ROTHESAY, ISLE OF BUTE (REF: 12/01858/PP)**

The Planning Officer spoke to the terms of the report advising that the application before the Committee was for the formation of a play park on land adjacent to the swimming pool at 118 High Street, Rothesay. She advised that 2

representations had been received and summarised the issues raised. She advised that the application was recommended for approval subject to a condition and summarised the reasons that justified this recommendation.

### **Decision**

Agreed to grant planning permission subject to the following condition and reason –

- 1 The development shall be implemented in accordance with the approved drawing reference numbers  
1219/P01 A  
1219/P01  
1219/P02 B  
1/12428 Issue 1  
unless the prior written approval of the planning authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

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

(Reference: Report by Head of Planning and Regulatory Services dated 28 September 2012, submitted)

**7. MRS ISHBEL LIVINGSTONE: SITE FOR ERECTION OF 14 DWELLINGHOUSES: LAND WEST OF GLENVIEW, DALMALLY (REF: 12/00746/PPP)**

The Planning Officer spoke to the terms of the report advising that the application was for planning permission in principle for a site for the erection of 14 dwellinghouses at land west of Glenview, Dalmally. She advised that three representations had been received and summarised the issues raised. She advised that the application was recommended for approval subject to conditions and reasons. She recommended that if Members were minded to approve the application that they agree that the proposed condition number 10 be deleted as the condition would tie the applicant to the specific details shown on the plans and would not be appropriate for an “in principle” application which showed an indicative layout.

### **Decision**

Agreed to grant planning permission in principle subject to the conditions and reasons appended to the report by the Head of Planning and Regulatory Services with the exception of condition 10; which should be removed.

(Reference: Report by Head of Planning and Regulatory Services dated 27 September 2012, submitted)

**8. MR O MCLEAN: CHANGE OF USE AND EXTENSIONS TO FORM FAST FOOD OUTLET/CATERING PREMISES, CHANGE OF USE OF LAND TO PROVIDE EXTERNAL SEATING AREA, ERECTION OF DETACHED STORAGE BUILDING AND FORMATION OF NEW VEHICULAR ACCESS: FORMER PUBLIC TOILET, MILLKNOWE, CAMPBELTOWN (REF: 12/01562/PP)**

The Planning Officer spoke to the terms of the report and advised that planning permission was sought for change of use and extensions to form a fast food outlet/catering premises, change of use of land to provide external seating area, erection of detached storage building and formation of new vehicular access at former public toilet, Millknowe, Campbeltown. She summarised the representations that had been received and advised that the application was recommended for approval subject to conditions and advised of the reasons justifying this recommendation of approval.

**Decision**

Agreed to grant planning permission subject to the conditions and reasons appended to the report by the Head of Planning and Regulatory Services.

(Reference: Report by Head of Planning and Regulatory Services dated 1 October 2012, submitted)

Councillor Donnie MacMillan left the meeting at this point.

**9. ARGYLL AND BUTE PLANNING SERVICE - PLANNING PERFORMANCE FRAMEWORK ANNUAL REPORT 2011/2012**

The Committee gave consideration to a report which informed Members on the submission of the Planning Performance Annual Report 2011/12 as required by the Scottish Government. The Planning Performance Framework is a new framework for measuring and reporting planning performance and this was Argyll and Bute's first submission to the Scottish Government.

**Decision**

1. Noted the contents of the report.
2. Endorsed the Planning Performance Annual Report 2011/12.

(Reference: Report by Head of Planning and Regulatory Services dated 2 October 2012, submitted)

**10. ARGYLL AND BUTE COUNCIL BUILDING STANDARDS BALANCED SCORECARD 2012/2013**

A report advising Members on the production of the annual Building Standards Balanced Scorecard which would be submitted to the Building Standards Division of the Scottish Government was considered.



**Decision**

Noted with satisfaction the production of the Building Standards Balanced Scorecard.

(Reference: Report by Head of Planning and Regulatory Services dated October 2012, submitted)

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE  
held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD  
on WEDNESDAY, 17 OCTOBER 2012**

**Present:** Councillor Sandy Taylor (Chair)

Councillor Gordon Blair	Councillor Alistair MacDougall
Councillor Rory Colville	Councillor Robert G MacIntyre
Councillor Robin Currie	Councillor Donald MacMillan
Councillor Mary-Jean Devon	Councillor Alex McNaughton
Councillor George Freeman	Councillor James McQueen
Councillor David Kinniburgh	Councillor Richard Trail

**Attending:** Iain Jackson, Governance Officer  
Sheila MacFadyen, Solicitor  
Inspector Watson, Strathclyde Police

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were intimated from Councillor Fred Hall.

**2. DECLARATIONS OF INTEREST**

None declared.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF TAXI DRIVER'S LICENCE (A GILLESPIE, PORT ELLEN, ISLAY)**

The Chair welcomed everyone to the meeting and introductions were made.

Mrs MacFadyen advised that notification had been received from the Applicant advising that he was unable to attend the Hearing today. She circulated a copy of an email received from the Applicant which explained why it was not possible for him to attend. Mrs MacFadyen confirmed that the Applicant had asked that his Application be considered on the basis of the details provided in his email.

Councillor Currie referred to the costs incurred by Applicants having to attend these Hearings, especially if they are from the islands, and asked if it would be possible to look at introducing a new procedure for these Hearings whereby Applicants could choose to submit written representations or attend via Video Conferencing. Mr Jackson confirmed that he would raise this issue with the Head of Governance and Law to see if there was an opportunity to conduct these Hearings in this way.

The Chair then invited Inspector Watson to speak in support of Strathclyde Police's observation.

**Police**

Inspector Watson confirmed that Strathclyde Police had no objection to this

Application and that the gentleman had obviously made a mistake as explained in the email circulated to Members.

The Chair then invited Members to ask questions.

### **Members' Questions**

Councillor MacDougall advised that it was difficult sometimes to know what the speed limits were on certain parts of roads.

Councillor Freeman advised that the location where the Applicant incurred a speeding fine had street lights and that according to the Highway Code a 30 mph speed limit would apply unless otherwise stated.

Inspector Watson advised that this was correct and confirmed that at all entrance points into Lochgilphead there were 30 mph speed limit signs.

Councillor Freeman advised that he had no other concerns in respect of this Application and that the licence should be granted.

Councillor Kinniburgh referred to the Applicant advising that the license would only be used occasionally to cover sick and holiday leave and asked if this was an appropriate use of the licence. Mrs MacFadyen advised that there would be no problem with using the licence in this way.

The Chair invited Inspector Watson to sum up.

### **Summing Up**

#### Police

Inspector Watson confirmed that Strathclyde Police had no objection to this Application being granted assuming that the Applicant would adhere to the taxi licence conditions. He advised that the Applicant has only been driving for about 4 years and that he could not afford to make many more mistakes like this.

### **Decision**

Agreed to grant a Taxi Driver's Licence to Mr Gillespie.

(Reference: Report by Head of Governance and Law, submitted)

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE**  
**held in the AN CRIDHE, ARINAGOUR, ISLE OF COLL**  
**on THURSDAY, 18 OCTOBER 2012**

**Present:** Councillor Sandy Taylor (Chair)

Councillor Rory Colville	Councillor Alistair MacDougall
Councillor Robin Currie	Councillor Donald MacMillan
Councillor Mary-Jean Devon	Councillor Alex McNaughton
Councillor George Freeman	Councillor James McQueen
Councillor David Kinniburgh	

**Attending:** Iain Jackson, Governance Officer  
 Stephen Fair, Area Team Leader  
 David Love, Senior Planner  
 Neil Smith, Director, Gallanach Green Generation Ltd, Applicant  
 Roger McMichael, Atmos Consulting, Applicant's Agent  
 Angus Kennedy, Supporter  
 Peter Wilson, Supporter  
 Colin Scott, Objector  
 Jo Scott, Objector  
 Colin Kennedy, Objector

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were intimated from Councillors Gordon Blair, Fred Hall, Robert G MacIntyre and Richard Trail.

**2. DECLARATIONS OF INTEREST**

None declared.

**3. GALLANACH GREEN GENERATION LTD: CONSTRUCTION OF 1 X 750KW WIND TURBINE (77M TO BLADE TIP), CRANE HARDSTANDING, CONTROL BUILDING, TEMPORARY CONSTRUCTION COMPOUND AND FORMATION OF VEHICULAR ACCESS: GALLANACH, ISLE OF COLL (REF: 11/01915/PP)**

The Chair welcomed everyone to the meeting and invited anyone who wished to speak at the meeting to identify themselves. The Committee then introduced themselves and outlined the hearing procedure. Once that process had been completed the Chair invited the Planning Department to set out their recommendations.

**PLANNING AUTHORITY**

Stephen Fair, Area Team Leader for Oban, Lorn and the Isles, spoke to the terms of his report advising that this proposal was for the erection of a single wind turbine on land at Gallanach Farm, Isle of Coll. He advised that the original application was for two turbines and that this was reduced to one turbine during the course of the application. The turbine measures 55 metres to hub height and 77 metres to blade tip with an output generating capacity of 750 kw. It will be a

commercial enterprise exporting electricity to the national grid and therefore subject to assessment through Local Plan policy LP REN 1. The proposal includes several different elements such as road improvements with 750 metres of a new access track, a small borrow pit, crane hardstanding, control building and temporary construction compound. He referred to a number of slides and highlighted the site in terms of the Local Plan and showed the location of the various elements of the proposal. He also highlighted the nearest neighbouring properties to the site. As per the adopted Argyll and Bute Local Plan 2009 the site is designated as 'sensitive countryside'. Policy LP REN 1 for commercial wind turbine proposals makes allowances for the erection of turbines on suitable sites so long as set criteria can be satisfactorily addressed. This criterion includes impacts on communities and their settings, nature conservation, landscape and townscape character, core paths, rights of ways, historic environment, telecommunications, tourism and peat deposits and each of these were assessed and explained in detail in the planning report. During the course of the application the Council adopted a Wind Energy Capacity Study (WECS) in 2012 and although it does not specifically provide guidance on Coll it does state that the smaller islands (Coll, Colonsay and Tiree) do not generally have the capacity to successfully absorb larger typology turbines ie those greater than 50 metres. As a strategic document, the WECS itself encourages site specific assessment on a case by case basis. The authors of the study were asked how this study should be applied specifically to Coll and they advised that as the landscape character types found on the Island were comparable to those found on Jura and Islay it would be considered appropriate to assess the turbine against three of those landscape character types – Marginal Farmland Mosaic, Coastal Parallel Ridges and Sand Dunes and Machair. The guidance set out for those landscape character types can be transposed to be applied wherever each type exists on the smaller islands. In this instance it is considered that the landscape in this part of Coll is one where there are few extensive views over the sand dunes and machair landscape character type to the coast and the rocky outcropping in the marginal farmland mosaic landscape creates a feeling of intimacy within what is actually a larger landscape in reality. The site lies in a transitional area between the different landscape character types. The relative height and level of the turbine set against the surrounding landscape features mean the scale is more readily accepted into this transitional area than may otherwise be the case if a turbine of this size were to be sited in only one of the main character types. Mr Fair referred to the contents of supplementary planning reports 1 and 2 which addressed further representations received from third parties. He advised that an updated petition with 95 signatures had been received and in terms of public participation there have been 29 direct objections, 1 petition with 95 signatures, 4 neutral responses and 21 representations of support. He advised that the Applicant was opposed to conditions 4 and 5 recommended by Planning and was opposed to the requirement for a Section 75 Agreement. A detailed assessment of these responses is contained in the original report of handling and supplementary planning reports 1 and 2. Mr Fair provided a summary of the issues raised by objectors, confirming that they related to: proximity to residential properties, noise, shadow flicker, visual impact, road impact, tourist impact, need for the proposal, wildlife impact, character of the island, ornithology, impact on seals, grid capacity, removal at end of lifeline, devaluation of property, skylining, call for a strategic approach and community benefit. He advised that some of these were not material planning considerations and others had been addressed by statutory consultees or were not supported by Officer assessment. He advised

that the main issues to consider were the visual impact of the proposal and the landscape impact of the proposal. He referred to a number of photographs which gave views of the site of the proposed turbine from various locations around the Island. He advised that visual impact was a key issue for determining the application and was somewhat subjective in terms of the degree of impact. The Planning assessment is that views of the site are progressive for the majority of the visitors and population travelling from Arinagour, whereby the turbine first appears over a long distance view. He advised that landscape impact was the subject of concern by SNH who were also the main funders behind the Council technical WECS document. Mr Fair recommended that subject to the conclusion of a Section 75 Agreement the planning application be granted for the reasons stated in the report and subject to 9 conditions also detailed in the report.

## **APPLICANT**

Roger McMichael of Atmos Consulting, Agents for the development, spoke in support of the application by Gallanach Green Generation Ltd for the erection of a single wind turbine up to 77m at Gallanach on Coll. He advised that Atmos Consulting designed the scheme and prepared the application and accompanying Environmental Appraisal. He advised that he would speak briefly on the planning issues, Mr Neil Smith one of the Directors of Gallanach Green Generation Ltd, would talk about the project in the local context and thereafter he would give a presentation on the key matter of the case which was the landscape and visual impact. Mr McMichael highlighted how the original feasibility study for Development Coll selected this location as the most suitable and that a project of this scale was considered feasible. The planning application that resulted from that earlier work was for two turbines up to 77m in height and advised that it was indicative of the Applicant's preparedness to positively engage in the planning process that the project was amended down to a single turbine. He advised that the scheme required numerous surveys and that the Applicant was fully responsive to requests for these surveys and following all that work the Planning Service is able to support this proposal which is welcomed. Mr McMichael highlighted the benefits of the project which will support 350 Scottish homes with green energy which will go some way to assisting the Scottish Government with their target of 500 MW of community and locally owned renewable energy projects by 2020. He also referred to the Scottish Government's Community and Renewable Energy Loan Scheme (CARES) announced in April. The project would generate commercial rates each year for the Council and £10,000 per annum for a community fund, at least matching the contributions expected of projects supported by the CARES loan scheme. He advised that this project does not benefit from CARES funding but as an alternative the Applicant is offering a similar turbine development on his land if the community wish to progress a scheme. He also advised of benefits which will accrue from the construction and operational phases and that once operational advised that the funding stream will directly support families on the island and in the region and the bulk of these funds are likely to be recirculated in the local and regional economies. He referred to surveys undertaken in respect of protected species, including the various bird species that are qualifying interests of the designated sites on Coll. He advised that whilst evidence was found of a number of species including otter and bats, as well as protected geese, the location of the proposal ensures that impacts will not be significant and can pass Appropriate Assessment without specific mitigation. He

referred to the suggested planning conditions including condition 5 and a related recommendation for a Section 75 Agreement in relation to geese and corncrake. He advised that given that SNH, as statutory advisor to the Council has not sought any goose related mitigation it is surprising that the RSPB requests have been adopted in the recommendations. This project is a modest wind project and the proposed monitoring is only appropriate for larger schemes. He advised that the linkage between monitoring and potential shut down will almost certainly kill this project. Banks are a key part of delivering renewable energy projects and the uncertainty that the condition brings to the planning permission means that it will be impossible to quantify the likely return of the project and therefore make it impossible to obtain project finance. He requested that Condition 5 and the associated Section 75 Agreement for goose management be removed from any planning permission. He also referred to condition 4 which posed more undue burden on this project. Mr McMichael then spoke on the impact on amenity of those living nearest to wind proposals. He advised that assessments were carried out in respect of noise and shadow flicker and the proposal was found to be satisfactory. He advised that the benefits of this project are very real and outweigh any perceived environmental impact which the turbine may have. The Applicant has worked very closely with the Council planning service and their consultees. Planning officials have undertaken detailed analysis of the capacity of the island to accommodate this proposal and are still able to justify that it will be acceptable. Mr McMichael advised that he believed the development is in accordance with the commitment set out in Scottish Planning Policy to increase the amount of electricity generated from renewable sources and will go some way to achieving the target of 100% of Scotland's electricity to be provided from renewable sources by 2020. He advised that it will contribute to the sustainability of the island community as two of the Applicant families live there and requested that the planning permission be granted.

Neil Smith, one of six Directors of Gallanach Green Generation Ltd, spoke to the contents of a presentation which he had prepared and circulated to Members. He advised that he has farmed Gallanach since 1990, has been secretary of the Community Council and formed the community fuel company. He advised that in 2008 the community company Development Coll commissioned Atmos Consulting to look into a commercial turbine for Coll and that he was very supportive of this especially when Gallanach was identified as the best location. He advised that this project fell through because at that time there was no electrical capacity and not because of any resistance from the community at large. He advised that capacity became available in 2010 but at that time the community was fully stretched financially and management wise on the new community hall project so there was no appetite for a wind turbine project even though a HIE survey that year showed a majority of islanders wanted a community turbine with only 29 against. He advised that Gallanach Green Generation secured capacity from SSE and applied for planning permission in early 2010 and following completion of a number of surveys and studies a formal planning application was submitted in September 2011. Since then the Planning Department, at increasing levels of seniority, have visited several times and conducted exhaustive studies of the visual impact involved. Such comprehensive visual assessments were not carried out for other turbines consented on Coll, which, although smaller are less graceful, spin faster and are more conspicuously sited. He advised it would take 50 turbines the size of Grishipol to produce the same output, and save the same carbon emission as our single one. Mr Smith referred to the objections submitted in respect of this



proposal and advised that he would like to put into perspective the number of objections because he knew that the impression has been given that a significant proportion of the island's population objects and he stated that this was not the case. Mr Smith referred in detail to the individual objections and to the petition which was submitted. Mr Smith then spoke about the benefits of the scheme and the community aspect advising that Gallanach Green Generation believe Coll should be able to achieve the same benefits Tiree has from wind power. He advised that the company were offering the land free and, from their own turbine's profits, the upfront costs of securing a community turbine the same as this one and Tiree's and that it will be difficult for Coll to achieve this otherwise. He advised that the community were still struggling to fund the new hall's upkeep so raising the considerable upfront costs to attain planning permission would be a daunting risk. He advised that a community wind turbine would still require planning permission and if this should be refused or for any other reason the project fails Gallanach Green Generation will instead make an annual contribution of £10,000 to the community for the 20 year life of the FITs scheme. He advised that Government guidelines for financial contribution to communities from commercial turbine schemes are less generous and as far as he was aware no other Coll turbine contributes to community funds. He advised that wind turbines were a fact of life in Scotland, a fact of life in Argyll and a fact of life in the islands. He stated that it was also a fact of life that they are placed in prominent positions to take advantage of the wind. He advised that this one, though, can achieve this in a comparatively low position, like Tiree but more discreet than Tiree which lies in a large flat area. With reference to the Tiree turbine he advised that this was consented on a motion proposed by Councillor Devon and which he believed had relevance in this case. He read out the contents of this motion and advised that Gallanach Green Generation believed that the contents of this motion applied to this project. He asked the Committee to consider how the petition signatories were gained and on what grounds, consider which of the 29 objections were relevant and consider the benefits for two or three families, for Coll itself and for Scotland's CO2 target.

Mr McMichael then went on to talk in some detail about the findings of the Landscape and Visual Impact Assessment which was carried out upon the Gallanach proposal in order to determine the magnitude and potential extent of impact on the landscape and visual resource of the area. In accordance with best practice the assessment was completed in line with SNH guidance on natural heritage assessment. He referred to a number of slides prepared to support the findings of the Landscape and Visual Impact assessment and which set out the key points which have been raised through the consultation process with SNH and Argyll and Bute Council and which were felt to be most significant in relation to the proposal ie Height and Scale, Sensitivity, Landscape Character impact, Designations, Visual impact and Cumulative assessment.

As there were no statutory consultees present the Chair then invited Supporters to make their representations.

### **SUPPORTERS**

Angus Kennedy advised that he and his family have lived on Coll for generations and that he believed in renewables and that over the summer months he had installed solar panels and that it was incumbent on everyone to be sustainable. He advised that he had absolutely no fear for the value of his property or the

integrity of the site or the wildlife etc. He advised he had a great deal of regard for the Applicant, that he was someone with integrity and was transparent in dealing with the community of Coll and has tried his best in bringing the community along with him. He advised that he has spoken to visitors and tourists coming to the island and that he has found no evidence of fear that people will not come to the island anymore if we have a wind turbine. He advised that he lived at the north end of Coll and will pass the site everyday. He advised that he felt very uncomfortable when approached and asked to sign the petition. He advised that he felt strongly that an island like Coll depended on its own natural resources and that we should be using our natural resources like wind. He advised that he was interested in the current consultation document published by the Scottish Government which proposes reducing electricity bills for communities living close to wind turbines and that he would welcome this. He advised that anything that provides for the future economy of Coll should be welcomed and that the island needed inward investment and that this was an opportunity for our own endeavours to provide something for the island. He advised that we owed it to our future generations to invest in the island.

Peter Wilson advised that he has lived on Coll for five years and that he would like to talk about what the opportunities of erecting a wind turbine would bring to Coll. He advised that there has been an influx of young people to the island and that there was more demand for public services. He advised that young families were proactive in many community groups and were committed to sustainability and improvements to the island and that without this you get a less dynamic and less sustainable place to live and work. He advised that large employers struggle to recruit and retain well qualified and knowledgeable staff and that young families were likely to remain longer if living in a sustainable community. He advised that this development will support generations to come and bring benefits such as improvements to the roads and that construction work will boost the economy and benefit local traders. He advised if specialist traders needed to come onto the island during the construction phase local accommodation providers would benefit as they would need a place to eat and stay. He referred to the £10,000 per annum being offered to the community and advised that this would be hugely beneficial as it could mean being able to access more and improved services on the island with this funding. He advised that everyone on the island should be given the opportunity to remain on Coll and that this development will keep young people and families on Coll. He advised that he just hoped sense and not emotion prevails when determining this application.

The Chair then invited Objectors to make their representations.

## **OBJECTORS**

Colin Scott summarised the contents of a presentation which was circulated to the Committee and advised that for over forty years he has been a Rural Land Agent dealing with land and estate management including major environmental matters. His experience has been gained with Buccleuch Estates in Scotland and England, Blair Drummond Estate in Perthshire and Dunbeath Estate in Caithness. He advised that he has lived permanently on Coll for some 4 years, having visited the Island over eight or nine years previously and was here today as spokesman for The Protecting Coll Group, a Group which represents 102 of the house owners on Coll. The total on the Electoral Roll is 137. He advised that the Group are totally opposed to the Planning Application from Gallanach

Green Generation Ltd and believe that they have very compelling reasons why the Application must be refused. He advised he had several salient issues, which would be addressed during his presentation and that these were: the Application as it stands is unlawful as would be explained; vital Safety matters have been totally ignored in the Officer's Report although he has been advised of them; the Human Factor - vital to the Community - has been totally ignored; tourism, vital to the Island's economy has been discounted in the flawed report; and the proposed turbine would be of no benefit to the Community. It would be of benefit only to one entrepreneur and his family. He advised that the Group were very disturbed to see that the Planning Officer has recommended that the proposal be approved (subject to this discretionary hearing). Not only does the recommendation make little sense, in light of the policy framework and the purported analysis contained in the report, but the Planning Officer has failed to take into account or deal with large parts of the overriding objections on key grounds. He advised that the Group consider it is essential for Council Members to understand the hugely destructive nature of what is proposed for the small isle of Coll. He advised that time does not permit a comprehensive analysis of each of the failures in the analysis of the Officer's report nor of the overwhelming case for firmly rejecting this out-of-scale, disproportionate and significantly harmful proposal. The Group hope that Council Members will glean this for themselves from the objections that they have already submitted. He advised that the Group confine themselves to responding to some of the basic errors and flaws in the Officer's report and that the Group appeal to the Council Members' own inherent good sense and deep pride in preserving the intrinsic qualities of the Council's area. Council Members will rightly understand that the islands of the Inner Hebrides, of which Coll is a very special part, are woven into the fabric of what makes Argyll and Bute so special. The Isle of Coll is an essential part of that fabric. Its particular qualities have simply been ignored in the report or the landscape features misunderstood. It is difficult to reconcile the words of the report with the location of the proposal. He advised that whatever the reason, one of the overriding contradictions and illogicalities in the report and recommendation relates to the assessment of landscape and visual impact. He advised that Council Members may have already seen that the report includes a statement that this proposal conflicts with the principles expressed in the Council's own Wind Energy Capacity Study ("WECS"). He advised that this document does not actually address the special landscape of Coll, but the Officer suggests that the principles applicable to Islay and Jura are also applicable to Coll. Even on that assumption (which requires further analysis in any event), the proposal should be refused. The WECS is the Council's own newly approved document which seeks to assess where wind energy proposals can be accommodated. It identifies in clear terms that even landscapes which are larger in scale than Coll itself (eg those landscape characters identified in WECS in Islay and Jura), there is no capacity for turbines of the scale proposed. Therefore the Officer has to accept that the proposal "is not consistent with the provisions of the newly approved WECS which indicates a general presumption against higher turbines on Coll and Tiree ... ". Despite this stark position, which should result in a firm rejection of this proposal, bizarrely the Officer purports to distinguish the WECS principles. There is simply no basis for doing so and much of the analysis is simply flawed as we summarise below. We also deal with some other points made in the report, which are fundamentally flawed. Mr Scott then spoke about the Landscape and Visual Impact of the proposal. He referred the Council Members to the compelling reasons as to why a huge turbine of 77m on the Isle of Coll is completely at odds with the landscape

character and massively damaging in terms of visual impact. He advised that was little wonder that Scottish Natural Heritage has been assiduous enough to identify for the Council the significant harm that would arise if the proposal were permitted to go ahead. He advised that the Group strongly commend the Council Members to read the considered views of the SNH officer who visited the island before making that assessment and identifying the harm that would result. He also advised that the Group would also refer and commend to Council Members the importance of the moratorium that SNH suggests to enable proper work to be done on what further wind turbine development (if any) can be accommodated on Coll and at what scale. This proposal completely ignores this, as does the Planning Officer's report. Turning back to the Officer's analysis, firstly he advised that the Group have noted that the Officer applies the WECS, although recognising it does not assess Coll "in any detail". The first point to note is that the WECS is directed at the larger landscape characters of Islay and Jura. He advised that as Council Members will appreciate, the Isle of Coll is very much smaller than these islands and the ability to take large scale turbine development in the landscape correspondingly even lower than Islay and Jura. It is therefore perverse for the Officer to accept that the proposal conflicts with the WECS principles for Islay and Jura and then to purport to distinguish this conflict by reference to the "unique" nature of this proposal. The very opposite analysis is correct. The smaller scale nature of Coll should make the presumption against development of this type based on the WECS apply with even greater force. The Officer's analysis fails to deal with this. He advised secondly, that the WECS identifies that larger typology wind turbines will not generally be suitable for island locations. The proposal is undoubtedly for a larger typology wind turbine. It would be one of the highest now manufactured on one of the flattest and most low-lying islands in the Hebrides. It is difficult to conceive of an island which is less suitable for such a proposal. It is the very antithesis of good planning and entirely at odds with the WECS which the Council and its Members have worked so hard to produce. He advised that there is simply no point in producing policy document and expensive research of this kind for it then to be ignored so blatantly in the analysis by Officers. He advised thirdly, the officer then suggests that despite the WECS and its recommendations, it is appropriate to rely on a localised assessment of the landscape impact. This makes the WECS document completely without practical purpose. If, as the Officer appears to be suggesting, the WECS recommendations are to be ignored in preference to what is described as "localised assessment of the landscape impact", there is no point at all in the WECS document and its recommendation. This is simply setting the document on one side, despite the fact that the WECS is meant to provide a relevant and helpful assessment for planning purposes. He advised that the Officer's approach is illogical and unprincipled. It is unlawful in terms of setting aside policy which is meant to have one clear meaning: see eg *Tesco Stores v Dundee City Council* [2012] Supreme Court. He advised fourthly, that the Officer purports to assess the proposal against landscape character types 16, 22 and 25 applicable to Islay and Jura, on the basis that they are also found on Coll. There is no proper basis for this approach without considering the very different small scale of the landscape character of Coll, which is an island only a few miles wide at its widest point and predominantly flat. However, even in this regard the WECS identifies the Marginal Farmland Mosaic as a sensitive low relief landscape characterised by its small scale and intricate rocky knolls. The landscape has a high sensitivity to small-medium turbines (35m-50m) and therefore few opportunities for development for larger typologies. Sand Dunes

and Machair is described as low-lying and combines stretches of sandy beach, tidal flats and low rocky outcrops with dunes. This landscape character type has a high sensitivity to small-medium turbines and describes it as an open landscape that is sparsely settled and that visibility is likely to be extensive and sustained. To suggest that somehow this could permit a proposal for a 77m turbine is nothing short of irrational. He advised fifthly, that the Officer then purports to rely on the Landscape and Visual Impact Assessment (LVIA) provided by the Applicant, but without conducting any sort of critical appraisal of that document or dealing with the objections that have been made and the contrary evidence about landscape and visual impact assessment. This is very concerning. It is asserted that the LVIA shows that the turbine will have "limited localised impact on key views" and it is asserted that this is shown "through the submission of photomontages". The very opposite is the case. In particular: (1) Even taking the photomontages of the LVIA provided at face value (which Council Members should not do), they show a hugely damaging effect on the landscape and character of this island. They show that this turbine will be widely visible from large parts of the island; this wide visibility is unsurprising given that the island is so low-lying and so small (both intrinsic features of its charm and sense of place). It is mystifying as to why the Officer has purported to characterise the effects as "limited" and "localised". The very opposite is the case. He advised that the Group can quickly demonstrate the illogicality of the Officer's report in this regard. We take as a very simple example the views from the ferry that serves the island and is the gateway to the island for almost all visitors. One of the captivating characteristics of the island itself is the experience of arrival. From the large majesty of the dominating vertical landscapes of the Sound of Mull, the ferry crosses the sea of the Inner Hebrides approaching the low horizon and flat landscape of the Isle of Coll that sits like a fish in the sea beyond. The essential character for all to see is that of a flat island, swept by wind, and marked by its horizontal nature. It has had that character for all of history. It is the very sense of contrast with the verticality of the mainland which makes it so different. As the ferry approaches the village of Arinagour and rounds the buoy that marks Chieftan Rock, the first time visitor, the regular returner and residents alike are confronted with the equally low-lying village of Arinagour. Even this, the most concentrated element of development on the entire island, is characterised by horizontality. From the ferry pier itself, to the most distinctive "village street" lined by single-storey white-washed cottages, to the part of the village itself set around the church on the hill, the prevailing characteristic is of low-lying development reflecting the low-lying nature of the island. He advised that into this landscape, the proposal would now insert the proposed turbine which even the Applicant's own LVIA demonstrates would be visible on the skyline above the village itself, thereby at a stroke removing the captivating first impressions of the island for the first time visitor and the person returning home alike. The turbine blades will appear above the village-scape, inserting jarring incongruity into the view. Moreover, although the turbine is some way away at this point, the fact that it will be seen from this vantage point as persons arrive is indicative of how often it will continue to be seen when they are on the island itself. The Officer's suggestion that the effect will be "negligible" defies commonsense. It will be hugely damaging and ruin the very essence of the island embodied in this entranceway. Such a proposal conflicts with all good landscape planning. As to the Officer's assessment from views closer to hand, again the contention that the proposal would not be damaging is impossible to understand. It is said that this is a "transition area" between Sand Dunes and Machair and Marginal Farmland Mosaic and has elements "akin to the Coastal

Parallel Ridges character type”, but this is clearly not right. This is not a "transition area" at all, but an intrinsic part of the character area of Coll as a whole, a landscape of only a few miles wide consisting of Gneissian Lewis-type rock fringed with dunes and the sea beyond on both sides. It is not a transition area at all, but the landscape of a small island. This is an artificial borrowed assessment from Islay and Jura which ignores Coll's characteristics. The assumption that this area can "accommodate turbine developments more easily" as the officer suggests, is inexplicable and unreasoned. He advised that more bizarrely, the officer then contends that "the site is unique in that it sits within an area of rocky outcropping without being high above the current highest point of the rock formation". For anyone who has been on Coll for any period of time, this is similarly nonsensical. There is nothing "unique" in this sort of rocky outcropping on Coll. Indeed, this sort of rocky outcropping is a feature of the Eastern end of the island. It is replicated everywhere. There is nothing "unique" about the site. Indeed, similar locations could be found all over the eastern end. Again, we refer you to the analysis of the SNH Officer who spent some time on the island making her own assessment. He advised that the Planning Officer suggests, then changes his tune later in the report in suggesting that the landscape in this part of Coll is "relatively unique" "by there not being extensive long views over the sand dunes and machair landscape character type and by the rocky outcropping in the marginal farmland mosaic having a feeling of intimacy and yet being quite large in reality." There is no such thing as "relatively unique", but that aside, it is absurd to suggest that the landscape is "large in reality", and there is no basis for suggesting that a 77m turbine would be accepted into the landscape here. (2) The LVIA photomontages need to be treated with a very considerable degree of caution in any event. On our analysis, they give a very misleading impression of the reality of Coll and its landscapes and the views that will be affected. He advised that the Group do not understand why they have not been analysed critically by the Officers. For example, there are no views taken from the beaches that will be affected. There are no views taken from the north-western seaward side where the ferry to/from Barra passes and all boats that use the East-end small harbour will experience. There are no views taken from the most directly affected properties or their curtilages. More disturbingly, the sky chosen for the photomontage pictures is of a particular grey. Again, any long term resident or recurrent visitor will know that Coll shares with Tiree the highest sunshine hours in the whole of Britain. Coll is blessed with views of sky and its landscape against a crystal blue for significant parts of the day. The turbine blades rotating up to 77m in the sky will be highly conspicuous, whether from the longer views from Arinagour harbour and those approaching, or for those closer views on the road from Arinagour to Amabost, or the road to or from the East end of the island or from the affected properties and beaches. On any reasonable view, the damage will be significant. It will be severe. It is precisely the sort of damage which the WECS has sought to avoid and which Argyll and Bute Council Members need to protect. He advised that the Group strongly urge Council Members to look at the photomontages commissioned by our Group, that we the Objectors have provided which have been produced by an expert photographer and properly scaled. These include just one photomontage taken from Cliad beach, one of Coll's great treasures. One look at the vast turbine dominating this previously unspoilt beach demonstrates how absurd the proposal is, how devastating it would be and how bizarre the officer's report is in not identifying the failures in the LVIA which do not give the viewer any of these photomontages for assessment. He advised sixthly, that the Officer refers to SNH's concerns, but suggests that these are

mitigated through "distance and isolation". In light of the analysis above, this is difficult to understand. These are not the comments of anyone familiar with the island or the proposed location of this turbine. He advised that in Appendix A, the Officer's attempts to justify this analysis are artificial and dislocated from the reality of the location. It is said "development is often scattered throughout this rocky landscape", but that does not apply to 77m turbines. It is suggested that this includes "tall structures such as telegraph poles". That is an absurd comparison. A telegraph pole is minute compared with the turbine and many efforts have already been made to remove telegraph poles from Coll. This proposal is directly at odds with those proposals. He advised that the proposal is contrary to the Development Plan policies for all the reasons previously given and summarised above. The Officer recognises that it is contrary to the WECS. His reasons for setting aside that framework do not make sense. The LVIA is flawed and his report is irreconcilable with the island and the location of the proposal. He advised that the Group strongly urge the Council Members to stop this proposal in its tracks and to apply the WECS principles in the firm and clear way they were intended.

Jo Scott advised that she would like to read out a statement prepared by Mr and Mrs Smalley, proprietors of Tigh Na Mara, Isle of Coll who had objected to this proposal but were unable to attend the hearing today. A copy of this statement was circulated to Members and stated the following:-

We speak to you not as members of any group, but as a family that has committed wholeheartedly to this wonderful island for the last 20 years in my case, 40 for my husband. After working hard for different people here, in many guises, we were delighted to be given the chance in April 2011 to run our own business, the Islands only MS. It's important to point out we are 1 of many families who absolutely rely on tourism for our livelihood, a livelihood that is fragile at anytime and not just now in times of economic hardship. Whilst there are many points contained within Mr Love's report we take exception to, regarding erecting a wind turbine of this scale, we'd like to focus on Tourism. We were totally flabbergasted to read the comment "There is no substantive evidence to suggest that a single wind turbine will adversely impact on tourism to the island". Where did the evidence for this statement come from? I'd like to point out that throughout this process there have been numerous opportunities for all concerned to canvass opinion on this subject. The Applicants have at no time consulted us and/or our guests regarding a wind turbine of this magnitude. Atmos Consulting have stayed with us for most, if not all of their visits, at no time have they consulted us and/or our guests. Indeed Mr Love himself stayed with us, again he at no time consulted us and/or our guests. We on the other hand have been busy gauging opinion from many sources on how turbines affect the tourism industry, these include Visit Scotland, The English Tourist Board, Visit Wales, the Cornish Tourist Board. We also contacted many other advertising companies that work within the tourism industry. All of those we spoke to stated that they do not use pictures that contain wind turbines within their campaigns, or indeed their general advertising within the tourism industry, more importantly they are aware, and accept, that a development such as the one proposed here on the Isle of Coll have an adverse impact on the tourism industry. This island is officially recognised as being "on the edge", surely this should place a heavy burden on our local authority to support, not hinder our main industry? So, we ask again, where does the evidence for Mr Love's statement come from? We put it to him that his conclusion regarding the effects on tourism is at best flawed,

maybe even neglectful, at the very least further research must be done before a conclusion is reached. Whilst not wishing to make this in anyway a personal issue and also accepting there may be an element of the Coll grapevine, I wonder if it is correct that the main applicant is actually relocating off the island before the end of the year? If so it's interesting he isn't going to be around to live with consequences of his actions.

Colin Kennedy advised that he was born and bred on the island and that he has a turbine which he cannot use as there is no grid capacity. He advised that it appeared to him that this proposal was for an ENERCON turbine and that he has visited a couple of sites on Orkney and Lewis where these turbines are located. He advised that ENERCON produce a pack for these types of turbines which specify the minimum requirements in respect of the infrastructure required to build these turbines, minimum specifications for crane technology and minimum requirements for access roads to the construction site. He advised what these minimum requirements were and advised that in his opinion this type of turbine was not suitable for Coll as the island would not be able to accommodate construction or transportation of the turbine to and on the site. He advised that he could not understand why this document prepared by ENERCON was not produced for this proposal. He also stated that consideration should be given to everyone who signed the petition and that they should be given full value.

The Chair then invited Members to ask questions.

### **MEMBERS' QUESTIONS**

Councillor Devon sought clarification regarding Mr McMichael's reference to a community turbine at Arinagour as she was not aware of any having been approved.

Mr Fair confirmed there was consent for one turbine at Arinagour and that this was for Mr Kennedy and not the community. He referred to a community survey which had previously been carried out. He also advised that the Applicant had previously submitted during the course of his application, the offer of a site for a community wind turbine.

Councillor Devon referred to the WECS which highlighted specific issues covering Islay and Jura and which stated that smaller islands could not support turbines of more than 50 metres in height and asked Mr Fair to confirm if this was correct.

Mr Fair advised that this was correct but went on to explain about the detailed survey carried out for Coll and explained why Planning felt the proposal could be supported based on the landscape character types in evidence at the site, as well as the turbines relative height and because the site sat within an of rocky outcropping. He advised that the WECS document was a technical document to guide developments, alongside the Development Plan policies which were taken account of in the first instance.

Councillor Devon referred to the statement in the WECS document about small islands not able to support turbines over 50 metres.

Mr Fair advised that the Development Plan was looked at first and that the



WECS document was not part of the Development Plan and that it was just a technical document to assist decision making. The WECS advises that detailed assessment is necessary and that in this case, all things considered, the recommendation was for approval of the reduced scheme as a single turbine.

Councillor Colville referred to there being no planning history relating to the site and no anemometer erected to monitor wind speeds. He referred to policy LP REN 1 and asked on what technical basis was the site deemed efficient.

Mr Fair advised that a lack of anemometer on site did not necessarily mean the developer has not done his job. He referred to Coll and Tiree benefiting from prevailing winds. He advised that turbines were erected at other local properties on the island and it was fair to assume that there was plenty wind.

Councillor Colville asked the same question to the Applicant.

Mr Smith advised that he had initially submitted a planning application for an anemometer to ascertain wind speed and that this was withdrawn when it became apparent to him that he could extrapolate information from Benbecula and Tiree studies. He advised that this site would generate wind speeds of up to 9.94 metres per second.

Councillor Colville asked about the size of the borrow pit and asked why this was not being dealt with as a separate issue.

Mr Fair advised that the borrow pit location illustrated measuring 20 metres long by 10 metres wide alongside the temporary site compound. He advised there was no proposal to bring aggregate on to the site and that the aggregate required will be found on site, per the submissions of the applicant. He advised that the borrow pit was indicative, with no cross sections or details of the extent of excavations, and taking account of the size of project, he anticipated a further application coming forward with details of the borrow pit proposals.

Councillor Currie referred to Mr Scott advising that SNH had sought a moratorium and advised that he could see no mention of this in any of his documents and asked why Mr Scott had said this when SNH were not objecting to the proposal.

Mr Scott advised that SNH had written to Planners advising that the proposal should be refused and that within a week had stated they could only comment on an advisory capacity and withdrew their previous letter. He advised that he did not know why this had happened.

Councillor Currie asked if that meant what Mr Scott had said about the moratorium was not true.

Mr Scott advised that the SNH Officer in Oban had stated that she was prepared to work with the Council to look at the type of turbine that would be suitable and recommended a moratorium period.

Mr Fair advised that the only time he had heard the word moratorium being used was when other Councils had requested this from the Scottish Government in respect of wind farm applications and that this request had been rejected. He

advised that SNH suggested the Council adopt a strategic approach for determining wind turbine applications on Coll. He advised that the Council already have a robust framework for dealing with turbines in the form of the Development Plan and the WECS. He also confirmed that SNH had not objected to the application but had raised concerns about the landscape and visual impacts.

Councillor Currie commented on whether or not a Section 75 Agreement was necessary and what the detail of this would be, given that SNH and RSPB had not objected to the development. He asked if it was being considered on the basis of comments from the RSPB which was a voluntary charity and not a statutory consultee.

Mr Fair replied yes.

Councillor Freeman advised it was his understanding that this was a 750 kw proposal and advised that part of the information passed to Members included an email from SSE stating that applications for over 50kw would be subject to current Taynuilt Grid transmission constraints and asked if this would apply to this proposal.

Mr Fair advised that grid capacity was not a material planning consideration. He advised that he could not qualify SSE constraints and that this did not need to influence the Committee decision.

Councillor Freeman referred to the Coll Protecting Group and the electoral roll being 137. He asked if all the 137 individuals were opposed to the proposal.

Mr Scott advised that 102 of the home owners were opposed to the proposal.

Councillor Freeman asked how many home owners there were and was advised that it was 242.

Councillor Kinniburgh asked if Mr McMichael's reference to the wind turbine outstanding at Arinagour was that it would be of a similar size to the proposed turbine.

Mr McMichael advised that the Arinagour turbine was smaller but due to its location the tip height above sea level would not be dissimilar to this proposed.

Councillor Kinniburgh sought clarification on the height of the turbine in relation to it exceeding the 50m height and asked if any cognisance was given to views from the beach.

Mr Fair advised that SNH were the main funders of the WECS study and that the WECS had set a range of thresholds. The threshold of 50m was set to define turbine typologies and capacity for those higher turbines does generally not exist on Coll, Tiree or Colonsay. He advised that smaller turbines in a more prominent location could have similar impacts to well sited larger turbines. He advised that the proposed turbine was bigger but a considerable distance away from the main public vantage points and neighbouring residential property. He confirmed the site had been assessed from adjacent beaches and in these views there was very little to scale the turbine against which mitigated the height to a

degree.

Councillor MacMillan referred to the impact on the roads and referred to a turbine going off the road north of Tarbert and that turbines were not allowed to be transported on the by pass road at Tarbert which was a first class road and asked if Planners were satisfied that the Coll road would be suitable for transporting the turbine as nothing was specifically mentioned in the report.

Mr Fair advised that the Roads Engineer had originally asked for more detail from the Applicant which had been provided. He advised that the Roads colleagues now accepted the proposal subject to compliance with the information provided. He also referred to the Roads Act allowing the Council to have additional control on the impact the proposal would have on the public road.

Councillor McNaughton referred to the suggestion by the Applicant that condition 5 should be removed which referred to ornithology monitoring and asked was it not a fact that it was usual for these monitoring programmes to be undertaken before installation and that this was a matter of course.

Mr Fair advised that significant work has already been done on ornithological surveys and it was at the RSPB's request that monitoring be undertaken.

Councillor MacDougall advised that each application was looked at on its own merits and that all had different reasons for approval. He referred to the Motion in respect of the Tiree proposal which was quoted in Mr Scott's presentation and advised that proposal was completely different. He then went on to ask why there was an underground hydro cable at Gallanach.

Mr Smith advised that power cables were above ground and that the only part underground was the cable going into his house.

Councillor Devon referred to SNH concerns about landscape and visual impact and asked if these concerns had been taken on board.

Mr Fair advised that planning had taken account of both the competing views of SNH landscape architecture advisers stated in SNH consultation responses, versus the Agent's landscape architecture adviser, who despite looking at the same characteristics had drawn different conclusions. He advised that SNH had expressed concern about the landscape and visual impact but did not object to the proposal.

Councillor McQueen asked if the road would be plated.

Mr Fair advised that further technical details regarding the road would be dealt with under roads legalisation and not under planning, beyond the details already submitted.

Councillor Colville commented that only the recommendation from Roads regarding the Bellmouth appeared to be the subject of a condition and asked how the rest of the Roads recommendations were being covered.

Mr Fair confirmed that these were covered under condition 9.

Councillor Colville referred to the Appropriate Assessment at page 35 of the Agenda Pack and asked why Planners were recommending condition 8 when SNH had stated that the site is not designated for landscape, archaeological or nature conservation purposes.

Mr Fair advised that West of Scotland Archaeology Service had required this condition.

Councillor Colville asked why planning was accepting that advice.

Mr Fair replied that generally the planning service does accept West of Scotland Archaeology Service's advice.

Councillor Kinniburgh asked how often the Coll Protecting Group met.

Mr Scott advised that they met approximately three times per year.

Councillor Taylor asked if planning had been challenged by the visual presentation by the objectors.

Mr Fair advised that it was his understanding the visual presentations were done to industry standards using wireframe software and that these were accepted.

Councillor Colville referred to the noise from turbines and that no reference was made in the report to noise and the effect this could have on neighbouring properties.

Mr Fair advised that noise impact was taken account of by Environmental Health Officers who stated that there would be no adverse impact as summarised in the report. He advised that noise increased with more wind turbines and varied depending on the turbine type and distance from sensitive receptors. He advised that the nearest property to the turbine was one of the Applicant's Directors at 500m away and that it would be in his interest to ensure noise was not an issue. The nearest third party residence was 760m away.

At the end of the question and answer session the meeting adjourned for a 10 minute break.

The Committee reconvened at 4.10 pm.

The Chair invited everyone to sum up.

## **SUMMING UP**

### **Planning Authority**

Mr Fair advised that this proposal was for a single wind turbine 55 metres to hub height, 77 metres to blade tip with an output generating capacity of 750 KW. He advised that Members had heard from supporters and objectors and referred to some of the points raised. He advised that reference was made to a community application and a single application and stated that this was not a material planning consideration and should not sway the Committee decision. He

advised that community benefit was also not a material consideration. He advised that the key issues were landscape and visual impact and that even though concerns about this had been raised by SNH they had not objected to the proposal. He recommended that the Committee support the application subject to the conclusion of a Section 75 Agreement and 9 conditions.

### **Applicant**

Mr McMichael advised that lots of issues and questions had been raised. He advised that the WECS document was material but not part of the Development Plan and was intended as a strategic study. He referred to a lot of detailed surveys having been carried out and that a lot of consideration was given to locating the site in the right place. He advised that actual views of the turbine would be few and that actual views with the sea behind would be limited. He advised that he believed the site was acceptable and that Planning also thought it was acceptable. He advised that SNH had not objected to the proposal. He advised that the turbine was very similar to the Tiree one which was ultimately consented. In terms of visuals the turbine did not show a high degree of harm and was not a strong feature at the gateway to the island and that the Arinagour turbine would be more prominent in that gateway view. He advised that the turbine rotation speed would be slow and that smaller turbines rotated faster which could increase the visual effect. He agreed that the visual view points had been accepted by the Planning department as appropriate and that there was no suggestion from SNH that they were unacceptable. In respect of Tourism he advised there was no evidence to link turbines to impact on tourism and that the co-owners of the Coll hotel were supportive of the proposal. He advised that Mr and Mrs Smalley had not objected to the Arinagour proposal. In respect of the Grid he confirmed the Applicant had secured grid connection. In terms of the impact on roads he advised that the Roads Engineer's response to the further information provided stated that the Council position was fully secured and that the Roads Act will allow the Council to have full control of the impact on the road and doesn't impede the ability for consent today. He referred to planning gain and stated that planning gain was wholly inappropriate for this development and to seek planning gain based on the RSPB recommendation was burdensome on this modest project.

Mr Smith referred to the electrical capacity and advised that there was none in 2008 and that there was capacity from 2010 and that they had secured it for this proposal. He advised that units up to 50kw can be connected immediately and units above 50kw would wait until 2017. He referred to the petition. He referred to Planners being asked if they were challenged over the visual presentations and advised that these were all agreed with the Council and SNH. He advised that the turbine would not be visible from the village. Only 15% would be visible from the road between Arinagour and the site and it would be hardly visible from the ferry.

### **Supporters**

Mr Kennedy recognised concerns about "not in my backyard" and stated that concerns on a personal level were perfectly valid. He advised that this was a golden opportunity for Coll to contribute to the national and international aim of lowering carbon emissions for future generations.

Mr Wilson advised he had nothing further to add.

### **Objectors**

Mr Scott advised that the photomontages were available on the planning website for many months and were extremely accurate and a true picture of what you see. He advised that it was his opinion there was uncertainty about two things, the planning attitude to the WECS document which was important and set in stone and could not be set aside by a Planning Officer. He advised that it was a letter from Mrs Anne Blum of SNH which had been circulated to Members which stated she was prepared to work with the Council Planning Officers to see what type of turbine would be suitable for smaller islands.

The Chair asked all parties to confirm they had received a fair hearing and they all confirmed this to be the case.

### **DEBATE**

Councillor Currie advised that the Committee were not here to get the popular vote and had to look at the proposal as presented to them at the hearing and on paper. He advised that he supported the application for all the reasons stated in the planner's report. He referred to condition 4 and advised that he thought it could be altered with the final detail of the building being agreed by the Planning Officer in consultation with the Chair and Vice Chair rather than specific details being part of the condition. He also referred to condition 5 which was as a result of a recommendation by a voluntary charity and he felt that this was very burdensome for a single turbine application and he was minded to delete this condition as it was only a suggestion by the charity RSPB. He advised that he thought condition 5 could be removed but he would need to seek advice about the need for the Section 75 Agreement. Councillor Currie also suggested that an additional condition should be added to cover any possible problems with the roads and that it was not sufficient to say this would be covered by the Roads Act or in the details of a letter dated 21 January 2012 which he had not seen. He advised that a special condition should be added to cover the roads.

Councillor Devon advised that she disagreed. She referred to the motion in respect of the Tiree Turbine and that this was back in 2008 when there were no guidelines on turbines to take account of. She advised that Scottish Government guidance was not being adhered to and the Council's own WECs document was not being adhered to. She advised that SNH had genuine concerns about the landscape and visual impact and that she would be putting forward a Motion to refuse the Application.

Councillor MacDougall advised that he would support Councillor Devon.

Councillor Freeman advised that he was minded to go with Councillor Currie and that the proposal was fully compliant with all policies in the Local Plan and that there was no reference to it being approved as a minor departure. He referred to the site visit and that he'd had a good look from various points which did not raise any concerns. He referred to comments that the WECS study was set in stone and advised that nothing was set in stone not even the Development Plan where policies could be set aside if there was good enough reason. He advised that the condition specifically about roads could include a request that an

assessment of the road be carried out prior to construction so that the road could be brought back to the same condition at the end of construction. He advised that he had no issue with condition 5 being removed as long as the Council were not open to legal challenge. He advised that SNH had made comments but had certainly not objected to the proposal and that he would support Councillor Currie.

Councillor McNaughton advised that he also agreed with Councillor Currie. He agreed that condition 5 was not necessary as the site had been monitored enough and that he totally agreed that a condition should be added in respect of the roads as they needed protected.

Councillor Kinniburgh advised that it was always very difficult to come to a decision especially in a small community where opinion was divided and he agreed that nothing was set in stone. He advised that he was undecided and would like to hear Councillor Devon's Motion before making a decision and if the Motion goes along the lines of what he thought he might be minded to support Councillor Devon.

Councillor Colville indicated his support for the Planning recommendations and that Members have to have confidence in our Officers. He advised that he had previously had various concerns but that these had all been addressed. He advised that in terms of Condition 5 the applicant had offered a solution that could be accepted up to a point.

Councillor McQueen advised that he agreed about the roads and would support Councillor Currie.

Councillor MacMillan advised that he had huge concerns about the roads and that not enough emphasis had been put on this was in the report and that he would support Councillor Devon.

Councillor Taylor advised that he felt as Chair he should support the Planners and that he did not see any detrimental issues brought forward. He said it was vital that economic development needed to be sustainable and that his position would be to support the Planners.

Mr Fair when asked confirmed that the removal of condition 5 would not lead to legal challenge.

At this point the Chair ruled and the Committee agreed to adjourn at 4.55 pm to allow Members to formulate competent motions. The public were asked to leave the room.

At approximately 5.15 pm the public were invited back into the room and the meeting was reconvened.

The Chair thanked the public for their patience and advised that he was minded to support the recommendation contained in the report in full. From the discussion which had taken place he was of the view that none of the Members were supportive of that position. The other Members agreed that this was the case.

## **Motion**

In my opinion this development is contrary to local plan Policy LP ENV 1 regarding the Impact on the General Environment as it does not protect, restore or enhance the established character and local distinctiveness of the landscape in which it is to be located due to its uncharacteristic scale, which would not only give rise to an adverse environmental impact upon its immediate surroundings but on the landscape character of the whole island of Coll.

This proposal by virtue of its height, blade diameter and rotation will have significant adverse landscape and visual consequences beyond that suggested in the Applicant's landscape assessment, which underestimates the impact of a development of this nature and scale, in what must be regarded as a sensitive island location. The impact would be significant from numerous views, including the remoter upland and coastal areas, as well as transport routes to the east and centre of the island. The small scale of other built elements and other natural features in the landscape will result, in my opinion, in the turbine introducing a new and dominating reference point which would be incongruous in terms of the small scale of the receiving environment. The proposal would have an adverse effect on the sand dune and machair landscape character type, as well as the marginal farmland mosaic landscape character type, both of which are low lying coastal landscapes which are sensitive to change, particularly from inappropriately sited or uncharacteristically tall structures.

The height of the turbine relative to other structures in the landscape is a key consideration in terms of landscape "fit", as different sensitivities come into play once wind turbines exceed the height of other common built environment and landscape features. The existing pattern of turbine development on Coll is domesticated/small scale and primarily below 35 m. This proposal is 51% higher than the Scottish Government recommendation of 50 m and therefore well in excess of what is considered likely to be appropriate in an island context. Its scale also conflicts with the recommendations of the Argyll and Bute Landscape Wind Energy Capacity Study which identifies that smaller islands will not normally have capacity in landscape terms for turbines in excess of 50 m.

I consider that the scale of the proposal is disproportionate to that of the surrounding landscape and that it will, by virtue of its size and movement, constitute an inappropriately large and dominant development, which would undermine the character of the landscape contrary to local plan Policies LP ENV 1 and LP REN 1.

I propose that this application is recommended for refusal.

Moved by Councillor Mary-Jean Devon, seconded by Councillor Alistair MacDougall.

## **Amendment**

That the application is granted for the reasons detailed in the report and also subject to the conditions detailed in the report with the exception of the following:-

Condition 5 should be deleted and the requirement for a Section 75 Agreement



should be removed.

The following extra condition should also be added:-

No development shall commence or is hereby authorised until a full Traffic Management Plan, including full details of the results of a detailed engineering survey of the public road network used to enable the development across its entire length between the point of arrival on the Isle of Coll and the entrance to the new private access road hereby approved, along with all mitigation measures to enable the delivery of the turbine rotors, mast, machinery, aggregate, plant equipment and materials, is submitted to and approved in writing by the Planning Authority. The development shall thereafter be completed in strict accordance with such details as are approved.

Moved by Councillor Robin Currie, seconded by Councillor George Freeman.

A vote was then taken by a show of hands.

The Amendment was carried by 6 votes to 4 and the Committee resolved accordingly.

### **Decision**

Agreed to grant planning permission subject to the following conditions and reasons:-

1. If, by reason of any circumstances not foreseen by the applicant or operator, the wind turbine, fails to produce electricity supply to a local grid for a continuous period of 12 months then it will be deemed to have ceased to be required and, unless otherwise agreed in writing with the Planning Authority, the wind turbine and its ancillary equipment shall be dismantled and removed from the site and the area of the site impacted by development shall be restored in accordance with the agreed scheme of restoration as per the supporting Environmental Statement, all to the satisfaction of the Planning Authority.

Reason: In accordance with the Council's policy to ensure that full and satisfactory restoration of the wind turbine site takes place should it fall into disuse.

2. No development shall commence or is hereby authorised until details of the colour finish to be applied to the turbine, rotors and mast have been submitted to and approved in writing by the Planning Authority. The development shall be implemented using the approved colour scheme and shall be maintained as such thereafter for the duration of the installation.

Reason: In the interests of visual amenity.

3. This planning permission shall be for a limited period, expiring 25 years from the commencement of the commercial operation of the development, the date of which shall first be notified in writing to the Planning Authority. Within 12 months of the end of that period, unless a further planning application is submitted and approved, the turbine and associated development shall be

dismantled and removed from the site and the land reinstated in accordance with the applicant's statement of intentions as per the supporting Environmental Statement and conditions listed below, to the satisfaction of the Planning Authority.

Reason: In order that the Planning Authority has the opportunity to review the circumstances pertaining to the consent, which is of a temporary nature and in the interests of the visual amenity of the area.

4. The control building shall be faced in natural stone/smooth cement or wet dash render painted a dark grey colour (or other natural/recessive finish as agreed in writing by the Planning Authority) with the roof finished in natural slate or a good quality slate substitute, samples or full details of which shall be submitted for the prior written approval of the Planning Authority prior to building works commencing.

Reason: In order to secure an appropriate appearance in the interests of amenity and to help assimilate the building into its landscape setting.

5. At all times during the lifespan of the installation, the wind turbine approved shall be fitted with a 25 candela omni-directional red lighting or infrared lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms at the highest practicable point.

Reason: In the interests of aviation safety.

6. No development shall commence or is hereby authorised until the proposed access is formed in accordance with the Council's Standard Roads Drawing SD 08/004a; including visibility splays of 42 metres by 2.4 metres from the centre line of the proposed access with the bellmouth area surfaced in dense bitumen macadam for a distance of 5 metres back from the existing carriageway edge. Prior to work starting on site the bellmouth shall be formed to at least base course standard and the visibility splays shall be cleared of all obstructions over 1.0 metre in height above the level of the adjoining carriageway. The final wearing surface on the bellmouth shall be completed prior to the development first being brought into use and the visibility splays shall be maintained clear of all obstructions over 1.0 metre in height thereafter in perpetuity.

Reason: In the interests of road safety

7. Prior to development commencing a method statement for an archaeological watching brief shall be submitted to and approved in writing by the Planning Authority in consultation with the West of Scotland Archaeology Service. The method statement shall be prepared by a suitably qualified person and shall provide for the recording, recovery and reporting of items of interest or finds within the application site. Thereafter the development shall be implemented in accordance with the duly approved details with the suitably qualified person being afforded access at all reasonable times during ground disturbance works.

Reason: In order to protect archaeological resources.

8. The development shall be implemented in accordance with the details specified on the application form dated 27/09/11 and the approved drawing reference numbers:

Plan 1 of 5 (Location Plan at scale of 1:5000)  
Plan 2 of 5 (Block Plan at scale of 1:1250)  
Plan 3 of 5 (Road Junction Plan at scale of 1:1250)  
Plan 4 of 5 (Wind Turbine Elevations at scale of 1:250)  
Plan 5 of 5 (Kiosk, GRP and Crane Hardstanding at scale of 1:440, 1:100)  
Supplementary Transportation Information submitted by letter dated 25th January 2012

All mitigation measures recommended in the submitted Environmental Statement in the interests of nature conservation, including those at table 6.7

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.

9. No development shall commence or is hereby authorised until a full Traffic Management, including full details of the results of a detailed engineering survey of the public road network used to enable the development across its entire length between the point of arrival on the Isle of Coll and the entrance to the new private access road hereby approved, along with all mitigation measures to enable the delivery of the turbine rotors, mast, machinery, aggregate, plant equipment and materials, is submitted to and approved in writing by the Planning Authority. The development shall thereafter be completed in strict accordance with such details as are approved.

Reason: In the interests of roads and pedestrian safety and to ensure that the development is undertaken in a manner that first secures adequate protection to and repair of the Island's road network.

(Reference: Report by Head of Planning and Regulatory Services dated 1 August 2012, supplementary planning report no 1 dated 12 September 2012 and supplementary planning report no 2 dated 16 October 2012, submitted)

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE**  
**held in the MAIN HALL, CORRAN HALLS, THE ESPLANADE, OBAN**  
**on WEDNESDAY, 31 OCTOBER 2012**

**Present:** Councillor Sandy Taylor (Chair)

Councillor Rory Colville	Councillor Donald MacMillan
Councillor Mary-Jean Devon	Councillor Alex McNaughton
Councillor Fred Hall	Councillor James McQueen
Councillor David Kinniburgh	Councillor Richard Trail
Councillor Robert G MacIntyre	

**Attending:** Charles Reppke, Head of Governance and Law  
Richard Kerr, Principal Planning Officer  
Arlene Knox, Senior Planning Officer  
Rory Young, Applicant  
Jan Barton, Applicant's Representative  
Cameron Sutherland, Applicant's Agent, Green Cat Renewables  
Antoinette Mitchell, Kilninver and Kilmelford Community Council –  
Statutory Consultee  
Seamus Anderson, Seil and Easdale Community Council –  
Statutory Consultee  
Bill Weston, Traffic and Development Manager – Statutory  
Consultee  
David Steele, Supporter  
Bruce Davis, Supporter  
John Everett, Supporter  
Darran Mellish, Supporter  
Julian Bell, Supporter  
Duncan MacMillan, Supporter  
Fiona Wylie, Supporter  
Councillor Iain Angus MacDonald, Supporter  
Stuart Reid, Objector  
The Honourable Michael Shaw, Objector  
Dr Margaret Brooks, Objector  
Martin Hadlington, Objector  
John Wilson, Objector  
Dr Phil Moss, Objector  
Lesley Addison, Objector  
Eileen Colston, Objector  
Helen Glennie, Objector  
Christine Metcalfe, Objector

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were intimated from Councillors Gordon Blair, Robin Currie, George Freeman and Alistair MacDougall.

**2. DECLARATIONS OF INTEREST**

None declared.

**3. MR RORY YOUNG: WINDFARM COMPRISING 9 WIND TURBINES (77 METRES TO BLADE TIP), CONSTRUCTION COMPOUND, SUBSTATION, FORMATION OF ACCESS TRACKS AND ANCILLARY WORKS: CLACHAN SEIL, ARGYLL (REF: 11/02447/PP)**

The Chair welcomed everyone to the meeting and introductions were made. Charles Reppke, Head of Governance and Law, outlined the procedure that would be followed and invited anyone who wished to speak at the meeting to identify themselves. Once that process had been completed the Chair invited the Planning Officers to set out their recommendations.

**PLANNING**

Richard Kerr, Principal Planning Officer, advised that this application was first considered by Members at the Planning, Protective Services and Licensing Committee held on 19 September 2012, when it had been resolved to continue consideration of the matter pending the convening of a discretionary local hearing in response to the number of third party representations received, both for and against the proposal. He advised that in addition to the Officer's report prepared for the September meeting, Members had before them a further supplementary report which clarified the stance adopted by Scottish Natural Heritage in their consultation response, provided further consultation responses from SEPA and the Council's Roads Engineers in response to additional information subsequently provided by the Applicant, and which detailed late representations received from third parties. He advised that the supplementary report now included amended reasons for refusal in the light of the final positions adopted by consultees. He advised that he intended to confine himself to a few introductory remarks and then would hand over to his colleague Arlene Knox who would take Members through the detail of the application, the consultation and third party responses, policy considerations, and the reasons why the application was being recommended for refusal by Officers. For the benefit of members of the public, he pointed out that the Councillors had the opportunity of acquainting themselves with the site and its surroundings and that representative viewpoints between Kilninver and Balvicar had been visited this morning to enable an appreciation of the relationship of the turbines with the surrounding area. In the first instance he reminded Members that as with the determination of all planning applications, the starting point in the assessment of the merits of the proposal had to be the Council's approved Development Plan, which comprised the 2002 Structure Plan and the 2009 Local Plan. Section 37 of the 1997 Planning Act required that planning authorities in dealing with applications for planning permission shall have regard to the provisions of the Development Plan, so far as material to the application, and to other material planning considerations. Section 25 augments that duty, by requiring that the determination shall be made in accordance with that Plan unless material considerations indicate otherwise. He advised that there were a number of development plan policies relevant to this case as set out in Section J of the report. Of these, the most significant was Policy LP REN 1 which related specifically to the development of wind farms. That policy was accompanied by a spatial strategy which mapped areas of search for windfarms and those areas which were subject to constraints. However, in line with the government's Scottish Planning Policy, such mapping was only required in respect of schemes with a generating capacity in excess of 20MW, so the 8MW scheme proposed

here did not benefit from any mapping to indicate any presumption for or against the proposal. Accordingly, there was a need to revert to a criteria based assessment in terms of the various relevant interests set out in Policy LP REN1, including such matters as landscape and visual impact, cumulative impact with other developments, impacts upon communities, natural and historic environment considerations and other technical matters. Those matters which had to be regarded as legitimate planning considerations were set out in sections 187 to 191 of Scottish Planning Policy, which as a 2010 document post-dated the Council's 2009 Local Plan, although the matters requiring to be assessed in terms of Policy LP REN1 were consistent with the subsequent government position. SPP makes it clear that in coming to a conclusion on the merits of a planning application the Council should confine itself to material planning considerations, to the exclusion of those matters which were not legitimately related to the development and use of land. In particular, in the context of windfarm developments, he advised that Members would be aware that any community benefit advanced in support of proposals could not be regarded as a legitimate planning consideration and should be disregarded in the adjudication of the application. Beyond the Development Plan, he advised that it was necessary for Members to have regard to the views of consultees and third parties who had expressed both objection and support for the proposal. It was also necessary for Members to have regard to Council approved guidance and whilst this was to be accorded less weight than development plan policy, it still constituted a material planning consideration. He advised that the most significant document in that context was the Argyll & Bute Landscape Wind Energy Capacity Study 2012 jointly commissioned by the Council and Scottish Natural Heritage and latterly approved by the Council. He advised that the application site lay within the defined Craggy Coast and Islands Landscape Character Type which currently only accommodated two 32m high turbines on the island of Luing. The study concluded that sensitivity within this LCT should be regarded as being high for larger and medium scale turbines of between 35m and 130m, and to be high/medium for even small scale turbines of less than 35m. This proposal for turbines of 77m in height must therefore be regarded with a high degree of caution in the context of the conclusions of the approved landscape capacity study. He advised that Members who were new to this Committee might also like to note that a windfarm comprising 15 turbines 125m high within the nearby Raera forest was refused by this Committee on landscape impact grounds at the end of 2010. Finally, he advised that it was incumbent on Members to have regard to the need to adhere to the principles of sustainable development, which were embedded in national planning policy. One of the strands of this was the requirement that Members should take account of the benefits of development which can help mitigate the effects of climate change. Whilst the contribution which this 8MW scheme can make to arresting global warming is palpable, it was not of such magnitude as to warrant the setting aside of other legitimate concerns. Development which conflicts significantly with the interests of maintaining landscape character was inherently unsustainable, and ought to be refused, regardless of its potential contribution to the interests of the wider environment.

Arlene Knox, a Senior Planning Officer, based in the Major Applications Team, advised that the proposed site was located on farmland, approximately 9km south-west of Oban. The site lay to the south of Beinn Mhor, on a craggy stretch of land between Loch Seil and the west coast. The B844 was located to the south, and provided the existing access just past Loch Seil. Key features

considered in the determination of this proposal worth noting on the site and location plans included: Clachan Bridge; Phuilladobhain Anchorage; the Oban to Colonsay ferry route, Ardencaple House and Ardfad Castle to the west and Duachy Standing Stones to the east. She advised that planning permission was sought for the erection of 9, 77 metre high wind turbines with associated infrastructure, including access tracks and a control building. The turbines would have tapering cylindrical towers 55 metres high and 3 bladed rotors, with radii of 22 metres giving an overall height of 77 metres to vertical blade tip. Each turbine would have a maximum generating capacity of approximately 0.9 MW, giving a total nominal capacity for the wind farm of 8.1 MW. She advised that it was considered that the flat roofed design of the proposed substation building was unacceptable and would appear unsympathetic in the landscape. However, as it was only an ancillary aspect of the wider proposal, it was not considered an appropriate reason for refusal, as improvement to its design could be controlled by means of a planning condition should the Committee be minded to grant planning permission. She advised that this application had attracted a considerable level of representation. A total of 966 letters had been received, comprising 102 in support, including a late representation from Councillor Iain Angus MacDonald, 860 against including 2 late representations from Alan Reid MP and Councillor Duncan MacIntyre and 4 general comments. The grounds cited for and against the proposal were summarised in the main report and relevant supplementary reports. She advised that an extremely comprehensive consultation exercise was undertaken in respect of the proposal and its accompanying Environmental Statement. The key consultees whose advice contributed heavily in the balance towards Officers achieving their recommendation were: SNH, Historic Scotland, the West of Scotland Archaeology Service and the Area Roads Manager. SNH advised that the proposal would have significant adverse landscape and visual impacts on an area of Argyll's coastal landscape which was distinct, and recognised as being a resource of regional importance by virtue of its designation as an Area of Panoramic Quality. Furthermore, that the proposal would erode the existing quality of the 'Craggy Coast and Island' Landscape Character Type setting a precedent for further development of this type and scale in this sensitive landscape setting. SNH had been unable to identify any mitigation which would reduce or remove the negative impacts the proposal would have on the distinctive character and sense of place of this regionally important landscape setting. SNH's lack of formal objection did not indicate they were in anyway content with this proposal. Their current practice was only to formally object to proposals which significantly prejudiced national designations. SNH's advice was clear - they did not consider the proposed site appropriate for wind farm development. Historic Scotland's position is: whilst they had not objected - the impact of the proposal on the setting of Duachy Standing Stones would be significant, which, they considered could only be mitigated by the removal or relocation of the 3 turbines closest to the monument. The West of Scotland Archaeology Service objected due to the significant impact the proposal would have on the setting of the Duachy Standing Stones. The Area Roads Manager had objected due to the inadequacy of the approach road to the site to accommodate wind farm construction traffic, and in particular, the impact abnormal loads and HGV traffic would have on the structural integrity of the Kilninver Bridge, and the retaining wall at Barnacarry. Subsequently, measures were put forward by the Applicant to overcome these shortcomings. However, third party land would be required beyond the application site and outside the Applicant's control, in order to facilitate such measures. Furthermore, it was



likely that these measures would also involve works which would themselves require planning permission. Consequently, they could not be regarded as deliverable in the context of this application. Both Kilninver and Kilmelford Community Council and Seil and Easdale Community Council objected to the proposal. All other consultees were satisfied with the proposal subject to: relevant planning conditions and a Section 75 legal agreement. Scottish Planning Policy states that: *“wind farms should only be supported in locations where the technology can operate efficiently and environmental and cumulative impacts can be satisfactorily addressed”*. Furthermore, that: *“the design of any wind farm development should reflect the scale and character of the landscape and the location of turbines should be considered carefully to ensure that landscape and visual impact is minimised”*. As referred to by Richard: *“Section 25 of the Act requires proposals to be determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise”*. The detailed Policy Assessment of this proposal was contained within the main committee report. The principal issues in this case, which raised conflicts with the provisions of the development plan, were: the consequence of the presence of the development on landscape character; visual impact; built heritage and archaeological impact; and road traffic impact. She advised that this proposal lay close to the south-west of Loch Feochan, on the coastal edge within the ‘Craggy Coast and Islands’ Landscape Character Type as defined by SNH in its classification of landscapes in Argyll. She advised that the proposal lay within a sensitive and highly valued landscape character type where it occupied a prominent coastal location where it could be viewed from ferry and recreational boat traffic and other islands as well as from mainland roads, and in particular the road linking Seil to the mainland via the ‘Bridge over the Atlantic’. The value of the landscape within which this proposal was to be located had been accorded regional status by its designation as an ‘Area of Panoramic Quality’ by the adopted Local Plan. She advised that the ability of the various Landscape Character Types of Argyll to accommodate wind farm development had been assessed by the ‘Argyll & Bute Landscape Wind Energy Capacity Study 2012’. Although this document could not be accorded the same weight as the Development Plan, it was an important material consideration in the determination process. She advised that the proposal lay within the ‘Craggy Coast & Islands Landscape Character Type’ and in regard to the ability of this Landscape Character Type to accommodate wind farm development the study states: *“there is no scope to site the larger (80-130 metres) and the small – medium (35 – 80metres) within this character sub-type due to the significant adverse impacts that would be likely to occur on a wide range of landscape and visual sensitivities”*. At present the ‘Craggy Coast and Islands’ Landscape Character Type, and other coastal landscape character types in Argyll, are free of wind farm developments of the scale proposed. It was the view of Officers, and SNH that: if approved this proposal would establish an undesirable precedent for large-medium scale coastal edge wind farm development, in circumstances where the Landscape Capacity Study had concluded that the ‘Craggy Coast and Islands Landscape Character Type’ did not have the ability to absorb wind farm development of this scale satisfactorily. This proposal would introduce an inappropriately located wind farm into the sensitive and valued coastal landscapes of the Firth of Lorn, the lochs and islands around West Argyll, and the Atlantic islands coastal edge, which constituted an exceptional scenic resource, derived from the interplay between the land and the sea with its associated islands and skerries. Approval of the proposal would represent an unwelcome move away from the established location of approved wind farm

developments in upland areas inland, where they did not exert such a degree of influence over the appreciation of coastal landscapes. In light of the negative impact this proposal would have on Landscape Character and the Area of Panoramic Quality, as well as the undesirable precedent it would set it was considered contrary to the provisions of: Scottish Planning Policy, Scottish Government's Specific Advice Sheet on Onshore Wind Farms; Development Plan Policy; and the approved Landscape Capacity Study. She advised that in determining the proposal's visual impact, the layout of the wind farm was assessed from a series of key viewpoints. The Zone of Theoretical Visibility map indicated fairly widespread visibility across the settled eastern coasts of Seil, within the Firth of Lorn and the Mull coast, but with more limited visibility inland to the east. She advised that the predominant blue/green colour on the ZTV map indicated areas where 7-9 tips would be theoretically visible. It was considered that the impact on key views from certain locations would be particularly detrimental, given the disproportionate scale of the turbines relative to their landscape setting and the overall sensitivity of the receiving environment. She then referred to a number of photomontages showing where the wind turbines would be visible from each of the view points. She advised that in terms of Cnoc Dhumhnuill it was considered that in terms of visual impact, although its influence was not widespread, in terms of certain key viewpoints the impact would be significant particularly given the sensitivity of receptors experiencing such views. In light of the negative visual impact this proposal would have it was considered contrary to the provisions of: Scottish Planning Policy, Scottish Government's Specific Advice Sheet on Onshore Wind Farms; and Development Plan Policy. She advised that the development was situated with the nearest turbine being approximately 560m from Duachy Standing Stones Scheduled Ancient Monument, where 7 hubs and partial towers and 2 tips would be visible. It was considered that this proposal would have a significant adverse impact on this important historic environment asset and its setting. She advised that the proposal would also have an adverse impact on the setting of the Category A listed Clachan Bridge. It was considered that the visibility of the development within the landscape backdrop of the bridge, a key tourism asset and a widely photographed structure, in the context of both the wider setting and the appreciation of the bridge, would be unacceptable. It was considered that the proposal would also have an adverse impact on the setting of the category B listed Ardencale House and setting of the Scheduled Ancient Monument Ardfad Castle with all 9 turbines theoretically visible. In light of the adverse impact the proposal would have on the historic environment of Argyll it was considered contrary to the provisions of: Scottish Planning Policy, Scottish Government's Specific Advice Sheet on Onshore Wind Farms; and Development Plan Policy. She advised that the proposal would involve an unusually large number of construction vehicle movements and the conveyance of abnormal loads along the B844 a route which was sub-standard in width and alignment. The road infrastructure along this route was also subject to known deficiencies, including the structural condition of the Kilninver Bridge and the road retaining wall at Barnacarry, and it did not lend itself to intensive construction activities involving movements of heavy goods vehicles and abnormal loads. In view of the geometry of the road, which did not lend itself to the swept path of large vehicles, there was the prospect of serious damage to these structures occasioned by collision as a result of the transportation of abnormal loads or the weight of construction vehicles, which would present a serious threat to continued accessibility by road, as the failure of either of these structures would be likely to precipitate closure of the route with the consequent isolation of Seil, Easdale and

Luing. She advised that the Applicants have explored options to secure appropriate access and have discussed these with the Roads Engineers. Whilst engineering solutions were available these would involve third party land for road improvements outside the road corridor and beyond the Applicant's control, most notably for the installation of a temporary road bridge adjacent to the existing Kilninver Bridge, which should be noted would require planning permission in its own right. A section 75 legal agreement involving third party landowners would be required to secure such improvements, and in the absence of agreement by those parties the engineering solutions identified must be regarded as being theoretical rather than deliverable. In the absence of any satisfactory mitigation being advanced for the risk presented to the route by the type of traffic associated with the proposal, the development did not benefit from an identified satisfactory means of access for either construction or for decommissioning purposes, contrary to the provisions of Development Plan Policy. She advised that the sensitive coastal edge within which the site was located formed part of Argyll's most valued prime landscape resource, with recognition of this being given by its designation as an Area of Panoramic Quality. In light of this proposal's potential adverse landscape and visual impacts, and the importance of landscape as a tourism asset in Argyll, it was likely that the proposal would have some adverse consequences for tourism. Studies commissioned to assess the sensitivity of tourists to the presence of wind farm developments have not produced entirely consistent responses. However, in recent Scottish Ministers appeal decisions for Corlarach and Black Craig wind farms, in both cases, the Reporters accorded weight to the extent of the importance of tourism on the local economy in Argyll and Bute. Whilst not a reason for refusal, it was considered that due to the adverse impact this proposal would have on the landscape, it would give rise to consequent adverse implications for tourism resources. Notwithstanding, the contribution this proposal could make towards combating climate change, development giving rise to inappropriate environmental consequences could not be viewed as sustainable, she advised that this proposal was inconsistent with the provisions of the Development Plan. She advised that all 'other' material considerations had been taken into account but, were not of such weight as to overcome the significant adverse impacts of the scale and location of the development upon Landscape Character, Visual Impact, Built Heritage & Archaeology; and, Road Traffic Impact which could not be overcome by relevant planning conditions or by way of a legal agreement. She advised that there was no justifiable reason for a departure from the provisions of the Development Plan in this case and that it was therefore recommended that planning permission be refused for the reasons set out in Supplementary Report 2.

## **APPLICANT**

Jan Barton advised that she was a Traffic and Landscape Architect and with the aid of a series of slides spoke about the landscape and visual impacts of the proposal. She referred to a map showing wind projects in scoping, planning, approved/under construction and built in area surrounding Clachan Seil and advised they were separate and distant from Clachan Seil and that there was no visual cluttering or overlapping of other developments and therefore no cumulative grounds to refuse the application. She advised that during the design evolution the overall impact was minimised by substantial mitigation work before the application was submitted and she advised on the process that was undertaken. She advised that the proposal was for medium sized turbines for a

medium sized landscape. She advised that consideration was given to the local landscape character type and that the turbines would be nestled into the moorland and that they would look like a single row of turbines due to their spacing. She advised that at the time of the preparation of the Environmental Impact Statement the Argyll and Firth of Clyde Landscape Character was used and highlighted on a map that the site was within a Craggy Upland Character type. She advised that since approval of the Argyll and Bute Landscape and Wind Energy Capacity Study (LWECS) the site was now described as being within a Craggy Coast and Islands Landscape Character type and that this new Landscape Character type was considered highly sensitive. She advised that the presence of Beinn Mhor increased the height and scale of the landscape and that the turbines would hug the terrain enclosing the site and tucking it away. She advised that SNH allowed for modest medium typed proposals. She advised that the Islands of Luing, Shuna and Kerrera were more sensitive and that they were lumped together with this site area. She advised that the presence of forest land diminished the sensitivity of the area compared to Luing, Shuna and Kerrera. She advised that the LWECS was not listed in the report of handling as a material consideration though noted that Arlene Knox had said so in her presentation. She advised that it was still a very generalised document and did not allow for local site characters. She advised that this was a medium and not significant development. She advised that SNH were not objecting as there were no national landscape designations being affected by the proposal. She referred to the site being within an Area of Panoramic Quality and advised that this was a local designation in the Local Plan and had no designation in Policy. She referred to the links between the land and the sea and advised that none of these character types would be impacted on by the proposal and the overall scenic value would not be undermined. She referred to the Zones of Theoretical Visibility (ZTV) and advised that actual visibility would be greatly reduced because of screening from vegetation and the built environment. She advised that the turbines being visible was not necessarily a bad thing and referred to comfortable views and uncomfortable views. She advised that the ZTV showed very limited visibility from the mainland and that the site was very contained. She referred to each view point in turn with the aid of slides and concluded that the vast majority of views were comfortable.

Cameron Sutherland advised that he was here to speak as the Applicant's Agent, Green Cat Renewables and that further to what had been heard from the Landscape Architect, he wished to briefly touch on some of the other technical points of concern or perceived to be of concern for this project and outlined why it was believed that these should not be an impediment to this development proposal. He spoke about access and advised what the key points to note were. Having had no adverse comments from the Area Roads department in relation to the proposal at the scoping stage, he advised that the application was submitted in November 2011. He advised that it was only in July 2012 that a roads objection was received because the department had not been given the traffic impact assessment provided with the Environmental Statement. It was not until 21 August that Green Cat Renewables received a roads objection on the grounds of the poor state of the Kilninver Bridge, slippage risk near Barnacarry and the difficulty in using Clachan Bridge as part of any access. In respect of Clachan Bridge he advised this access would not be required. He advised that a full access survey was undertaken and mitigation measures proposed including the Applicant repairing the Kilninver Bridge or contributing to the building of a new bridge, reducing vehicle movements by having an onsite borrow pit and

onsite batching plant, and the erection of a temporary bridge which was a suggestion made by the Area Roads department. He advised of dialogue between Green Cat and the Area Roads department. He advised that a site visit was undertaken and planning conditions drafted including mitigation for the potential Barnacarry slippage. He advised that a Planning Officer intervened on 25 October who indicated that no mitigation could be acceptable. He advised that an alternative access had been found which Rory Young would provide more information on during his presentation. He advised that contrary to the Planning Officer's intervention access could be conditioned to comply with LP TRAN 4 and LP TRAN 5. Mr Sutherland then went on to talk about the objection made by SEPA regarding the risk effect on ground water dependent terrestrial ecosystems. He advised that further information had been provided which demonstrated that the risks were not significant and that SEPA had further responded to advise that the proposal could go ahead subject to planning conditions therefore this was not a reason to refuse the development and that the proposal therefore complied with STRAT RE1, STRAT DC7, LP REN1, LP ENV2 and LP ENV 6. Mr Sutherland also spoke about concerns raised about Ornithology and read out the statement submitted by SNH and the statement within the Planning Officer's report. He advised that contrary to the Planning Officer's report the clear message was that SNH currently had no concerns and that pre construction survey would be advisable and desirable. Mr Sutherland also talked about the key reasons for distance stand off to turbines which were safety, noise and visual amenity. He advised that this project did not require a 2 km buffer and the areas of search were intended for projects of greater than 20MW and that the minimum separation distance of greater than 800 m met all the technical constraints. He advised that noise levels measured were low at the nearest properties and constraints were predicted to be met at all properties at all wind speeds with no mitigation required. He advised that if suitable noise conditions were applied there was no reason to expect noise problems throughout the project lifetime. In terms of shadow flicker Guidance has consistently indicated that shadow flicker should not normally cause problems beyond 10 rotor diameters. He advised that for this project 10 rotor diameter boundary was the technical constraint in layout design and that all residential properties were greater than 18 rotor diameters from the nearest turbine. In summary he advised that access to the site and ecological constraints could be suitably mitigated. He advised that Ornithology was currently of no concern and it was expected to require pre-construction survey and that residential amenity could be maintained with suitable planning conditions.

Rory Young advised that he and his family were the Applicants and that his family had farmed in Argyll for three generations and that they wished to generate an income to prolong the use of the farm and consent of this wind farm would generate an income to allow the farm to continue. He advised that consultation was undertaken throughout the process and that as a result of this consultation the number of turbines were reduced from 11 to 9. He advised that Historic Scotland have clearly stated they do not object to this development though they have concerns and have suggested the removal or relocation of 3 of the turbines. He referred to the comments by Historic Scotland and West of Scotland Archaeology about the Duachy standing stones and he referred to pictures of these showing that only 1 of the 4 was still standing and another was partially buried. He advised that he has offered to stand the fallen stones back up and to improve the link stock fencing to stop them from falling over again. He advised that he has also offered to erect a sign to potentially enhance the

monument and that Historic Scotland have welcomed this. He advised that an agricultural shed and fencing were more visually intrusive and that the setting already included man made structures. He advised that Historic Scotland did not think the proposal would have any significant impact on the setting of Clachan bridge. He advised that he had carried out a detailed analysis of objections received and that relatively few comments had come from local residents. He also questioned the validity of postcard style objections which were first distributed even before the application was submitted and that many of the objectors would have had no knowledge of this application at the time of filling out the postcard and that this appeared to be part of an anti wind farm campaign. He advised if these postcard type comments were disregarded then 55% of the representations received were from objectors and 47% were from supporters. He advised that he commissioned his own survey and questions were asked of locals in the three Community Council areas. He advised that the questions were scripted and that the survey was carried out by independent consultants. He referred to mitigation having been looked at to offset impact and that the turbines had been reduced and moved further away. He advised that onsite noise monitoring had been carried out. He referred to the possibility of a new bridge or repair to the existing bridge and that the wind farm would bring a solution to a long term problem and that the terms of this had been agreed with Roads however Planning had raised concerns as third party land owners would be required to give permission. He advised he had not had the chance to contact land owners but did know that locals were keen for new bridge to be built. He advised that he had spoken to two land owners to gain permission to access the site from the A816 through the Raera Forest which would mean there was no longer a need to cross the Kilninver bridge. He referred to comments about the high impact on Tourism and that he was keen to continue to sustain Tourism by allowing the use of an old area of land for a car park and providing self guiding tours around the farm with signs erected around the farm highlighting local historic information and publicising local services available in the area. He advised that the offer of one of the turbines as a community turbine had been turned down by the Community Council. He advised that a community wind turbine would generate an income of £80,000 per year and that a representative from Abundance Generation was here to speak about the benefits of investing in a community wind turbine. He advised that Clachan Community Wind Farm were keen to keep much of the revenue achieved in Argyll and Bute and that he had signed a Memorandum of Understanding with Wind Towers. He also advised that 8 letters of support had been submitted by 8 Argyll based firms which collectively employed 375 people. He advised that Julian Bell from the Agricultural College would speak later and demonstrate how Clachan Community Wind Farm could benefit the area.

The Chair ruled and the Committee agreed to adjourn the meeting at 1.10 pm for lunch . The meeting reconvened at 1.45 pm.

## **CONSULTEES**

### Kilninver and Kilmelford Community Council

Antoinette Mitchell spoke on behalf of the Community Council representing the Kilninver and Kilmelford area. She advised she would do her best to represent the whole of the community and advised of the process undertaken by the Community Council to give the community the opportunity to be involved in

making their views known including holding special meetings and issuing letters. She advised that once the application became live the Community Council issued flyers asking the community to respond to the Community Council to help with the response that would be submitted in respect of this application. The community were also encouraged to submit their own individual representations to the Council. She advised that a meeting of the Community Council was held in February 2012 to discuss the application and that the Applicant, Mr Rory Young, was present at this meeting. A number of questions were raised which Mr Young was unable to answer and he confirmed at this meeting that he would contact the Chair at a later date with answers. Mrs Mitchell advised that the Community Council were still waiting on these answers from Mr Young. She advised that the community were given every opportunity to submit their views to the Community Council and that the Community Council's response was based only on the views submitted to them by the community. They asked the community to make comments on the application itself and not about wind farms in general. She advised that none of the Supporters of this application have stated that the location of this wind farm is the reason for their support. She advised that the majority of the Supporters lived the furthest away from the site. She advised that 90% of the community that responded to the flyer issued by the Community Council did not support this application and that it explained a lot that the developer lived elsewhere. She advised that those living in the area were dismayed at the contents of the Environmental Impact Assessment which denied the existence of bats. She advised that the studies carried out in some cases were done at the wrong time of the year and at the wrong time of the day and for too brief a time. She advised that it was generally believed that Argyll and Bute had already met their 2020 target of energy from renewable resources such as wind farms and asked why was another wind farm needed in this area. She advised that the proposal would have an adverse impact on an Area of Panoramic Quality and that the site was next to an area designated as 'very sensitive countryside' in the Local Plan. She referred to the proposal being classed as medium scale and advised that the wind turbines would be intrusive and overbearing on the landscape. She referred to the visual impact for those living on Seil and around iconic scenic beauty spots. She advised that the wind farm would be less than 800 metres from the coast. She advised that many members of the community were appalled at the standard of the photomontages and the misrepresentation of these and that no one was in support of the suggestion of a tourist centre at the farm. She advised that even those that support wind farms have questioned the viability of this wind farm. She stated that the large anemometer was never erected by the Applicant, only a 15 metre high one just for a few months. She advised that the site would be protected from prevailing winds by Beinn Mhor. She advised that residents next to the site were concerned about the impact of noise especially at night. She referred to health issues associated with infrasound and that this must be considered seriously. She advised that residents were concerned about property devaluation though appreciated that this was not a planning issue. She referred to compensatory schemes in other parts of Europe as a result of wind farms and asked where the money would come from if compensatory schemes were introduced in the UK. She advised that if this proposal went ahead it would set a terrible precedent. She advised that Planning, SNH and Roads did not support this application. She advised that overall this application was for a wind farm in a totally unsuitable site and that it should be refused.

Seil and Easdale Community Council

Seamus Anderson, Chair of Seil and Easdale Community Council, advised that he had heard some good points made on both sides and that he would be putting forward the views of the community of Seil and Easdale and that he hoped that the Committee had taken the time to read the full response submitted by the Community Council and not just the abbreviated version in the Planning report. He advised that this has been a long process since 2009 to get to here and that the proposal has been discussed at numerous Community Council meetings and public meetings. He advised that he had attended meetings arranged by the developer and other factions to ascertain what the public were thinking. He advised of a postal survey the Community Council carried out using the edited version of the electoral role which included 377 residents. He advised that 3 questions were asked (a) do you wish the Community Council to support the proposal for a wind farm? (b) do you wish the Community Council to object to the proposal for a wind farm? (c) do you wish the Community Council to express no view on the proposal for a wind farm? He advised that there was also a box for any comments voters wished to make. He advised that the community were also encouraged to submit their own letters of representation on this proposal. He advised that the Community Council received 208 returns on their survey and that 60 supported the proposal, 138 objected and 10 had no view. There were also 72 comments received. He advised that the Community Council also received comments from people not included on the edited electoral role. He referred the Committee to page 11 of the supplementary planning report 1 which summarised the reasons why Seil and Easdale Community Council were objecting to the proposal and asked the Committee to give these weight when making their decision.

**SUPPORTERS**

David Steele

David Steele advised that he represented Wind Towers Scotland Ltd who have a manufacturing plant down in Machrihanish, Kintyre and that they manufacture wind turbines. He advised that the Company employs 135 people and that the Company has been in existence for 20 months and have taken on workers from the Kintyre and Mull of Kintyre area. He advised that employees were trained locally and that from 5 November 2012 they would be employing for the first time 2 apprentices. He advised that the Company were debt free and well funded. He advised that the Company have signed a Memorandum of Understanding with Clachan Community Energy Wind Farm for orders of the wind turbines to go to Machrihanish and that an order like this would be very important for the Company. He advised of other wind farms that the Company had been involved with including Allt Dearg and Carraig Gheal. He advised that the renewable energy industry was important to the economy of Argyll and Bute and Scotland and that he would like to add his support to Clachan Community Energy Wind Farm.

Bruce Davis

Bruce Davis of Abundance Generation spoke specifically about how his Company can assist ordinary people to invest in renewable energy projects. He advised that the Company started in July 2012 and have been involved in the



Forest of Dean renewable energy project which has been fully supported by those living next to the turbines which would pay £15,000 per year to the community for 20 years and that those who invest in the project would receive a return of up to 8%. He advised that electricity generated would go to the grid and that people who invest as little as £5 could get involved. He advised that by investing in the project people gained a better understanding of green energy and the economic benefits of this and that from the age of 18 years people could put money into the project and get a return for the life of the project. He advised that Abundance gets involved with local people and that they want the money to stay in the local community to enable it to be spent on the local community for the benefit of the community. He advised that Argyll and Bute have more wind resource than any other area in Europe. He advised that renewable energy was the most valuable thing with wind and sun being the most beneficial.

### John Everett

Mr Everett advised that the Committee should go against the recommendation and approve this project. He advised that he would like to demonstrate his support for wind farms. He referred to the community benefit of £10,000 though understood that this was not a material planning consideration however it was still worth fighting for. He advised that he would like to appeal to the Committee on rational grounds. He advised that by 2023 all but 1 out of 19 coal fired power stations would be retired. He advised that 20% of our electricity came from nuclear power stations and that their lifespan was also limited. He referred to periodic blackouts being a normal occurrence in India where supply could not keep up with demand and asked would this be accepted in the UK. He advised that the Clachan Wind farm at a local level would make a difference. He advised that there would be enough energy produced at Clachan to supply electricity to homes in a town the size of Oban. He referred to myths in respect of noise and advised that the Committee would hear from objectors about low frequency noise and infrasound. He advised that the 2km buffer zone guidance was for those setting broad planning designations. He read out an article about a project he was involved with down in Leicestershire regarding turbines and noise. He advised that there were legitimate reasons why the Committee could support this proposal such as sustainability, the Argyll and Bute Economic Development Plan for 2010 – 2013 which describes renewable energy as a major opportunity and a number 1 priority, and generating electricity in line with local needs.

### Darran Mellish

Darran Mellish advised that he was born and bred in Argyll and worked for West Coast Tool and Plant Hire. He talked about the recession over the last 5 years and that in order to keep his business running during the recession he depended on the construction industry. He advised that he employed 25 people and that his business had survived due to the construction of wind farms at Glendaruel, Allt Dearg and Carraig Gheal. He advised that in terms of access the roads and underground cabling for these projects required vehicles and plant which were sourced locally. He advised that the Clachan Community Wind Farm had the potential to promise more employment for local contractors. He referred to the prejudiced views of some people regarding wind farms. He advised that tourist providers he has spoken to have not raised any concerns. He referred to intrusive views and that everyone had a different opinion. He advised that in 20 years the wind farm would be decommissioned and the land returned to its

previous state and that this opportunity should be grabbed with both hands.

Julian Bell

Julian Bell, a Senior Rural Business Consultant at the Agricultural College advised that the economics of renewable energy was his specialism and that he has assessed the potential benefits of the Clachan Community Wind Farm during construction and operation. He advised that the project would bring a long term flow of money into the economy and he advised what this would mean in terms of additional jobs.

Duncan MacMillan

Duncan MacMillan advised that he has lived in Kilmelford for 35 years and that his son and neighbours work in the wind industry and that because of this he was supporting this project. He advised that a lot of people supported this project but were too frightened to say so for fear of lifting their heads above the parapet.

Fiona Wylie

Fiona Wylie advised that she has lived at Arduaine for over 30 years within the Kilninver and Kilmelford Community Council area and that she would like to vote yes for this application. She advised that we were too dependent on coal, gas and uranium and that we needed to plan for a mix of methods including renewables and that there would always be wind, sun and waves. She referred to the Clachan Wind Farm having the potential to power a town the size of Oban and that this project should be part of the mix for the future. She advised that the Council should facilitate rather than hinder contributing to part of the mix. She advised that in contrast to the objectors every single letter of support came from within Argyll. She referred to the economic benefits to the community, eg, employment. She referred to 5 people in the tiny community working in the wind turbine industry. She advised that there has been an emotional outcry from objectors regarding wildlife. She advised that SNH have raised no concerns regarding ornithological interests. She advised that David Attenborough was an ardent supporter of wind generation. She referred to objectors advising of doom and gloom for tourism. She referred to a survey by Visit Scotland, Moray and Edinburgh University which stated that wind farms do not have a negative adverse impact on tourism. She advised that Cornwall have embraced wind farms and that they have had neither a negative or positive impact on tourism. She referred to objections about subsidies paid for renewable energy and stated that the average householder paid less than £5 per year for renewable obligations. She referred to objections about noise and advised that she had visited Tiree which had a turbine visible from all parts of the island. She advised that she could not decide if the noise she heard when standing near the turbine was from the turbine itself or from the wind. She referred to Kilninver and Kilmelford Community Council objecting and advised that they were not representative of the community as a whole. She advised that the flyer issued by the Community Council contained factual errors. She spoke about a house to house survey done and that 77% of the community were either neutral or supportive and that based on these results the Kilninver and Kilmelford Community should be supporting this proposal to reflect the views of the community. She advised that most of the objectors were elderly, second home

owners or the wealthy and that most objected to the visual impact. She advised that if permission were granted it would only be for 20 years then the project would be decommissioned and the land returned to its original state. She advised that a yes to this application would ensure Argyll continued to meet its renewable targets and that the local community would reap the benefits.

### Councillor Iain Angus MacDonald

Councillor MacDonald advised that he came to Argyll in the mid 1980s and has been involved with Community Councils and that he was interested in the concerns of the community. He spoke about the planning process and how this has evolved in Argyll and Bute. He referred to an application of similar circumstances recently approved and suggested there was a lack of consistency. He advised that this proposal was temporary and that all trace of it would be removed in 25 years which was a moment in time and asked that the Applicant be given this moment in time. He advised that orchestrated support or objection had no part in this. He advised that most of the indications from going round doors were for support and that this was mostly from very financially pressed families. He advised that Argyll was now experiencing almost twice the Scottish average of fuel poverty. He advised that these were challenging times and that we needed to find innovative ways to generate finance in the economy over the coming years.

### **OBJECTORS**

#### Stuart Reid

Stuart Reid circulated pictures to the Committee which illustrated the scale of the turbines to those living in Clachan Seil. He advised that he was speaking on behalf of a large number of people who have objected on planning matters. He advised that the location of the site was not suitable for a project of this size. He referred to the Local Wind Energy Capacity Study (LWECS) intended to guide and advised that this proposal went against this guidance. He referred to the national scenic area of Scarba to Lunga and that this project would be visible throughout the Firth of Lorn. He referred to infrastructure including the Kilninver Bridge, the retaining wall at Barnacarry and the single track road which would be used by construction vehicles. He referred to the number of vehicle movements during the construction phase and maintenance traffic for the lifetime of the project. He advised that emergency vehicles would be jeopardised if the road became blocked. He referred to decommissioning of the project in 25 years and advised that it would only be the turbines that would be removed. He advised that the foundations and hard standings would just be covered with top soil and that the craggy upland would be changed forever. He referred to the recommendation of 2 km in respect of separation distances and advised that 70 dwellings were within 2 km and the nearest was 800m away. He advised that a precedent could be set for this Argyll coast and that there were fears that the application for the Raera wind farm could be resubmitted. He advised that the reasons for the Raera application being refused were even more applicable in this proposal. He referred to a photograph showing the location of each turbine across the landscape. He spoke about the scenic quality of the area and urged the Committee to refuse the application.

Michael Shaw

Michael Shaw advised that he has been involved with tourism and rural development and referred to tourism and its importance around Clachan Seil. He advised that Tourism underpinned everything. He advised that the unspoilt, natural beauty of the landscape was the main speciality of this area. He advised that visitor centres were not dependent on scenery. He referred to canoers and walkers who came to the area because of its appearance. He advised that properties on Seil commanded premium price. He advised that the first bridge over the Atlantic was known worldwide and that the whole area of Easdale and Clachan Bridge often featured in promotional materials for Argyll and Bute for tourism purposes. He referred to the Cornwall survey regarding tourism and acknowledged that most people have no problem with wind farms if they are built in the right place. He advised that the problem with this proposal was it being put in the wrong place so that is why it was a threat to tourism. He advised that tourism in this small area was fragile and that it would not take much to make it rocky. He referred to this being an industrial development in the Toad of Lorn an area of religious and historical interest, an iconic tourist attraction and a valued asset to us all. He referred to Cruachan being a large mountain and that Beinn Mhor was not a mountain. He advised that this environment was not just pretty it was of economic importance.

Margaret Brooks

Margaret Brooks advised that she objected to this wind farm. She advised that she lived with her family in Clachan Seil and that their house was 1.5km from the proposed wind farm. She advised that she has been a health professional for 25 years and would like to talk about the effects of Wind Turbines on health based on information published in medical journals. She referred to noise impact and low frequency sound and infrasound. She referred to sleep deprivation and sleep disturbance. She advised that the Environmental Impact Statement (EIS) based its noise assessment on the 5 nearest properties to the wind farm and advised that 60 properties would be within 2 km of the wind farm and that sound carried. She referred to information about other health problems gathered in other countries where wind farms were erected. She likened these reports about health issues being similar to health issue reports first made regarding tobacco. She advised that the EIS referred to a guidance note on noise which was over 15 years old and that no mention was made about infrasound in the presentation on the EIS today. She referred to the loss of amenity and that it was not just the visual impact it was the disruption to the peace and tranquillity of the area. She advised that health was priceless and that she had no confidence that the health of the residents of Clachan Seil would not be affected. She asked who would be called to account if legal action was taken as the result of health problems.

Martin Hadlington

Martin Hadlington advised that he was a conservation architect and that he worked on ancient scheduled monuments and referred to a number of projects he was currently working on and advised that there was archaeology support on these sites. He advised that he has lived on Seil for 20 years and has kayaked down the waters in the area. He referred to the landscape being intimate, very sensitive and unique. He referred to churches in the area, a crannog on the

loch, hill fort and the Toad of Lorn. He advised of major implications in terms of setting for these sites. He referred to the Duachy stones and comments made by Historic Scotland on these. He advised that both Historic Scotland and West of Social Archaeology Society had expressed concerns. He advised that it was not known what archaeology was on this site and that this had not been investigated in great detail and may cause the loss of potential archaeology in the area. He advised that a great deal of care was required for this area of landscape. He advised that the debate was not about the rights or wrongs of wind turbines it was about this particular site being the wrong location for a wind farm.

### John Wilson

John Wilson spoke about the impact on the natural heritage and the Environmental Statement advising of no protected species found on the site. He advised of a colony of marsh fritillary butterfly identified in the area following surveys undertaken. He advised they were first seen in 2009 and that a condition survey carried out in 2012 found evidence of a healthy colony. He advised of many sitings of white tailed sea eagles and that the Council were notified of these sitings. He also referred to the EIS advising that no bats were in the area and advised that it was common to observe bats locally and that they were known to roost close to Kilniver bridge and he mentioned various other places where they were known to roost. He advised that bats were being killed by turbines due to changes in air pressure close to the turbines which caused their lungs to rupture. He advised that the EIS stated that there was no evidence of barn owls and advised that barn owls were known to nest in the area and were quite often seen sitting on the bridge. He advised that the EIS had many shortcomings and that if the property developer was allowed to proceed at least 4 priority red protected species would be at risk.

### Phil Moss

Phil Moss advised that he moved to the area 18 years ago and that he was not a medical doctor, but a retired research scientist, with a lifetime working in agriculture science. He advised that he was a strong supporter of the environment and renewables provided they were located in the right place. He advised that he was a great fan of hydroelectricity schemes, tidal power, and of reducing carbon footprints. He advised that he wanted to talk about noise and referred to the deep sounds produced by the blades of wind turbines. He advised that it was these deep sounds with long wavelengths that travelled long distances and were used by elephants to communicate over land and whales in the sea. He advised he was deeply concerned about this development because of its situation at the head of Seil Sound. He advised that this was a body of water with hills on either side, where sound carries over the water and was contained by the hills, a sort of megaphone effect, with the turbines at the mouthpiece of the megaphone. He advised that most of the houses in Clachan Seil were on the slopes of the hills so within sound range of the turbines and that the village of Balvicar was within the end of the megaphone, and despite the distance, may well be affected. He advised that he lived in one of the houses not immediately next to the water and that he could often hear noises, even normal speech, from considerable distances. He advised that at a previous meeting it had been stated that the wind here was from the South West so all sound from the turbines would be carried away from the village. He advised that

this was an over simplification and not totally accurate. He advised that although most of the weather systems came from the South West, the weather that brought the wind consisted of low pressure areas and that the wind circulated round these anticlockwise so the wind changes in direction as the low passes. He advised that the noise from these huge turbines would be funnelled down the South to the houses for a considerable period when the turbines were turning. He advised that Scotland already led the world in renewable electricity generation from hydro and that it was also supporting research into tidal power, for which it was ideally situated and which was a far better, more reliable source of energy than wind power. He advised that Scotland was also supporting the installation of solar panels and actively supporting a range of initiatives to reduce energy consumption, such as better house insulation, use of log stoves rather than fossil fuels, and installation of heat pumps. He advised that surely Scotland should just be concentrating on the best sources, such as hydro and tidal, and only considering the very best wind power schemes with the least detrimental effect. He advised that on a world scale, the effect of this proposal would be miniscule and that there were many locations, both on land and off shore in Scotland and other countries, where wind turbines could be located without seriously affecting people as this one would, and that this proposal should be way down any list of priorities. He advised Members, in considering this application, to take a wider view and balance the minute world benefit of this proposal against the detrimental effect it would have on the standard of living, including health, of the constituents in Clachan Seil and even Balvicar.

#### Lesley Addison

Lesley Addison advised that she lives at Clachan Beg overlooking Clachan sound and that the beauty, peace and community spirit enjoyed by her parents at Taynuilt attracted her and her husband back to the area in 1997. She referred to “not in my back yard” and stated that in terms of wind farms “not in our back yard”. She listed her reasons for objection being - quality of life – her house being less than 1 km from the nearest turbine led to her having concerns about sleep deprivation; loss of freedom – to walk around the area – concerns about ice throw; and that this was one of the most beautiful places in the world – this industrial site would not be wholly dismantled at the end of its lifespan.

#### Eileen Colston

Eileen Colston advised that she lives in Clachan Seil within 1.5 km of the wind factory. She referred to the Clachan Community Wind Farm and Mr Young being an absentee landowner. She referred to opposition from both Community Councils and that the wind farm would blight the lives of those living here. She advised that the turbines would not be nestled or tucked away and would have an adverse impact on tourism. She advised that this was not a community project and that it was community exploitation.

#### Helen Glennie

Helen Glennie advised that she has lived in Clachan Seil for 2.5 years and was within 1.5 km of the proposed wind farm. She advised that she has also been a conservational credited architect for over 30 years and that this landscape and ecology would be undermined by this wind farm which was not a farm but an industry. She advised that she had looked at all the comments submitted online

and referred to the latest comments about the bridges. She advised that she was not happy that there was no reference to alterations to the access from the highway and that this could not happen without alterations to turn down off the highway. She referred to possible log jams with tourist buses meeting construction traffic. She advised that the Grade A listed bridge would be compromised. She advised that the setting of the listed bridge and other listed buildings in the area would be severely compromised if not destroyed. She advised if this application was accepted it would go against policies set to protect the landscape. She advised that from her home she would be able to see and hear the turbines all day and all night. She advised that the value of her home had already tumbled and would not recover. She advised of the peace and solace of the area being taken away and human rights being affected. She advised that her quality of life and other peoples would be severely compromised and that the developer did not even live here. She advised that planning policy states that quality of life should not be compromised. She advised that the wind farm would not achieve 100% efficiencies and might just achieve 30% efficiencies so could not understand where £80,000 of community benefit would come from. She advised that electricity generated would go to the national grid not to local people. She referred to the wildlife and that a pair of white tailed sea eagles were seen in the area last week. She referred to bats being known to roost in the area and that the Bat Conservation Trust with DEFRA have been conducting a study on bats and that a report on this was due at the end of the year. She advised that in Europe the bat population was being reduced due to ecosystems. She advised that bats were affected by the turbines and rotor blades and that the bat situation has not been thoroughly explored. She listed ancient monuments in the area and advised that an archaeology survey was required. She referred to safety issues and ice throw. She referred to the impact on tourism. She advised that CO2 was not a pollutant it was green and that plants needed it to grow, animals needed plants eat so we needed CO2. She advised that support for this project was money based and objections were in planning terms. She advised that we could not rely just on wind power and that there were other forms of energy.

#### Christine Metcalfe

Christine Metcalfe advised that a lot of what she planned to say had already been said but that she would like to add to the comments made by Dr Brooks and others on the adverse health effects associated with wind turbines which have been published globally. She also referred to sailing tourism rising and that this proposal would impact on this area which was one of the top 40 sailing locations. She advised that support for this project was based on short term considerations and not material considerations and that this proposal should be refused.

The Chair ruled and the Committee agreed to adjourn at 4.25 pm for a 10 minute break. The meeting reconvened at 4.35 pm.

#### **MEMBERS' QUESTIONS**

Councillor Kinniburgh referred to Roads concerns about the Kilninver bridge and the retaining wall at Barnacarry and asked was it correct that the road would need redesigned to get an HGV over the bridge and how much room would be on either side of the HGV.

Bill Weston advised that HGVs currently used the bridge and that there was no weight limit. He advised that the intensity of loading was the main issue and that abnormal load vehicles were longer and wider. He advised that the biggest vehicle would be the crane which would be 3.2 metres wide. He advised that the bridge parameter was 3.5 metres. He advised that the crane would go in once and out once during the construction phase.

Councillor Kinniburgh asked what the impact on the community would be if the road needed to be closed.

Bill Weston advised that the community would be completely cut off and that this was the only access to Seil.

Councillor Kinniburgh asked if the suggestion of an alternative access was made by Roads or the Applicant.

Bill Weston advised that this suggestion came up during discussions about the feasibility of building a temporary bridge and that he believed this suggestion was made by his colleagues in Roads Design during these discussions.

Councillor Devon referred to the wildlife and ornithological concerns and asked if there were any SSSIs in the area.

Richard Kerr advised there were no designations.

Councillor Devon referred to the Landscape and Wind Energy Capacity Study document and part of the reason for refusal being the siting and scale and design of the turbines and asked what status this document was given when considering this planning application.

Richard Kerr advised that the study was a material consideration but did not carry the same weight as the Structure and Local Plan policies. He advised that the LWECs was commissioned jointly between the Council and SNH in response to the number of wind farm applications across Argyll and to that extent it is constituted as guidance and has less weight than the policies.

Councillor Devon referred to talks about the adverse impact and referred to the wind turbine. She asked if any of the objectors had approached people on Tiree to ask for their comments on the impact. She was advised that it was a different scenario on Tiree as they only had one turbine and that this proposal was not for a single turbine. It was not known if anyone on Tiree had been approached to comment.

Councillor Devon asked if the Applicants were able to address people's concerns about the bridge with a new bridge or repair to the bridge after construction would this alleviate Road's concerns.

Bill Weston advised that there would be the need for a traffic management plan including the means to control the number of vehicles at any time and the addition and extension of passing places. He advised that this would be possible.



Councillor Trail referred to the alternative access through the forest and asked if this would be a completely new road or involve the upgrade of an existing track.

Rory Young advised that he had only started to investigate this on Friday and his first conversation was with the land agent of Raera Forest. He advised that it would involve using and upgrading the existing track used for the extraction of timber. He advised that it was the main arterial road and not his preferred access route.

Richard Trail asked if the track would need extended.

Rory Young advised that he believed that both ends of the track would require extension.

Councillor Colville referred to policy LP REN 1 and the efficiency of the turbines. He asked how Mr Bell had arrived at his figures and asked how confident he was that there would be no turbulence.

Rory Young advised that he had not yet erected the 50 metre anemometer on site. He advised that just the smaller one was erected and that a combination of that and people visiting the site all figures were based on the national average of 30% and capacity figures of other turbine owners in the area.

Councillor Colville referred to the separation distance guidance of 2 km and asked Planners what weight they placed on this guidance.

Richard Kerr advised that separation distances were not mandatory. He advised that they were there for the preparation of development plans rather than the assessment of individual planning applications.

Councillor Colville referred to the funnelling of noise through the Sound and asked if that had been taken into consideration

Richard Kerr advised it was difficult to comment on noise as a review of noise sensitivities was undertaken by Environmental Health Officers in Public Protection and that they did not consider noise to be a problem. In terms of low frequency noise he advised that the jury was out on that and until we get a point of view from the Government that the status needed changed it would not be appropriate to do something unilaterally and at the moment we have to accept the current national standards regarding noise.

Councillor Hall asked the Applicant what work was done regarding the environmental impact and the traffic management plan.

Cameron Sutherland advised that the environmental impact was scoped out as part of the Environmental Impact Assessment. In respect of the traffic management plan they are aware of the need for one if planning permission was granted in order to suitably mitigate the number of vehicle movements across the Kilninver Bridge. He advised that they have investigated the possibility of a borrow pit on site and an onsite batching plant for concrete to mitigate the need for the number of traffic movements.

## SUMMING UP

### Planning

Richard Kerr advised that the landscape of the west coast of Argyll must be recognised as a very important resource both in terms of its inherent qualities and in terms of its value as a scenic tourism asset of significance to the Argyll economy. He advised that it was a relatively low lying landscape, deriving its interest from its complex and intimate character, and the interplay between the land, the sea and the islands. He advised that such coastal land does not share the locational advantages of those more open, elevated, upland areas in inland parts of Argyll, which were removed from the coast, communities and transport routes, where, in our view, there was more opportunity to assimilate large turbines into the landscape setting successfully. He advised that Members would be aware that approved windfarm developments have been generally restricted to areas such as the Lorn Plateau, the spine of Kintyre and upland areas between Loch Fyne and Loch Awe and that proposals with potential impacts upon for sensitive coastal landscapes have not proven to be successful. He advised that the proposed windfarm in the Raera forest to the south of the Clachan site was refused by the Council in 2010 and the refused site at Kilchattan by Southend was subsequently dismissed on appeal due to its unacceptable influence over coastal landscapes. He advised that the site lay within a designated Area of Panoramic Quality which, contrary to what was suggested by the Applicant's landscape architect, was a regional designation within which particular care has to be taken not to degrade landscape assets and tourism potential. He advised that significant care was required in siting a turbine of any scale in such a sensitive receiving environment. He advised that the turbines proposed were 77m tall and although they were to be regarded as medium scale in terms of the largest turbine models now available, at 77m these remained very tall structures of the size being installed as state of the art machines by the utility companies only 10 years ago. He advised that turbines of this scale were disproportionate to the scale of the particular landscape on which they were to be sited, and accordingly diminished the apparent scale of that landscape and for this reason the joint Council/SNH Windfarm Landscape Capacity Study considers this landscape character type to be highly sensitive to any turbines over 35m, with a high to medium sensitivity for even small turbines of less than 35m. He advised that SNH have reviewed the supporting landscape information in the Applicant's Environmental Statement and have concluded that the development was inappropriately sited and of a disproportionate scale, broke away from the established pattern of windfarm development in Argyll, and set a highly undesirable precedent in terms of large scale development influencing coastal landscapes. He advised that although the Applicants have suggested today that the limited extent of the visual envelope of the site weighs in favour of their proposals, it was necessary to consider the receptors which would be influenced, which would include, the road approach to Seil, the important tourism area adjoining the 'Bridge over the Atlantic', the residential area around Clachan and Balvicar, historic environmental assets around Ardencaple and the Duachy scheduled standing stones as well as vantage points from the sea and from the Isle of Luing. He advised that the Applicants referred this morning to the "exceptional benefits" of the proposal but at 8MW this was not a scheme with large generating capacity. He advised that a windfarm of the scale proposed would only make a very small contribution towards being able to arrest climate change, at the expense of imposing itself on a landscape which did not have the

capacity to assimilate a commercial scale wind power development satisfactorily. Therefore, he advised that the proposal was contrary to the interest of landscape character, had unacceptable visual consequences and impinged upon historic assets and therefore conflicted with development plan policy. He advised that in terms of access, the matter had not been well researched as part of the application, given the shortcomings of the particular access route identified in the Environmental Assessment. He advised that it had been suggested by the Applicants that conditions attached to any approval could address necessary access improvements but that this was not the case as conditions could only apply to development contained within the application site boundary and the access route did not lie within this. He advised that whilst legal agreements could be deployed to address such an eventuality, these would need to be with the express agreement of all third parties controlling the land required and no such agreements were in place. He advised that some revised form of access, not identified in the Environmental Statement, was not therefore admissible at this stage and for that reason the deficiencies and shortcomings of the originally identified route warranted refusal of the application. He advised that in support of the proposal, the Applicant had suggested that the windfarm could become a tourism asset by the development of some interpretation facility along the lines of the Whitelee windfarm. He advised that the location, scale and context of Whitelee was very different to the tourism destination of the west coast and that you would have to ask yourselves whether it was credible that visitors attracted by scenery, the historic environment, wildlife and the sea would be likely to want to make a windfarm visit a component of their visitor experience in Argyll. He reminded Members that how the project was devised commercially and where there would be an associated element of community benefit, was not a material consideration and ought to be disregarded in the adjudication of the application. He advised that consideration should be restricted to the land use planning merits of the proposal alone. He advised that whilst the community investment model described to you was to be commended in circumstances where developments are acceptable in environmental terms, it could not influence the acceptability of otherwise inappropriate forms of development. Likewise, nor could employment and other economic benefits advanced by the supporters of the proposal, which could not be used to offset demonstrable environmental harm. He advised that there were sound and clear cut reasons for refusing this application, as set out on pages 5 – 18 of supplementary planning report number 2 and he commended Members to these.

### **Applicant**

Rory Young referred to a number of concerns raised by objectors. He confirmed he had talked to people on Tiree who confirmed there was no detrimental impact to them as a result of their Wind Turbine and that this was contained in the Environmental Impact Statement. He confirmed that in respect of the commissioned survey no canvassing was undertaken during this exercise. He advised that the survey was scripted and carried out by independent people. He referred to comments about the turbines being placed in hollows and advised that he had tried to sensitively place the turbines in the landscape rather than placing them where most income could be generated. He read out the statement made by SNH regarding the marsh fritillary butterfly and also their comments regarding the white tailed sea eagles. He advised that access to this site would be improved. He referred to health issues. He referred to the £10,000 community fund being based on £10,000 per mw installed and that it

had nothing to do with operating capacity. He referred to concerns about sailing and advised that he had spoken to Managers at Ardrossan and Inverkip Marinas and that they had not experienced any impact as a result of nearby turbines. He advised that all renewable energy had down sides and that in respect of renewable wind energy for every person that did not like turbines there were others that were okay with them. He advised it was about producing a resource we all needed in a sustainable way and that there was the potential for a large community owned turbine and that this was an exceptional opportunity. He urged the Committee to approve this application.

Jan Barton briefly recapped all she said in her presentation and addressed some of the concerns raised by objectors. She advised that the overall impact of the proposal was substantially mitigated before the application was submitted. She agreed that Clachan Seil was unique and that this had resulted in a high quality design for this area. She advised that this was a medium scale landscape that could accommodate a medium scale wind farm. She advised that the Landscape Wind Energy Capacity Study was not policy but the informal opinion of one. She advised that photomontages were produced to SNH standards. She advised that the possibility of Clachan Farm setting a precedent was not a valid reason for refusal and that each application should be assessed on its own merits.

Cameron Sutherland summed up the access side of things. He advised that Roads did not respond to their application for 8 months, they were not provided with all the necessary information and once this was resubmitted they took a further month to comment. He advised that dialogue with Roads has been constructive. He advised they have not been given enough time to explore alternative access routes and asked the Committee not to use access as a reason to refuse this application. He referred to the noise assessment and agreed that the guidelines used were old but that they were still the standard guidelines to be used and that the Environmental Health Officer was correct to assess noise under these guidelines. He referred to funnelling of noise and advised that no properties were in direct line of sight of the turbines. He advised that the noise assessment was deemed acceptable by Environmental Health Officers. He referred to comments about repetitive sound being irritable and advised that different things irritated different people. He referred to the bat survey carried out which concluded that no bats were seen and advised that wasn't to say they did not roost there. He advised that it was recognised nationally that surveys carried out were a snap shot and that guidance had changed since the survey was carried out in 2009.

### **Statutory Consultees**

#### Kilninver and Kilmelford Community Council

Antoinette Mitchell addressed comments regarding the Community Council not being representative of the whole community and of the information contained in the flyers being inaccurate. She referred to comments about the template letters from objectors and advised that the same could be said of supporters. She advised we were not here to debate on renewable energy and wind farms in general and that the debate was about this particular application. She advised that the supporters did not talk about the suitability of the site. She asked what was the point in having a Local Plan and Planner's opinions if they were to be

ignored.

### Seil and Easdale Community Council

Seamus Anderson advised that Seil and Easdale Community Council were the closest Community Council to this development and hoped the Committee would give the Community Council comments summarised at page 11 of the supplementary planning report number 1 weight when making their decision.

### **Supporters**

#### John Everett

John Everett referred to the AWFALS protest group. He advised that there was good reason to accept this proposal in planning reasons – sustainability, the Argyll and Bute EDAP and the level of energy generated being appropriate for the level of energy required.

#### Darran Mellish

Darran Mellish advised that his company dealt with specialist transport and if loads were wide escorts were used and movements were programmed to avoid busy times. Regarding weight problems he advised that the entire load was not concentrated weight but axle weight which was the same as tippers and coaches. He advised that additional lay-bys installed for the job would be there after the construction phase and would benefit the community. He referred to community wind farms on Gigha and Tiree and advised that he had spoken to the community of Gigha who believed this was the best thing they had ever done. He advised that the value of what would be gained minimised what would be lost. He advised that Argyll needed to do something to prevent stagnation. He advised that he lived on Seil island.

#### Julian Bell

Julian Bell advised that maximum economic benefits would be achieved with this small proposal and local initiative.

#### Fiona Wylie

Fiona Wylie advised that she knew a lot of people who liked the look of wind turbines and asked the Committee to keep 3 things in mind – the future of our young; the future of our community; and it's only for 25 years.

### **Objectors**

#### Stuart Reid

Stuart Reid advised he had heard nothing to justify constructing this power station in the proposed location. He advised that the impact on the landscape and the visual impact far outweighed any benefits from wind turbines in this location. He advised that the area needed protected and that the application should be refused.

John Wilson

John Wilson referred to comments about bats and white tailed sea eagles made by SNH. He advised that the EIS was of great concern.

Phil Moss

Phil Moss referred to noise from lorries on the road and emergency vehicles. He referred to comments about properties looking to the east and not having direct line of sight of turbines and advised that they could still be heard. He advised that 8 of the turbines would be visible from Balvicar and sound would travel down the Seil Sound.

Eileen Colston

Eileen Colston referred to the properties on Seil Sound and that this was a commercial industry on an industrial scale and should be refused.

Helen Glennie

Helen Glennie asked why we have laws and Acts. She advised that they were there to protect us and urged the Committee to consider all the relevant laws and Acts right down to the local plan and local people and to not contravene these and to please refuse the application.

The Chair invited everyone to confirm they had received a fair hearing and they all confirmed this to be the case.

**DEBATE**

Councillor Devon advised that much had been made of maintaining the standard of living of the community and that she had heard from objectors about the adverse impact on the landscape, tourism, health and roads. She advised that she had also heard support for the future of this fragile community and the social and economic impact, renewables, the future of young people and community benefit. She advised that she found it difficult to reach a conclusion and suggested that this application should be continued.

Councillor Colville advised that he did not want this application continued. He advised that in the last 10 days he had approved 10 turbines and had analysed every application. He advised that this application was in the wrong place. He advised that he lived close to one of the first turbines in Argyll and that there was noise from it. He advised that this proposal would have a significant adverse impact on the landscape character. He advised that he was a supporter of wind turbines and renewable energy and that he was also a supporter of tourism and in this case both could conflict with each other. He advised that he was very sure of his view and would move the Planner's recommendation to refuse. He advised that this was the wrong development in the wrong place.

Councillor McNaughton advised that he had not heard anything to persuade him to go against the recommendation and would go with the Planner's and refuse.

Councillor McQueen advised that he would also support the planning

recommendation to refuse.

Councillor Kinniburgh referred to the lengthy debate and advised that some good points had been made by both sides. He advised that he believed this was the wrong application in the wrong site. He advised that he had concerns about the visual impact and the infrastructure for taking traffic in and out of the site. He advised that he would have to support Councillor Colville and did not think he could support this application.

Councillor Trail advised that whilst supporters of the proposal pressed all his buttons regarding economic benefit, local jobs and advised that Duncan MacMillan's presentation was from the heart, he advised that planning was about land use and whether or not a proposed development was suitable. He advised that in this case he didn't think it was. He advised that there was no need for a wind farm in this position and that it would contravene the Local Plan.

Councillor Hall advised that we all wanted electricity and that we all needed electricity but when it came to deciding how to provide this electricity we all took cold feet. He advised that the Government would like us to produce electricity using renewables and how we produced it was the question. He advised that he disagreed with the Planner's and did not think it was in the wrong location and that the site seemed not to be different to others he had seen. However, he advised he had concerns about the access.

Councillor MacMillan advised that he would go with the Planner's recommendation and that nothing had been said to counteract what the Planners had said and that too much emphasis had been made about community money which was not a valid consideration.

Councillor MacIntyre advised that he was minded to ask for a continuation too.

Councillor Taylor advised that the Committee could either determine the matter today or continue for further consideration to the next meeting of the Planning, Protective Services and Licensing Committee.

Councillor Colville advised that he would like to move the Planner's recommendation to refuse the application and Councillor Trail confirmed that he would second this Motion.

It was established that no one else was otherwise minded.

## **DECISION**

It was unanimously agreed to refuse planning permission for the following reasons: -

1. The proposal lies close to the south-west of Loch Feochan, located on the coastal edge within the 'Craggy Coast and Islands' Landscape Character Type (ref 'Argyll & Bute Landscape Wind Energy Capacity Study (LWECS) – Final main report and appendix March 2012' - SNH/Argyll & Bute Council) which is intended to guide SNH and the Council on the strategic implications of further wind farm developments in the landscape. The proposal lies within a sensitive and highly valued landscape character type where it occupies a

prominent coastal location where it would be viewed from ferry and recreational boat traffic and other islands as well as from mainland roads, and in particular the nearest road which links Seil to the mainland via the 'Bridge over the Atlantic'. The value of the landscape within which the development is to be located has been accorded regional status by being designated as an Area of Panoramic Quality by the Council's approved local plan.

The scale of development proposed in this sensitive coastal location is contrary to the recommendations of the LWECS, which states: "*there is no scope to site the larger (80-130 M) and the small – medium (35m – 80m) within this character sub-type due to the significant adverse impacts that would be likely to occur on a wide range of landscape and visual sensitivities*". At present the 'Craggy Coast and Islands' landscape character type, and other coastal landscape character types in Argyll, are free of wind farm developments of the scale proposed. If approved, this development would establish a precedent for large-medium scale coastal edge wind farm developments in circumstances where the LWECS considers that sensitive coastal landscapes do not have the capacity to absorb developments on this scale satisfactorily. The proposal would introduce an inappropriately located wind farm into the sensitive and valued coastal landscapes of the Firth of Lorn, the lochs and islands around West Argyll, and the Atlantic islands coastal edge which constitutes an exceptional scenic resource, derived from the interplay between the land and the sea with its associated islands and skerries. The site therefore constitutes part of Argyll's prime landscape resource, valued for its inherent character and qualities and for the role which it plays in the local tourism economy. The introduction of a development of the scale proposed would impose itself upon its landscape setting to the detriment of landscape character. Approval of the proposal would represent an unwelcome move away from the established location of approved wind farm developments in upland areas inland, where they do not exert such a degree of influence over the appreciation of the coast and those landscapes which are characterised by the contrast between the land and the sea.

The foregoing environmental considerations are of such magnitude that they cannot be reasonably offset by the projected benefits which a development of this scale would make to the achievement of climate change related commitments.

Having due regard to the above, it is considered that this proposal would have a significant adverse impact on Landscape Character, would adversely affect a number of key views and would degrade designated scenic assets including the 'Area of Panoramic Quality' in which the site is situated. It is therefore inconsistent with the provisions of the Scottish Planning Policy and Scottish Government's Specific Advice Sheet on Onshore Wind Farms; Policies STRAT SI 1: Sustainable Development; STRAT DC 5: Development in Sensitive Countryside, Policy STRAT DC 8: Landscape & Development Control; Policy STRAT RE 1: Wind Farm/Wind Turbine Development of the 'Argyll & Bute Structure Plan' (approved 2009) and Policies LP ENV 10: Development Impact on Areas of Panoramic Quality; LP REN 1: Commercial Wind Farm and Wind Turbine Development of the 'Argyll & Bute Local Plan' (adopted 2009).



2. The Zone of Theoretical Visibility maps indicate fairly widespread visibility across the settled eastern coasts of Seil, within the Firth of Lorn and the Mull coast but with more limited visibility inland to the east. Of the representative viewpoints selected for detailed assessment, the applicant's Landscape and Visual Impact Assessment concludes that there would be 'significant' impacts on: Viewpoint 1: B844 Clachan Seil; Viewpoint 5: Whinbank; Viewpoint 14: Puilladobhrain Anchorage; and Viewpoint 18: Duachy Standing Stones. It is, however, considered that the assessment underestimates the magnitude of effect from some of the closer viewpoints to the proposal including: Viewpoints 2: from the Tigh-an-Truish Pub (this view includes the iconic "Atlantic Bridge"); Viewpoint 7: B844 at Meall Ailein and Viewpoint 10: from the Colonsay-Oban ferry. From the cluster viewpoints at locations 1 - 5, and other shorter range viewpoints 7 (on the approach to Seil and an essential part of the initial experience of visiting this intricate and highly scenic locality), 10 (from the Colonsay ferry), 14 (anchorage and coastal walk) and 18 (scheduled ancient monument), the proposal secures a poor fit with the landscape in terms of its domination of scale, coupled with the effect of blade rotation which will exacerbate the visual intrusion on sensitive skylines above Clachan Sound. It would also appear discordant when seen from the Firth of Lorn, which is valued as a sailing destination from which coastal landscapes are experienced, in a context where no other development of this scale and character is visible. From the ferry route and from other offshore locations, development of the scale proposed would compete with and diminish the scale of the flattopped Beinn Mhor with its pronounced cliff edge, which forms a key focal feature in views towards the mainland coast.

The development is out of scale with the receiving coastal environment and intrudes upon views within and the appreciation of this relatively small scale landscape to the detriment of landscape character and sensitive visual receptors. The foregoing environmental considerations are of such magnitude that they cannot be reasonably offset by the projected benefits which a development of this scale would make to the achievement of climate change related commitments.

Having due regard to the above, the proposal conflicts with the provisions of the Scottish Planning Policy and Scottish Government's Specific Advice Sheet on Onshore Wind Farms; Policies STRAT SI 1: Sustainable Development; STRAT DC 5: Development in Sensitive Countryside; Policy STRAT DC 8: Landscape & Development Control; Policy STRAT RE 1: Wind Farm/Wind Turbine Development of the 'Argyll & Bute Structure Plan' (approved 2009) and Policies LP ENV 10: Development Impact on Areas of Panoramic Quality and LP REN 1: Commercial Wind Farm and Wind Turbine Development of the 'Argyll & Bute Local Plan' (adopted 2009).

3. The development is situated with the nearest turbine being approximately 560m from Duachy Standing Stones Scheduled Ancient Monument, where 7 turbine towers and rotors will be visible. This would represent a significant adverse impact on this important historic environment asset and its setting. The proposal would also have an adverse impact on the setting of the Category A listed Clachan Bridge. It is considered that the visibility of the development within the landscape backdrop of the bridge, which is a key

tourism asset and a widely photographed structure, in the context of both the wider setting and the appreciation of the bridge, would be unacceptable. The proposal would also have an adverse impact on the setting of the category B listed Ardencaple House with all 9 turbines theoretically visible. Although there is intervening vegetation this cannot be regarded as providing a permanent screen and the proposal would represent a highly visible modern intrusion in the setting of Ardencaple House which would be unacceptable.

The introduction of structures of the scale proposed and their attendant motion in the landscape would impinge upon the setting of the Duachy Standing Stones in particular, and other historic environment assets in general, to the detriment of the legibility of the historic landscape context of these historical and archaeological assets.

The foregoing environmental considerations are of such magnitude that they cannot be reasonably offset by the projected benefits which a development of this scale would make to the achievement of climate change related commitments.

4. The proposal will have an adverse impact on the historic environment of Argyll and is therefore inconsistent with the provisions of Policies STRAT RE 1: Wind Farm/Wind Turbine Development and STRAT DC 9: Historic Environment & Development Control of the 'Argyll & Bute Structure Plan' (adopted 2009) and LP ENV 13a: Development Impact on Listed Buildings LP ENV 14; LP ENV 16: Development Impact on Scheduled Ancient Monuments; LP ENV 17: Development Impact on Sites of Archaeological Importance of the 'Argyll & Bute Local Plan' (adopted 2009).

The proposal will involve an unusually large number of construction vehicle movements and the conveyance of abnormal loads along the B844 a route which is sub-standard in width and alignment. The road infrastructure along this route is also subject to known deficiencies, including structural condition of the Kilninver Bridge and the road retaining wall at Barnacarry, and it does not lend itself to intensive construction activities involving movements of heavy goods vehicles and abnormal loads. In view of the geometry of the road, which does not lend itself to the swept path of large vehicles, there is the prospect of serious damage to these structures occasioned by collision as a result of the transportation of abnormal loads or the weight of construction vehicles, which would present a serious threat to continued accessibility by road, as the failure of either of these structures would be likely to precipitate closure of the route with the consequent isolation of Seil, Easdale and Luing.

In the absence of any satisfactory mitigation being advanced for the risk presented to the route by the type of traffic associated with the proposal, the development does not benefit from an identified satisfactory means of access for either construction or for decommissioning purposes, contrary to the provisions of Policies LP TRAN 4: New and Existing, Public Roads and Private Access Regimes and LP TRAN 5: Off-Site Highway Improvements of the Argyll & Bute Local Plan.

(Reference: Report by Head of Planning and Regulatory Services dated 6 September 2012, supplementary planning report no. 1 dated 18 September

2012 and supplementary planning report no. 2 dated 30 October 2012, issued)

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE**  
**held in the DERVAIG HALL, DERVAIG, ISLE OF MULL**  
**on MONDAY, 5 NOVEMBER 2012**

**Present:** Councillor Sandy Taylor (Chair)

Councillor Gordon Blair	Councillor David Kinniburgh
Councillor Robin Currie	Councillor Alistair MacDougall
Councillor Mary-Jean Devon	Councillor Alex McNaughton
Councillor George Freeman	Councillor Richard Trail
Councillor Fred Hall	

**Attending:** Iain Jackson, Governance Officer  
 Richard Kerr, Principal Planning Officer  
 Alicia Edington, Technical Officer  
 Mark Steward, Marine and Coastal Development Manager  
 Penny Hawdon, The Scottish Salmon Company  
 Stuart McLelland, The Scottish Salmon Company  
 Rebecca Dean, The Scottish Salmon Company  
 Iain MacIntyre, The Scottish Salmon Company  
 Michael Schilston, Mull Community Council  
 Douglas Wilson, Mull Aquaculture and Fishermans Association  
 Rebecca Munro, Supporter  
 John MacDonald, Supporter  
 Rodger Dehany, Supporter  
 Nick Mawhinney, Supporter  
 Lucy MacKenzie, Supporter  
 Iain Morrison, Supporter  
 Helen Wilson, Supporter  
 Roc Sandford, Objector  
 Mark Carter, Objector  
 Don Staniford, Objector  
 Greg Marsh, Objector  
 David Woodhouse, Objector  
 Polly Huggett, Objector  
 Sophie Baker, Objector  
 Rhoda Munro, Objector  
 Liam Ryan, Objector  
 Guy Bolton, Objector  
 Iain Munro, Objector

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Rory Colville, Robert G MacIntyre, Donnie MacMillan and James McQueen.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. THE SCOTTISH SALMON COMPANY: FORMATION OF 16 CAGE FISH FARM AND INSTALLATION OF FEED BARGE: NORTH GOMETRA, LOCH TUATH, ISLE OF MULL (REF: 12/01176/MFF)**

The Chair welcomed everyone to the meeting and introductions were made. The Chair advised that the Committee had undertaken a site visit that morning and had looked at the site from many different aspects.

Iain Jackson, Governance Officer, outlined the procedure that would be followed at the meeting. He advised that only those who identified themselves at the start of the meeting would be entitled to state their case and invited those who wished to speak to come forward and he took a note of their names.

**Planning**

**Richard Kerr – Principal Planning Officer**

Mr Kerr advised that the application was for a marine salmon farm on the south coast of Loch Tuath and off the north coast of the isle of Gometra. He advised that Gometra was a private island which had no road access and could only be accessed by foot or by boat from Ulva ferry. Mr Kerr showed a slide which demonstrated the location of the site. He advised that this was one of two applications by the Scottish Salmon Company, the other at Loch Scridain having been considered by the Committee in September and subsequently refused. Mr Kerr advised that the Scottish Salmon Company was a well established company with sites throughout Argyll. He advised that the application site was one of a number of sites that had been evaluated and discussed with consultees as possibilities but only those with the best prospects for success had resulted in applications. Mr Kerr advised that the aqua culture was not subject to any special zoning like the land and advised that aqua culture applications were considered under Policy AQUA 1. He showed a number of slides showing the zoning and policies which applied to the land surrounding the application site explaining what these policies were. Mr Kerr showed the Committee a number of slides which demonstrated the layout of the fish farm, describing the construction in detail including the sizes of the cages and the materials used. He advised of the stocking density and that there would be a 22 month production period with a 2 month maintenance and fallow period and that the site would be served by the Ulva Ferry shore base. Mr Kerr advised that the cages would be served by underwater lighting in the second year of production which would point downwards and which would produce a surface glow when viewed from different aspects. Mr Kerr provided the Committee with details of the feed barge which would be deployed at the site.

Mr Kerr advised that fish farm applications were the subject of a multi consent regime whereby planning was only one of 4 consents to be obtained. He advised that consents must also be obtained from the Crown Estate for a sea bed lease; from SEPA for a license for the tonnage of fish to be held at the site with a view to controlling pollution and water quality; and from Marine Scotland to address issues with navigation, fish welfare and health. He advised that there was an Environmental Statement accompanying this application and this was detailed at appendix A to the report of handling and he highlighted the key issues covered in this statement. Mr Kerr told the Committee that the application had been the subject of a number of consultations, and that these were detailed on pages 1 – 4 of the report. He highlighted that there had been no objections to

the application by SEPA or Marine Scotland and that SNH had not formally objected but had raised concerns regarding landscape impact. Mr Kerr gave a summary of the responses received by consultees. He advised that there had been 26 representations of objection and 44 of support received with a further 2 letters being received 1 of support and another raising concerns. Mr Kerr added that on Friday 2 November, he had received a letter from a firm of environmental lawyers on behalf of the owner of Gometra which raised the issue of a legal challenge should permission be granted by the Committee. He suggested that this was a tactical ploy to inhibit due process and advised that he would cover his response to this at the end of his presentation.

Mr Kerr highlighted that the applicants had provided a response to the issues raised in objection to the application in their environmental statement, which raised no concerns; and reminded Members that consideration must only be given to matters which are material planning considerations. He advised that consultees had raised no significant concerns other than SNH who had raised concerns over visual impact in the National Scenic Area, but who had not raised a formal objection.

Mr Kerr showed Members a number of photographs with a super imposed fish farm on the site and also some views of the site from a boat and vantage points at a range of distances. He showed slides showing zones of theoretical visibility which highlighted the influence of the fish farm on the National Scenic Area; and which showed the roads and access tracks highlighting the absence of any formal access route on the coast of Gometra above the site.

Mr Kerr advised that the Planning Section were recommending approval of the application and summarised the reasons for the recommendation which were also detailed on page 32 of the agenda pack.

Mr Kerr referred to the letter received on Friday 2 November from Environmental Law Chambers Ltd and advised that he would comment briefly on each of the 7 matters raised in the letter.

In response to point 1 which claimed that it breaches EU law to allow SEPA to process the application outwith the EIA process given that the environmental statement accompanied the planning application and not the SEPA application he advised that both approvals were required separately and that there was no prescribed order in which to apply. He advised that in this case SEPA went through the process in parallel with the planning application as part of the multi regulatory process applicable to fish farm applications. Mr Kerr advised the Committee that the Government advises Planning Authorities against duplication of other regulatory regimes. He advised that a review of the SEPA process would be undertaken by the Scottish Government. He advised that the two processes must remain separate considerations but that the only requirement being that the first application must prompt the environmental assessment. Mark Steward added that the Environmental Statement did consider impacts on the water environment and that SEPA as a statutory consultee on the planning application had access to the Environmental Statement in terms of determining the CAR licence.

In response to ground 2 which claimed that approval of the application would fly in the face of the obligation to give special attention to National Scenic Areas he

advised that the requirement would be to have regard to the localised impact upon the National Scenic Area, cumulative impact with other development and additionally whether the purposes of designation and the integrity of the National Scenic Area are undermined. He advised that SNH has the opportunity to object to a development if it considers it inappropriate within a National Scenic Area but had not exercised this right in this case. He advised that having regard to SNH's advice, and the matters described in his presentation, the impact within the National Scenic Area was considered acceptable and he invited Members to draw their own conclusions.

In response to ground 3 claiming that the Council had not fulfilled its biodiversity duty in the absence of comments from the Biodiversity Officer he confirmed that the Biodiversity Officer had been consulted and following discussion, her comments had been incorporated into the comments by the Marine and Coastal Officer.

In response to ground 4 claiming that the cumulative impacts of the development could not be properly assessed in the absence of a Landscape Capacity Study for the National Scenic Area as recommended by SNH he advised that SNH had not objected to the proposal on cumulative landscape impact but had advised that a Landscape Capacity Study be prepared to guide future decisions subsequent to the current application. He advised that it was also suggested that the cumulative effects of sea lice on wild fish are not well understood and therefore the precautionary principle should be adopted. He advised that the proposal would increase the number of sites in Loch Na Keal from 3 to 4 and that they all lie in one farm management area, operated by the same company which is in accordance with industry best practice. He advised that the Argyll Fisheries Trust had not objected to the additional site and that a precautionary stance was not warranted. Mark Steward added that cumulative impacts were also addressed through consideration of the impact of the development on the Scottish Government Locational Guidelines for Fish Farm which identifies sea lochs in terms of their environmental sensitivity to fish farming development in terms of nutrient enhancement and benthic impact. Loch Tuath is currently a Category 3 area, which is the least sensitive category and this rating does not change to a higher more sensitive category when the additional biomass of this proposed development is considered.

In response to ground 5 claiming that the alternative sites and layouts were not assessed in conflict with European EIA requirements he advised that although these matters were not addressed in detail in the Environmental Statement there is reference to sites discounted off Kintyre, Islay, Jura and elsewhere in Mull. These sites had been subject to discussion with the Council, Consultees and with Local Communities, with some of them being the subject of EIA scoping opinions. He advised that although not well documented, there was a record that there was a process followed in identifying the sites that became the subjects of applications. He added that the site layout was in accordance with SNH good practice guidelines, that the equipment was located close inshore and parallel with the coast with the feed barge behind the cages with the most likely views from the sea and the coast road opposite. He advised that the layout described was the most optimal layout as far as the Council was concerned and that there would be no added value in requiring other possible layouts to be shown, only to be discounted and therefore the applicant had not been asked to supply these.



In response to ground 6 claiming that an approval would breach the habitats directive as the proposal failed to demonstrate beyond reasonable scientific doubt that seal and pearl mussel SAC's would not be harmed to a point beyond which their integrity would be undermined; he advised that in assessing SAC impacts there were two stages. The first stage being to determine whether likely significant effects would arise. If it was likely that effects would arise, then the second stage would be to carry out an appropriate assessment. He explained that if during the second stage if it was not possible to demonstrate beyond reasonable scientific doubt that no harm would arise, sufficient to assure integrity, then permission should be refused. He advised that in the case of the application neither SNH nor SEPA had identified any significant effects on SAC qualifying interests and accordingly no appropriate assessment was required.

In response to ground 7 which claimed the proposal was contrary to the development plan Mr Kerr advised that Policy LP AQUA 1 sets out the criteria that should be considered and only in the event of a significant adverse effect on the interests listed against a proposal would it be refused. He advised that consideration of these issues had not identified any significant impacts to warrant a refusal of the application but it would be for Members to arrive at their own conclusions as to whether, in their opinion, there were any significant impacts in the light of the application detail, consultation responses, conclusions in the report and matters raised by third parties including those in Mr Sandford's lawyer's representation.

### **Applicant**

#### **Penny Hawdon – The Scottish Salmon Company**

Penny Hawdon of the Scottish Salmon Company introduced herself to the Committee. She advised that the company had carried out various scoping exercises with regard to choosing a site for the fish farm application and that there had been ongoing dialogue with a number of organisations such as SNH and Marine Scotland. She advised that an environmental impact assessment had been carried out and that no significant issues had arisen from this. This assessment had been scrutinised by various consultees who had not raised any issues. She highlighted that the application had received support from the local community, local businesses, shellfish businesses as well as businesses off the Isle of Mull. She told the Committee that the Scottish Salmon Company supported local enterprises who in turn had expressed their support for the application. Ms Hawdon told the Committee that the Scottish Salmon Company had an excellent record as a responsible operator. She advised that from the environmental impact assessment undertaken there had been 3 main outcomes; the company's achievements on the existing sites on Mull covering sea bed performance, predator control measures and interaction with wild salmonids; the company's economic activity which would benefit Mull including the number of jobs on existing sites, annual salary and the spend with local businesses on Mull in 2011; and how the site was part of a national strategy to expand production areas adding that the company currently had exclusive control over all existing fish farm sites on Mull. Ms Hawdon covered the socio-economic reasons for the application on Mull advising that there would be an opportunity for 4 full time jobs on the fish farm and that there were a number of suitable applicants already on the island which would remove the requirement for looking outwith the island for

suitable candidates. She added that these isolated production areas actually increased costs for the company, which the company were happy to meet, which proved their commitment to the island. Ms Hawdon gave an overview of the Scottish Salmon Company's existing presence in Argyll advising that there were 19 sites, 2 offices, a harvesting station and processing plant. She advised of the number of staff currently employed by the company and their annual salary. In 2011 the company had invested almost £3m of capital at sites across Argyll and the company had spent £6.25 with suppliers based locally in Argyll. She concluded by asking the Committee to bear in mind the economic impact to Mull and to Argyll as a whole when considering the application and asked that they approve the application.

### **Consultees**

#### **Michael Schilston - Mull Community Council**

Mr Schilston began by emphasising that Mull Community Council were now in support of the application and no longer opposed to it. Mr Schilston advised that 200 – 300 years ago there had been a kelp industry on the island supported by a population of 800, there was now no evidence of this industry having existed. He highlighted the importance of maintaining rural communities and made reference to a university report containing 5 aspects which he felt were important to the island of Mull and Gometra. Mr Schilston quoted statistical information taken from the 2011 census and the 2001 census. He advised that the population in Ulva was 16 compared to 30, ten years previous and that the population on Gometra had fallen from 6 to 2 in ten years. He advised there had been a dramatic decline in jobs since 1970 and highlighted that currently there were limited employment opportunities on the island. He advised there was a need for employment opportunity to encourage people to come into the community and support the local businesses and the local school. Mr Schilston advised that the main employment on the island was based around the tourist industry which was seasonal and vulnerable, he highlighted that the island needed all year round jobs. He highlighted that the cost of living was higher on Mull than on the mainland and that the Community Council was committed to supporting enterprise and local projects on Mull. He added that the island needed the infrastructure such as jobs, schools, businesses to attract people to live on Mull. Mr Schilston quoted part of EU Regulations which advise that the EU have an obligation to support islands to be sustainable; he asked that the Committee support the commitment by the community to remain sustainable by approving the application.

#### **Douglas Wilson – Mull Aquaculture and Fishermans Association (MAFA)**

Mr Wilson began by telling the Committee that MAFA had been consulted by The Scottish Salmon Company from the beginning; from when they were choosing suitable sites. He advised that The Scottish Salmon Company had already moved from their preferred site to the current application site due to this consultation process. Mr Wilson advised that the local fishermen on Mull were those who were potentially the most affected by the fish farm but had come to a compromise to keep the islands economy going. He highlighted that there were no issues from MAFA and that they did not object to the application. Regarding access around the site, Mr Wilson advised that there would be no issue and that creel fisherman could work comfortably alongside the site. He added that there were other farms around Mull that had posed no issues to local fisherman

working alongside them. Mr Wilson referred to the oyster farms on Gometra, which had been raised as part of an objection, advising that these sites were not in production, nor were they registered. Mr Wilson concluded by saying that he supported the application and that he welcomed new jobs to the island. He advised the Committee that the objection was a hijack by a self interest group and asked that they disregarded it.

### **Supporters**

#### **Rebecca Munro**

Mrs Munro introduced herself as a business owner and resident on Ulva advising that her husband was native to the island. She advised that she was one of 4 folk in their 20s on the island and that she wasn't going to complain about the lack of services on the island such as doctors, schools and shops because this was a lifestyle choice made by her. She highlighted that in the past if there ever was a need for emergency services then they had arrived quickly. Mrs Munro advised that the current fish farms had brought benefits to the island. She advised that her husband had worked on one of the farms and he had been trained at college, which had allowed him to gain skills and move on to better employment. She advised that the company provided housing, brought new folk to the island and put investment into the local economy. She added that the introduction of the fish farm would not only provide the jobs on the farm but also other jobs associated with the farm such as divers and haulage. Mrs Munro advised that a lot of the businesses on the island rely on tourism which can be unpredictable and that the island required new year round jobs like fish farms. She advised that support should be given to the application due to the economic benefits, that 3 or 4 new jobs to the island was a huge difference to the community, it could mean 4 new families to the island. She advised that the community spirit on the island was growing, that people were afraid of change and afraid to speak out but that was changing. She told the Committee that misleading information had been given by objectors regarding the access to Gometra by boat, that only folk that live on the island would know the truth. She added that objectors were providing a division in the community but the majority were in support of the fish farm. She asked the Committee to listen to the permanent residents of the island and not be bullied or threatened. She asked them to take a stand and approve the application.

#### **John MacDonald**

Mr MacDonald told the Committee that he had been born in Tobermory and lived and worked on Mull all of his life. He gave a summary of his employment history advising that he had been an employee of The Scottish Salmon Company. He gave a summary of the range of employment on the island such as fishing, farming, forestry, fish farming and the tourist industry and advised that it was vulnerable and changed all the time. He highlighted that folk outwith the island do not tolerate the way of life of the residents and should realise that residents must make the most of fish farming while it still existed. Mr MacDonald quoted psalm 23, verse 5 and added that there were few folk on the island who's cup did not overflow. He recommended the Committee support the application.

#### **Rodger Dehany**

Mr Dehany advised that he had lived on Mull for 30 years and had worked in fish farming for 5 years. He advised that the current fish farms had worked well with

other industries and with the wildlife habitant on the island. He advised that he had a business in North Ayrshire which relied heavily on fish farming. Mr Dehany advised that he had two grandchildren due to leave school who would like to work in the fish farming industry due to the decline in other industries such as forestry and fishing. He added that it was good to see young people wishing to remain on the island and asked that the Committee support the application.

Nick Mawhinney

Mr Mawhinney advised that he had been a resident on Mull for 40 years and had owned an oyster farm for 20 years. He advised that fish farming would provide year round employment to the island as forestry had, but which was declining. He advised that fish farming was the way forward for the island. He advised that he had owned a registered oyster farm since 1992 which had worked well alongside other fish farms which had provided good conditions for the oysters; there had never been a problem. He highlighted that the concerns by objectors over shellfish farms were false and advised that he supported the application.

Lucy MacKenzie

Ms MacKenzie advised that she worked in the tourist industry, that she owned a garden straight across from an existing fish farm site and had not received any reaction over the fish farm from tourists visiting the garden.

Iain Morrison

Mr Morrison advised that he had been operational in the tourist industry for 40 years and advised that his business had not suffered any detrimental effects from the cages. He added that tourists had shown an interest in the farms. Mr Morrison advised that in respect of access for boats, the cages would actually protect them from high waves. Mr Morrison advised that he had done some research into predatory control used by fish farms, he advised that it activated automatically when the cages were approached by a predator and was not therefore switched on all the time; it would not affect other wildlife. He made reference to the archipelago and added that this would not be affected by the site.

Helen Wilson

Mrs Wilson told the Committee that she had lived on Mull all of her life, that she had a family of 4 and ran a business. She advised that she had hopes for her grandchildren remaining on the island. Mrs Wilson advised that she had owned a mussel farm for 20 years with no detrimental effects from fish farms, adding that she would have complained if there had been and that the mussel farm worked well with the fish farms. She advised that the fish farms provided year round work, currently employed 13 islanders and had recently taken on 3 school leavers which would encourage people to stay on the island. Mrs Wilson said that as many objectors did not live on the island all year round they had no interest in jobs on the island. She concluded by saying that if there were no jobs on the island, there would be no young people and therefore no island. She advised that she supported the application.

The Chair ruled, and the Committee agreed, to adjourn for lunch at 12.30pm and reconvene at 1.10pm.

Objectors

Roc Sandford

Mr Sandford advised that he would be assisted in his presentation by Mark Carter, Don Staniford and Greg Marsh. He advised that the best thing about the salmon industry is the people who work in it that they were doing an impossible job in difficult conditions and he had no argument with them. Mr Sandford advised that the supporters of the farm had said that the environmental costs are exaggerated and that four new families will come to Ulva Ferry. He referred to Scottish Government figures which had suggested that a job had not been created in Salmon Farming since 1986, that a fifth of jobs had been replaced by machines. He advised that it was often disclosed in the press that salmon companies were continuously making losses. He advised that the jobs created by fish farms were not sustainable and made reference to the decline in the kelp and forest industries. Mr Sandford advised that the proposal would have an effect on Mulls jobs in wild fisheries and eco tourism and that the use of acoustic deterrent devices to deter seals would disturb existing wildlife. Mr Sandford made reference to the landscapes, skies and lochs of Mull and advised that approving the application would have an adverse effect on this. He advised that SNH's non objection was misinformed, SEPA's methodology for predict pollution had failed and Marine Scotland Science's claim that fish farms have no effect on wild salmon was false. Mr Sandford referred to a moratorium in Norway and the closing of farms in British Columbia that were in wild salmon migratory routes and advised that the site sat in a wild salmon migratory route. He advised that the damage done by salmon farms was getting worse, not better. Mr Sandford advised that the residents of Gometra and anyone who had association with the island were 100% against the proposal. He advised that people that did not live on the island did not appreciate why they did not want the salmon farm and if the farm was forced upon them they would fight it. Mr Sandford made reference to access to Gometra, that the quickest way to get on and off Gometra was by boat. He advised that should the application be approved boats would be forced to travel further out onto Loch Tuath into tides, winds and waves. He added that there was not sufficient room to pass on the inside of the cages, that it was impossible to determine what weather conditions would be, ropes could be left hanging from the site and the lights from the site would compromise their night vision. He concluded by saying that the community could not carry the burden of the salmon farm, it would endanger the lives of the islanders, he urged the Committee to turn down the proposal and thanked them for the hearing.

Mark Carter – Marine Concern

Mr Carter advised that sustainable aquaculture was the way forward but salmon farming did not have a good reputation and provided some information regarding this. He said that seal management normally meant shooting seals and advised that common grey seal numbers were in decline. He presented some graphs and figures showing this decline. Mr Carter advised on conservation areas were in place and seal shooting licenses were a necessity but that these were not independently checked. He added that these licences stated that shooting seals should be a last resort where in reality it was a first resort. Mr Carter stated that shooting seals during the breeding season does not just kill one seal. He informed the Committee of acoustic deterrents and the effect they have on cetaceans and added that they have little effect on seals if they have their heads out of the water. He advised that it was easy to shoot a seal but there were other options available as deterrents such as double nets.

Don Staniford

Mr Staniford stated that salmon farming spreads disease. He added that information available in the internet had informed him that The Scottish Salmon Company were one of the worst companies for disease and mortalities and provided some examples of figures. He added that he had read financial reports of stakeholders which advised that disease was causing financial problems. Mr Staniford advised that the more salmon that were farmed, the more toxic chemicals that were used; and those sea lice were becoming more resistant to the chemicals used. He advised that he supported the residents of Gometra and asked the Committee to refuse the proposal.

Greg Marsh

Mr Marsh stated that fish farming was an extension of aquaculture and that he was not against it, he was against the use of chemicals. He added that the chemicals used on fish farms were the same chemicals that had been regulated for use on agricultural land farms. He advised that the amount of chemicals that were allowed for use in the sea by SEPA would not be allowed for use on the land. Mr Marsh advised that by increasing the area used by fish farms it was also increasing the level of pollution in the sea. He highlighted his concerns over the effects of chemicals in years to come.

David Woodhouse

Mr Woodhouse advised that tourism was the leading industry on Mull, that the residents of the island had fought to get the island to where it was today in terms of tourism and the fish farm proposal was risking this. He added that without visitors to Mull the economy would be damaged. Mr Woodhouse referred to the split in the community over the proposal; he advised that there had been no community consultation. He advised that the island was a living, beautiful entity and it would soon be impossible to avoid endless fish farms; he advised that the island had already reached saturation point. Mr Woodhouse told the Committee that as the community did not own the fish farms it was not receiving any financial benefit. Mr Woodhouse advised that employment on the island seemed to be the only reason for supporting the application. He suggested that the island hold an annual summit to suggest alternative ways of creating employment. Finally he made reference to the smell of rotting fish from the existing farms.

Polly Huggett

Ms Huggett advised that there was a community on Gometra and that many folk had lived there; it was a place of natural beauty which was rare. She advised that the community had no agenda other than the safety of the natural environment. She advised that the effects of intensive farming on the land also applied to intensive farming in the sea. She advised that a marine licence would be granted without taking into consideration the sea access or the views of the community. She added that it would be irresponsible to not to think of those things. Ms Huggett advised the Committee that the chemicals used in the water by fish farms were the same as the chemicals used in sheep dip. She added that when used as sheep dip these chemicals were not allowed near the water and therefore she could not understand why large amounts of them were allowed to be used in the sea.

Sophie Baker

Ms Baker advised that she was going to talk about the navigational issues. She

advised that where the proposed site sits, islanders would be prevented from taking their usual route through the bay and forced further out into the loch and into direct wave attack. The site would push navigation into larger waves. Ms Baker advised that the applicant's response did not take into account the islanders access or the size of their boats. She added that the access was used by boats 365 days of the year and that the boats they had were not fit for larger waters. It would make the journey unsafe.

### Rhoda Munro

Ms Munro advised that most of her points had been covered by others. She advised that her husband had lived between Ulva and Gometra for 30 years. She advised that they had chosen to live on Gometra and currently worked a farm with their produce going to market. She said that the community were always looking for new residents and visitors to the island. Ms Munro highlighted that the navigational issues were a big problem with boats being forced out further into the loch or between the farm and the shore.

### Liam Ryan

Mr Ryan advised that he was from Ireland but was now resident on Gometra. He advised that the proposal was not pretty and that tourist traffic and boat trips would have a very good view of the fish farm and that it would compromise the beauty spot. Mr Ryan advised that Mull would inherit pollution from chemicals and a loss of tourism in exchange for a few jobs should the proposal go ahead and once the islands reputation was lost, it would never return. Mr Ryan advised that he also had issues with safety regarding navigation of boats during storms as they would be pushed further out into the loch.

### Guy Bolton

Mr Bolton introduced himself and advised that he had been asked to read a representation from Mr James Hamilton. The representation covered two main concerns and the following points – negative impact on the national scenic area, the reasons for refusal for the Loch Scridan site also applying to the Loch Tuath site, the effects of pollution on the seabed, the decline of sea trout, the lack of a strategy for sea lice and the question of whether the Committee would provide a condition making the proposal subject to a 5 year term should it be approved. Mr Bolton added that he himself had lived across from the site for 20 years and was very concerned over the environmental impact and the fact that the fish farm may use chemicals not knowing the full effect they have and come to regret using them in future years. He however advised that he was in favour of employment on the island.

### Iain Munro

Mr Munro referred to the site in relation to the shore and advised that fishermen should be able to go between the site and the shore and put down creels. He advised that it would not be safe to do so as the site was too close to the shore.

### Questions

Councillor Devon referred to the issues raised by objectors regarding navigation and asked Mr Morrison if he considered that there would be elevated levels of risk to boats and a danger to lives in terms of navigation should the site be placed where proposed. Mr Morrison advised that he did not agree with the views of the objectors, that the cages would be situated about 20m from the

shore and normally creels would be placed much closer to the shore than that. Councillor Devon asked if siting the fish farm on the proposed site would make navigation safer. Mr Morrison advised that it would as it would break up the shore bed. Councillor Devon asked how many tourists he had taken on a tour to Staffa and if they had commented on the existing farms. He advised between 5 and 10 thousand people and that they had made no detrimental comments regarding the fish farms. Councillor Devon asked The Scottish Salmon Company to confirm how many jobs the proposal would bring to the area to which they replied 4 jobs.

Councillor Currie asked what the impact would be to tourism and how this had been measured and if tourism fallen in other areas that farms had been sited. He asked Sophie Baker if she had any navigational qualifications. Sophie Baker confirmed that she had no qualifications but had navigated a boat for the past 8 years. Mr Woodhouse advised that tourists were endlessly commenting on the farms and on the noise during trips. Polly Huggett added that there had been a shift in perception of fish farms due to the chemicals used. Roc Sandford confirmed that there was no evidence to suggest a link between fish farms and a fall in tourism but a 20% fall in tourism had been recorded due to the erection of wind farms in certain areas.

Councillor Kinniburgh asked why Mull Community Council had changed from opposing the application to supporting it. Michael Schilston advised that originally the view from the Community Council opposing the application was a view of one person who was opposed to the proposal. After the Community Council had carried out a public consultation, the view changed as the community were in support of the application.

Councillor McNaughton stated that he was surprised by comments made by objectors that there had been no consultation exercises carried out. He asked The Scottish Salmon Company to confirm what consultation had taken place. They confirmed that they had held 3 public events, one in Bunessan, one in Craignure and one in Tobermory and that they had also attended Community Council meetings and meetings of the Mull Aquaculture and Fishermans Association. Councillor McNaughton asked Mr Woodhouse why he had stated that there had been no public consultation. Mr Woodhouse advised that he knew of 1 public meeting and that Roc Sandford had been the only person consulting the community. The Scottish Salmon Company confirmed that the events had been advertised well in local press and by posters. Bunessan's meeting had been attended by around 25 people, and Craignure and Tobermory's by around 10 folk. Councillor Devon added that she had attended two of the community events and the Community Council meetings and confirmed that The Scottish Salmon Company had consulted.

Councillor Freeman asked which Community Council area the site was in. Mr Schilston confirmed that the site was in Mull Community Council area. Councillor Freeman asked for clarification over the figures regarding seal shootings in the Moray Firth provided in Mr Carter's presentation; was it 46% or 84%. Mr Carter confirmed that there had been a typo on the slide; it should have read Moray 46% and Tay 84%. He asked what year the 2008 seal decline figure had been compared against. Mr Carter advised that these figures had been extracted from Government websites and he was unsure of the comparison. Relating to the 25% decrease in seal numbers in Strathclyde in 2007, Councillor



Freeman asked which areas had experienced an increase as indicated on the slide. Mr Carter confirmed the Clyde area had experienced an increase. Councillor Freeman also asked what the decline was related to shooting compared to other reasons. Mr Carter advised that this information was not available.

Councillor Blair advised that he had travelled by Land Rover on Gometra to carry out a risk assessment for education travel and the result had been that it was cheaper and safer to travel by land than by boat. He asked Mr Sandford why the causeway had been removed. Mr Sandford confirmed that it had been removed to allow boats to pass; he then advised that it would be safer to travel by land, but it would take 5 hours to cross the island by Land Rover. Councillor Blair highlighted that he was concerned over the comments made about chemicals being put into the sea to control lice. The Scottish Salmon Company confirmed that the chemicals used were regulated and assessed by SEPA and MAFA. They confirmed that they were currently undertaking projects to test the use of non chemical treatments for lice and that this was a national initiative.

Councillor Trail asked if the issues raised regarding sea lice, pollution and seals were material planning considerations. Richard Kerr confirmed that the planning application only applied to the kit that would be sited in the water and the considerations listed under policy LP AQUA 1 were the considerations made by planning regarding the application.

Councillor MacDougall referred to Mr Carter's presentation and asked him to define what was meant by the Strathclyde area. Mr Carter advised that this covered Argyll & Bute, Clyde, Coll and Tiree and that he had taken the information directly off a website. Councillor Hall referred to the 4 jobs that would be associated directly with the proposed fish farm; he asked how many indirect jobs it would create. The Scottish Salmon Company advised that they could not be sure but based on Government figures possibly another 8 jobs and added that the farm would be vital to jobs in the processing plant also.

### **Sum up**

#### **Planning – Richard Kerr, Principal Planning Officer**

Mr Kerr advised that the assessment of the application should be made in light of the provisions of the development plan and not other matters covered by other organisations as part of the multiple consent regime for aquaculture applications. He highlighted that consideration should be deemed to the suitability of the site for the development proposed and not the environmental sustainability of fish farming which would be a matter for a Government Committee. Mr Kerr reiterated that the application had been supported by an Environmental Assessment and considered by consultees who had raised no objections. He highlighted again that SNH had raised concerns but not an objection. He summarised again the comments made by consultees. Mr Kerr confirmed that the application was in accordance with policy LP AQUA 1 but that Members should take into consideration the comments made by SNH regarding the landscape and visual impact with regards to the National Scenic Area, however this impact had not been considered to be significant. Mr Kerr summarised again the reasons for objection that had been submitted against the proposal. He advised that the proposal was recommended for approval by the Planning Section subject to the conditions and reasons as detailed on pages 20 and 21 of

the agenda pack. He asked that Members disregard the suggestion of a temporary approval for 5 years as it had been found to be unreasonable in the view of a Government Reporter in view of the capital investment required to site a fish farm as a temporary consent be implementable and subject to a refusal.

Applicant – Stuart McLelland, The Scottish Salmon Company

Mr McLelland confirmed that all legal requirements had been met by the company and that they abide by the Law. He confirmed that the company's approach to the environment was taken seriously. Mr McLelland advised that the recent threatened school closure at Ulva Ferry had highlighted to him how fragile rural communities are. The 4 jobs created by the fish farms would be important to the island and these folk would spend their money on the island as would boat operators etc involved with the fish farm. He highlighted that this fish farm was also needed to support the sustainability of the fish processing plant in Cairndow. He highlighted again that the company were investing in other methods of treating disease other than chemical treatments. He asked the Committee to listen to the majority of the community and to support the application.

**Consultees**

Michael Schilston – Mull Community Council

Mr Shilston again made reference to the decline in historical industry and the decline in population due to this. He advised that he would like to see the number of jobs increase, and therefore the population of the island increase also.

Douglas Wilson – MAFA

Mr Wilson highlighted that fisherman will fish between the cages and the shore and asked the Committee not to be fooled by the navigational issues raised. He advised that boats pass through the sound of Ulva and therefore could pass between the cages and the shore.

**Supporters**

Rebecca Munro

Mrs Munro highlighted the need for long term jobs on the island. In response to comments made that there were 6 businesses on Gometra she advised that she was not aware of this nor was she aware of the fact that there was no where to stop on the island for tea or sandwiches. In terms of navigational issues she advised that boats travel continuously through the night, in the dark with no issues.

John MacDonald

Mr MacDonald advised that the objectors had downgraded the need for the 4 jobs on the island. With regard to the effects of contamination from the volume of fish in the water, he highlighted that the amount of fish held on a fish farm was very small compared to what large boats catch out in the sea.

Rodger Dehany

Mr Dehany referred to the presentation on the decline of seals and advised that he was more concerned about the sustainability and of the population and the attraction of young people to the island. He added that the prospect of the fish

farm was a building block for the community.

Iain Morrison

Mr Morrison referred to the importance of the way the application had brought the community together and highlighted that this was as important as the application itself.

Helen Wilson

Mrs Wilson advised that she would like to reiterate the comments she had already made. She advised that there were 7 tearooms on the island and that there was not a fish farm in sight from these tearooms.

**Objectors**

Roc Sandford

Mr Sandford advised that he had provided affordable housing for 20 years on the island and would like to engage with USCA. He advised that they were a minority group in opposition to the proposal but were the ones that actually lived on the island. Mr Sandford referred to the methods used for deterring seals and the disturbance it caused to cetaceans. He reiterated the comments he had made regarding SNH being misinformed, that fish farms were a time bomb and the perception of them changing; he quoted some headlines from national press. Mr Sandford advised that the navigational issues were not exaggerated and that it was irresponsible to suggest that the proposal would not increase danger to boats. Finally Mr Sandford commented that EU Law had not been properly incorporated into Scottish Law and that the Committee should be taking into account all areas of the application, not delegating decisions to other agencies.

Councillor Currie asked for clarification on whether the Council should work by Scottish Law or EU Law. Mr Kerr confirmed that the Council should operate by Scottish Law and that there were ways to express their concerns for those who felt that Scottish Law did not reflect EU Law.

Mark Carter

Mr Carter reiterated the comments he had made around the use of double nets as predatory control measures. He advised that the navigational issues had been raised by experienced boat handlers and should be deemed as important.

Don Staniford

Mr Staniford reiterated that salmon farms spread disease, that The Scottish Salmon Company were one of the worst companies for disease and all the information regarding this was publicly available on the internet.

Greg Marsh

Mr Marsh advised that young people were the future and he hoped that in 20 years time the area was not polluted and was still there for folk to enjoy.

David Woodhouse

Mr Woodhouse reiterated his comments regarding the lack of consultation, that any consultation had been done within inner circles. He advised that consultation needs to be done in wider context. He advised again that instead of siting fish farms the community should come up with new ideas for jobs. He added that tourism could put millions into the economy.

Polly Huggett

Ms Huggett advised that she was sad at the bitterness over the application. She highlighted that she was concerned with protecting the beauty of the island and the risks from fish farms were not lies. She advised that there was no need for all the salmon produced by farms.

Sophie Baker

Ms Baker advised that although she had no formal qualifications she was the recreational Boat Club chair; she urged the Committee to take the navigational issues seriously.

Rhoda Munro

Ms Munro advised that she had endured a bad experience with the sea and told the Committee that siting a fish farm where proposed would be dangerous. She advised that they were still unsure whether they would be able to navigate between the shore and the cages.

Liam Ryan

Mr Ryan reiterated that the perception of fish farms were changing and made reference to newspaper articles. He highlighted that putting a fish farm on the proposed site would put lives at risk.

Guy Bolton

Mr Bolton advised that the island did need houses and did need jobs but he would like confirmation that the 4 jobs were guaranteed. He made reference to planning pushing for approval of the application and said that he hoped that their kids got the same support in the future when applying for permission to build houses.

Iain Munro

Mr Munro advised that he had nothing further to say other than not to put a fish farm at Gometra.

The Chair asked all those present if they considered that they had received a fair hearing to which they confirmed that they had.

The Chair invited the Committee to debate the application.

**Debate**

Councillor Devon said that when looking at traditional industries many of them faced difficulties for different reasons. She advised that the challenge lay in whether the industry fitted into the community and in this case she felt that the fish farm fitted those criteria. She advised that she supported the recommendation by the Planning Department.

Councillor Hall advised that there was a need to produce food and the question had been whether or not the farm was equitable to maintain the environment and sustainability. He advised that the farm would raise issues but in his opinion they were mitigated by the advantages. He advised that he supported the proposal.

Councillor Colville advised that when considering the application against policy LP AQUA 1, which he quoted, it met all the criteria and therefore he had no option but to support the application.

Councillor Freeman advised that in terms of visual impact he had struggled to see the existing farms on the site visit that morning therefore concluding that there would be minimal impact. He added that the farm would provide year round employment and therefore he supported the proposal.

Councillor Kinniburgh advised that he agreed with his colleagues, that he had struggled to see the existing farms in the clear weather conditions that they had carried out the site visit in. He advised he supported the application.

Councillor MacDougall advised that he had remained open minded about the application but after conducting the site visit he advised that he supported the application.

Councillor Trail commented that Gometra was not an isolated island, and that the rest of the community on Ulva and Mull also had an interest in the application site. He advised that he remained unconvinced regarding the navigational issues raised by objectors or that there would be any effect on the National Scenic Area. He advised that he supported the application.

Councillor Blair advised that it was good to see the community get together and to hear young people speak up. He advised he supported the application.

Councillor McNaughton advised that he agreed with Councillor Kinniburgh; he could not see the existing sites while on the site visit either. He advised that he agreed with the Officer's recommendations.

### **Decision**

Unanimously agreed to grant planning permission subject to the conditions and reasons as contained within the report by the Head of Planning and Regulatory Services.

(Ref: Report by Head of Planning and Regulatory Services dated 10 September 2012, submitted)

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**ARGYLL AND BUTE COUNCIL  
DEVELOPMENT &  
INFRASTRUCTURE SERVICES**

**PLANNING, PROTECTIVE SERVICES AND  
LICENSING COMMITTEE  
21 November 2012**

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**FOOD SAFETY ENFORCEMENT IN ARGYLL AND BUTE –  
OUTCOME OF FOOD SAFETY AGENCY AUDIT**

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**1. PURPOSE**

- 1.1** The Council is a statutory food authority under the Food Safety Act 1990 and this work is undertaken by Environmental Health, within Regulatory Services. The Food Standards Agency undertakes formal audits of the Council, so ensuring it is meeting its statutory duties and is in compliance with the national Food Framework Agreement.
- 1.2** During 13 – 15 September 2011 an audit of our work in the approved sector (ie, those businesses exporting across Europe with an approved establishment number) identified three major areas of best practice relating to our comprehensive inspection procedures, and some areas for improvement. An action plan was approved at the PPSL Committee on 19 October 2011 and this report advises Members on the current position.

**2. RECOMMENDATIONS**

- 2.1** This is a good news story. Members should note that the audit report of September 2011 has been signed off by the Food Standards Agency, and recognise the work undertaken to continue this “clean bill of health”.
- 2.2** The Council’s Environmental Health service provides a risk-based proportionate approach to enforcement, to working with businesses and to protection of food safety and public health. Together with this health protection remit, this also supports the local economy enabling business to trade on a nationally and internationally.

**3. 2011 AUDIT**

- 3.1** The audit was positive in reviewing the work we undertake in the approved sector and in food safety generally. This is an important sector to Argyll and Bute, and we were selected for audit because Argyll and Bute has :-
- (i) One of the main shellfish sectors in Europe, including the largest by volume of processed oysters in Scotland.
  - (ii) The main wild pectinidae (scallops) sector in Scotland

- (iii) One of the main salmon smoking sectors in Scotland, and
- (iv) Over all the third largest, by number, manufacturing sectors in Scotland.

**3.2** The audit focused on systems and procedures, documentation, enforcement outcomes, and included accompanied visits to selected premises with enforcement staff.

**3.3** The audit identified **three areas of best practice** relating to our inspection procedures, business profile information form and inspection aide-memoire. It identified our risk-based, proportionate approach to enforcement, our competent workforce, and evidenced that we were actively working with businesses to achieve compliance.

**3.4** The areas identified for improvement related to our inability to meet the full requirements of the Code of Practice relating primarily to low risk businesses, non-compliance with our own written procedures for inspection documentation (on occasions) and the need to check the Approval Marking at each visit.

**3.5** The action plan (see Appendix 1) was approved and we have been working to address these issues. We have

- (i) reviewed and developed our procedures to reflect the audit findings.
- (ii) re-emphasised our procedures to staff.
- (iii) implemented an electronic document management system and have a plan to extend this across the service, to aid document management and performance/internal monitoring, and
- (iv) implemented an alternative enforcement strategy to target low-risk businesses to support them in managing their business and meeting legislation and process changes.

**3.6** The Food Standards Agency have now audited this work and sought evidence of the measures we had taken. We have now received formal notification from the Food Standards Agency that the action plan has been completed to their satisfaction and that the audit was formally closed on the 31<sup>st</sup> August 2012.

#### **4. CONCLUSIONS**

**4.1** We received a positive audit in 2011 and the action plan, developed in response to its findings, is now complete and has been formally signed off by the Food Standards Agency.

**4.2** /....



**4.2** This reflects the work undertaken by the Environmental Health service in terms of food safety law enforcement, and our work to protect food safety and public health. This work is critical in ensuring that food produced and manufacturer local is safe, and supports the economy of Argyll and Bute which is reliant on its food and drink industry.

**5. IMPLICATIONS**

- 5.1 Policy: We received a positive audit in 2011 and the action plan, developed in response to its findings, is now complete and has been formally signed off by the Food Standards Agency.
- 5.2 Financial: None
- 5.3 Legal: The positive audit demonstrates that the Council is meeting its statutory duties as a “food authority”.
- 5.4 HR: None
- 5.5 Equalities: None
- 5.6 Risk: Low
- 5.7 Customer Service: None

**ALAN MORRISON  
REGULATORY SERVICES MANAGER**

**AM/KT/ 7293 Oct 2012**

For further information contact: Alan Morrison Tel: 01546 604292

**LIST OF BACKGROUND PAPERS :**

Updated Action Plan for Argyll and Bute Council

Date of Audit : 13-15 September 2011

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	PROGRESS	ACTION TAKEN
<p>The Authority should ensure that Food Hygiene interventions are carried out at a frequency which is not less than that determined by the food establishment intervention rating scheme in the Food Law Code of Practice (Scotland).</p> <p>[The Standard - 7.1]</p>	<p>31.03.2012</p>	<p>Develop the Food Service Plan 2012-13 to meet the requirements of the Food Law Code of Practice and identify any issues of non-compliance for consideration by PPSL Committee.</p> <ol style="list-style-type: none"> <li>1. The Food Service Plan 2012-13 will be prepared to identify service priorities for 2012-13 and meet the requirements of the Food Law Code of Practice for the food hygiene inspections of high, medium and low risk premises</li> <li>2. The programme will be monitored through the services performance management systems.</li> </ol>	<p><b>Completed.</b> The Strategy for <i>E.coli 0157</i> guidance will impact on programmed activity, subject to FSA decision on short-term suspension of COP for medium and low risk activities.</p> <p><b>Completed</b> and integrated into our procedures.</p>	<p>In respect of audit action plan</p> <ol style="list-style-type: none"> <li>1. Food Service plan and Enforcement policy agreed by Councils Planning and Protective Services Committee on 18<sup>th</sup> April 2012</li> <li>2. Internal monitoring programme in place. The strategy will be delivered through a formal project which will be effectively managed and subject to performance monitoring and review, reporting to the Regulatory Services Manager.</li> </ol> <p>This planned improvement has been carefully reviewed and re-appraised in the light of subsequent developments; principally the confirmation of the FSA's Guidance on Cross Contamination and the FSA's workshop on Cross Contamination (held in Perth in January 2012). Accordingly, the Council has responded by /....</p>

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	PROGRESS	ACTION TAKEN
				<p>by developing an <i>E.coli</i> Strategy, which applies the FSA guidance on Cross Contamination as informed by the FSA at the Perth Workshop.</p> <p>The Strategy has been approved by the Regulatory Services Manager and Elected Members of Argyll and Bute Council, through the Food Service Plan and the Enforcement Polices of April 2012, and is due to take effect from September 2012-15 once we have developed the implementation and project plan, which includes engagement with business.</p> <p>We await the formal decision from the FSA on the “suspension of low and medium risk interventions” which will allow local authorities to focus operational resources on the higher risk establishments and implement the <i>E.coli</i> 0157 guidance.</p> <p>Following /....</p>

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	PROGRESS	ACTION TAKEN
				<p>Following that period the Council will review the Strategy and remains committed to complying with the Food Law Code of Practice in relation to high, medium and lower Risk establishments. It is noteworthy that there is significant overlap between the <i>E.coli</i> Strategy and the original planned improvement, through the continuing (and in fact enhanced) focus on the higher risk establishments and activities. Otherwise the Council's focus upon higher risk establishments (known as the Red List) remains unchanged.</p>
<p>The Authority should ensure that inspections at approved establishments include a check on the format and use of the correct Identification Mark.</p> <p>[The Standard - 7.3]</p>	<p>30.11.2011</p>	<p>Review the inspection aide memoire to review this information as part of every inspection.</p> <p>Discuss new requirements with authorised officers.</p> <p>1. /....</p>	<p>All 3 actions have been completed</p>	<p>The inspection Aide memoir has been reviewed and has found to comply with legislative requirements, with the Food Law Code of Practice and with current guidance. Authorised Officers have been reminded of the need to confirm /....</p>

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	PROGRESS	ACTION TAKEN
		<ol style="list-style-type: none"> <li>1. The approval status will be confirmed as part of the inspection, rather than the one-off annual approval process where an administrative error was identified.</li> <li>2. The inspection documentation has been reviewed to include the areas relating to waste management, etc, which are detailed in the food practice.</li> <li>3. Raise at team meetings and at inspection planning sessions.</li> </ol>		<p>confirm the Approval status following every inspection.</p> <p>Erratum &amp; Correction: - An integral aspect of the inspection procedure has been to confirm the Approval status after every inspection. This is not carried out on an annual basis.</p> <p>The approval exercise referred to, was carried out in relation to the leading court case Allan Rich Seafood's v. Lincoln Magistrates' Court [2009] EWHC 3391 (Admin), where a single administrative error occurred. This error has been corrected.</p>
The Authority should /....				

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	PROGRESS	ACTION TAKEN
<p>The Authority should ensure that they follow their own procedure and issue their standard letters to food business operators following inspection.</p> <p>[The Standard - 16.1]</p>	<p>01.11.2011</p> <p>31.01.2012</p> <p>01.04.2012</p>	<p>Review the standard letters procedures and reissue.</p> <p>1. Determine why letters not being issued and issue instructions based on findings.</p> <p>2. Review inspection procedures and the use of standard letters and notifications.</p> <p>3. The current project to implement an electronic document management system within Regulatory Services will address the reference to non-standard documentation</p>	<p>Complete</p> <p>Complete</p> <p>Ongoing</p>	<p>1. An investigation was undertaken. The use of a non-standard inspection report arose due to a mistake. This was attributed to operational pressures during a time when the local Area Team were operating significantly shorthanded.</p> <p>2.. The standard inspection report has been reviewed and confirmed as compliant with the Food Law Code of practice and extant guidance.</p> <p>3. The implementation of the document management systems has been delayed and whilst in place for service requests, it is not fully operational for documentation associated with food safety interventions. This is planned for October 2012</p> <p>Measures /....</p>

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	PROGRESS	ACTION TAKEN
				Measures have been taken to resolve the issues identified at audit and are complete. The EDM system seeks to support this process, rather than being the improvement action.

Actions accepted by auditors. Audit file closed 31 August 2012.

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**Argyll and Bute Council**  
**Development and Infrastructure 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:** 12/01287/PPP

**Planning Hierarchy:** Local Application

**Applicant:** Councillor R and Mrs G McIntyre

**Proposal:** Erection of 5 dwellinghouse

**Site Address:** Land south east of Mamore Farm, Peaton Road, Rahane

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**DECISION ROUTE**

**(i) Local Government Scotland Act 1973**

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**(A) THE APPLICATION**

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

- Erection of 5 no. dwellings;
- Installation of private sewage treatment facility;
- Formation of access.

**(ii) Other specified operations**

- Connection to public water supply
- 

**(B) RECOMMENDATION:**

It is recommended that planning permission be approved subject to conditions.

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**(C) HISTORY:** None

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**(D) CONSULTATIONS:**

Roads Helensburgh and Lomond (dated 4/9/12): No objection subject to conditions.

Scottish Water (letter dated 15/8/12): No objections. There are no public sewers in the vicinity of the development.

MOD (dated 17/7/12): The MOD has no safeguarding objections to the development proposal. However the MOD would wish to be consulted on any associated detailed or

reserved matters application relating to this scheme.

SEPA (dated 27/6/12): The consultation response refers the Council to SEPA's Standing Advice on small scale local development.

Flood Risk Assessor (dated 10/7/12): No objections subject to conditions.

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**(E) PUBLICITY:**

ADVERT TYPE: Regulation 20 Advert Local Application  
EXPIRY DATE: 25.10.2012

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**(F) REPRESENTATIONS:**

Letters of representation have been received from:

Mr Allan Liebow, Harwin, Rahane (dated 18/7/12);  
Charles Mason, Glen Nevis, Rahane, Helensburgh G84 0QW (undated, received 26/7/12);  
Kirstine Walker, 58 Kildonan Drive, Helensburgh (dated 30/9/12);  
Mrs Lorna Phillips, 23 Drumfork Road, Helensburgh (dated 11/10/12)

**(i) Summary of issues raised**

Concern about surface water run off resulting from the development and sewerage facility.

*Comment: Based up the advice of the Council's Flood Alleviation Officer and the Standing Advice from SEPA, it is considered that it would be technically feasible to install a sewerage facility which would not cause unacceptable run off issues.*

Concern that the proposal will lead to demand for further development.

*Comment: The planning application requires to be assessed on its merits against the policies contained within the development plan. The impact of this proposal in the demand for future development is not a material consideration.*

The houses on this site will tower over the property at Glen Nevis, block out light and adversely affect privacy. The houses will also adversely affect the privacy of Morvern.

*Comment: As this is an application for planning permission in principle the location of the house footprints are indicative at this stage. It is however considered that it would be possible to site houses on the land in question without materially affecting the daylighting or privacy of the houses below.*

The land is currently used for agricultural purposes and is not redundant as stated.

*Comment: This is not an issue for the determination of this planning application as the site is contained within the settlement boundary where there is a presumption in favour of residential development.*

Parking on Peaton Road will cause problems.

*Comment: The Area Roads Officer is satisfied with the proposal and sufficient parking and turning in accordance with Local Plan policy would require to be included at the Approval of Matters Specified in Conditions or detailed stage.*

Residential amenity will suffer detriment from noise.

*Comment: Noise emanating from residential uses is considered to be acceptable within a residential area. An anti social residential noise beyond an acceptable level would be a police matter. Other potential noise nuisance would be dealt with by Environmental Health.*

Drawings do not adequately identify ownership of land as boundaries have not been defined.

*Comment: The Planning Authority is satisfied with the ownership details provided in the application.*

The impact on rural environment is detrimental and unnecessary, as numerous properties on the Rosneath peninsula are for sale and remain unsold. Further housing is superfluous, particular as limited facilities exist for residents.

*Comment: This application is required to be assessed on its merits against the policies contained within the development plan. The existence of vacant and unsold houses in the vicinity is not a material consideration in the determination of this planning application.*

The design of the houses is ugly and not in keeping with the rural area.

*Comment: As this is a planning permission in principle, no design has yet been submitted. Condition no.7 is proposed to ensure that the final design will be sympathetic and in keeping with the surrounding area.*

Having a building site behind Morven will pose a security risk and put off potential purchaser of this property.

*Comment: Disruption during the temporary construction phase is not a material planning consideration.*

The above represents a summary of the issues raised. Full details of the letters of representation are available on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

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**(G) SUPPORTING INFORMATION**

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

- (i) **Environmental Statement:** No
- (ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No

**A design or design/access statement:** Yes – A statement has been submitted in support of the application. Following discussion with the applicant's agent, the

supporting statement has been amended and it now notes that the following will be incorporated into the proposed development:

- New tree belt in native species to complement existing will be planted along entire length of new settlement edge. This will be implemented in conjunction with development of the first plot.
- Existing trees alongside the existing burn to be retained where possible.
- Existing burn to be inclusively incorporated as an attractive feature within the development.
- House design(s) will be a maximum of 1½ storeys and material palette should include a prevalence of traditional stone and timber cladding.
- Stone from existing dykes to be salvaged and incorporated within the proposed development.
- Boundaries to be delineated using mixture of stone dyke walling as above and native planting.
- Road and driveway surfacing will be a mixture of both stone sett type paviers and natural gravel.

#### **Further Supporting Information in Relation to Off-Site Footpath**

In an email dated 18/10/12, the applicant's agent has responded to the Council's requirement for the construction of an off-site footway which would connect the development with the B833. While he states that there is a willingness to accept the principle of providing a footway, it is considered unreasonable to suggest that the entire cost be apportioned to one party when there will be many beneficiaries. He does not consider that it is proportionate to the development especially when the Planning Authority has placed no such requirement at the adjacent Heron's View development.

*Comment: It is considered that with the level of development at this location, the provision of a continuous footway to connect with the footway on Peaton Road at Shore Road is necessary. This will allow the opportunity for pedestrians to link to the public transport facilities. Recently at this location a smaller development was required to provide a similar footway provision of a greater distance. Therefore, commensurate with size of development this footway is not considered an unreasonable requirement.*

- (i) A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: No**

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**(H) PLANNING OBLIGATIONS**

**Is a Section 75 agreement required: No**

- 
- (I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: No**

- 
- (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 7 – Impact on Tree/Woodland

LP ENV 19 – Development Setting, Layout and Design

LP BAD 1 – Bad Neighbour Development

LP HOU 1 – General Housing Development

LP SERV 1 – Private Sewage Treatment Plants and Wastewater Systems

LP SERV 2 – Incorporation of Natural Features/Sustainable Drainage Systems

LP SERV 5 – Waste Related Development and Waste Management Sites

LP SERV 8 - Flooding and Land Erosion – The Risk Framework for Development.

LP TRAN 2 – Development and Public Transport Accessibility

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

- (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)

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**(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:** No

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**(L) Has the application been the subject of statutory pre-application consultation (PAC):** No

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**(M) Has a sustainability check list been submitted:** No

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**(N) Does the Council have an interest in the site:** No

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**(O) Requirement for a hearing (PAN41 or other):** Not required.

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

Planning permission in principle is sought for the erection of 5 houses within the settlement boundary of Rahane. The principle of the erection of a 'small scale' development with a 'minor settlement' is considered to be acceptable in terms of development plan policy subject to all other local plan policies being complied with. As this is an application for permission in principle, not all design details have been given, however, the agent has submitted sufficient information to be able to demonstrate that the application site would be capable of accommodating 5 houses in accordance with all other relevant policies contained within the Structure and Local Plans.

A key consideration on the success of this proposal is its integration with the wider settlement of Rahane. It is considered that this can be achieved through the planting of a strategic tree belt around the new settlement edge, the incorporation of important landscape features into the wider scheme, a good design and the careful selection of materials for both the houses and hard landscaping.

In the supporting design statement the agent has given a commitment to addressing these issues and these are reflected in conditions should the application be approved.

Taking account of the above, it is considered that the proposal would accord with Development Plan policy subject to the satisfactory fulfilment of the conditions recommended.

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**(Q) Is the proposal consistent with the Development Plan: Yes**

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**(R) Reasons why planning permission or a Planning Permission in Principle should be granted**

The principle of the erection of a small scale development with a Minor settlement is considered to be acceptable in terms of development plan policy subject to all other local plan policies being complied with. As this is an "in principle" application not all design details have been given, however, the agent has submitted sufficient information to be able to demonstrate that the application site would be capable of accommodating 5 dwellinghouses in accordance with all other relevant policies contained within the Structure and Local Plans.

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

Not applicable

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

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**Author of Report: Sandra Davies**

**Date: 25.09.12**

**Reviewing Officer: Howard Young**

**Date: 27.09.12**

**Angus Gilmour**  
**Head of Planning and Regulatory Services**

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO.12/01287/PPP**

1. Plans and particulars of the matters specified in conditions 3 to 10 below shall be submitted by way of application(s) for Approval of Matters Specified in Conditions in accordance with the timescales and other limitations in Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended. Thereafter the development shall be completed wholly in accordance with the approved details.

*Reason: To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997.*

2. The development shall be implemented in accordance with the details specified on the application form dated 11/6/12, supporting information and the approved drawing refs AL(0)01, AL(0)02, AL(0)03B, AL(0)04 and AL(0)05A. The layout plans reference nos. AL(0)03B and AL(0)05A are for indicative purposes only and are not approved as part of this permission.

*Reason: To accord with Regulation 28 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008.*

3. Pursuant to condition 1 – no development shall commence until details of the proposed means of private foul drainage to serve the development have been submitted to and approved by the Planning Authority. The duly approved scheme shall be implemented in full concurrently with the development that it is intended to serve and shall be operational prior to the occupation of the development.

*Reason: To ensure that an adequate means of foul drainage is available to serve the development.*

4. Pursuant to Condition 1 – no development shall commence until a Drainage Impact Assessment, which includes a scheme for management of surface water within the development site, has been submitted to and approved by the Planning Authority. The duly approved scheme shall be implemented in full concurrently with the development that it is intended to serve and shall be operational prior to the occupation of the development and shall be maintained as such thereafter.

*Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding.*

5. Pursuant to condition 1 - no development shall commence until details of a Sustainable Urban Drainage system has been submitted to and approved by the Planning Authority. This shall be compliant with the guidance set out in CIRIA's SUDS Manual C697. The requisite surface water drainage shall be operational prior to the development being brought into use and shall be maintained as such thereafter.

*Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding.*

6. Pursuant to Condition 1 – no development shall commence until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved by the Planning Authority. Thereafter the development shall proceed in accordance with the approved details. The scheme shall include details of:
  - a. Location, design and materials of proposed walls, fences and gates;
  - b. Surface treatment of proposed means of access and hardstanding areas. Road and driveway surfacing shall be a mixture of stone sett type pavements and natural gravel with the exception of the first 2 metres at the access onto Peaton Road which shall be of a bituminous material;



- c. Any proposed re-contouring of the site by means of existing and proposed ground levels including details of any retaining walls.
- d. Full details of the native tree belt to be planted along the entire length of the settlement edge. This shall include the location, species and size (to BS standard) of each tree. This tree belt shall be planted during the first planting season following the occupation of the first dwellinghouse hereby approved.
- e. A tree survey of all existing trees along the watercourse on the site, indicating the position of each existing tree, its species, height, canopy width and condition including details of replacement trees planted where any of the existing trees are of a condition which would warrant their removal. Details of the replacement trees shall include the location, species and size (to BS standard) of each tree and shall include a timetable for the completion of these works.
- f. Full details of how the existing watercourse which crosses the site will be integrated into the overall scheme;
- g. Full details of how the stone from the existing dykes on the site will be incorporated into the overall scheme.

*Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity.*

7. Pursuant to Condition 1 – no development shall commence in respect of any individual plot; until plans and particulars of the site layout, design and external finishes of the development within that plot have been submitted to and approved by the Planning Authority. Thereafter the development shall proceed in accordance with the approved details. These details shall incorporate:
  - a. Maximum of 1.5 storeys in design;
  - b. Symmetrically pitched roof angled between 37 and 42 degrees finished in natural slate or good quality artificial slate;
  - c. External walls finished in natural stone and / or timber cladding or a mixture of both which may include a limited amount of traditional render;
  - d. Details of finished ground floor levels relative to an identifiable fixed datum located outwith the application site;
  - e. Details of arrangements for the storage, recycling, composting where appropriate, separation and collection of waste from within the development site.

*Reason: To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended, and in order to integrate the proposed dwellinghouse with its surrounds.*

8. Pursuant to condition 1. - no development shall commence until details of the proposed private access and connection with the existing public road have been submitted to and approved by the Planning Authority. Thereafter the development shall proceed in accordance with the approved details. Such details shall incorporate:
  - a. At the junction with the existing public road (Peaton Road) visibility splays of 2.4 x 7.5 x 1.05 metres to the west side and 2.4 x 42 x 1.05 metres to the east side formed from the centre line of the junction. These sight lines to be in place prior to the commencement of any house construction works and maintained in perpetuity;
  - b. The new vehicle access shall be a minimum 4.5 metres in width for the first 10 metres with the first 5 metres surfaced in a bituminous material or other approved hard material. The gradient shall be no greater than 5% (1 in 20) for the first 5 metres and thereafter no greater than 12.5% (1 in 8);
  - c. Details of the proposed vehicle access crossing of the existing water course. This shall include a Structural engineer's report to confirm that the structure has the capacity to accommodate emergency and service vehicles. Also on completion of the works prior to occupation of the first house to the north of the water course, a

Structural engineer's certificate shall be submitted to confirm the construction of the crossing is in accordance with the approved design;

- d. The provision of a turning area to accommodate emergency and service vehicles.

*Reason: In the interests of road safety and to ensure the timely provision of a service road commensurate to the scale of the overall development and having regard to the status of the proposed access as a residential service road.*

9. Pursuant to Condition 1 – no development shall be commenced in respect of any individual building until plans and particulars of the means of vehicular access and parking/turning arrangements to serve that building have been submitted to and approved by the Planning Authority. Such details shall incorporate:
- a. Driveway gradients of no greater than 5% (1 in 20) for the first 5 metres and thereafter no greater than 12.5% (1 in 8).
  - b. The provision of parking and turning in accordance with the requirements of policy LP TRAN 6 and Appendix C of the Argyll and Bute Local Plan 2009.

*Reason: In the interests of road safety.*

10. Pursuant to Condition 1 – no development shall be commenced in respect of any individual building until details of a footway from the east side of the development vehicular access to the existing footway on the east side of Peaton Road near the junction with Shore Road is submitted to and approved in writing by the Planning Authority. This footway shall be constructed to the satisfaction of the planning authority prior to the occupation of the first dwelling house.

*Reason: In the interests of road safety and the creation of link to the public transport facility.*

## **NOTES TO APPLICANT**

1. This consent constitutes a Planning Permission in Principle under Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended and as such does not authorise the commencement of development until matters requiring the further consent of the Planning Authority have been satisfied.
2. Applicants(s) for Approval of Matters Specified in Conditions must be made in accordance with the provisions of Regulation 12 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 with the time limits specified in Section 59 of the Act.
3. Having regard to Regulation 12, application(s) for the Approval of Matters Specified in Conditions must be submitted within 3 years from the date of which Planning Permission in Principle was granted. The exception being where an earlier submission for the Approval of Matters Specified in Conditions was refused or dismissed on appeal, in which case only one further application in respect of all outstanding matters requiring further approval of the Planning Authority may be submitted within a period of 6 months from determination of the earlier application. Any elements of the Planning Permission in Principle for which further approval of the Planning Authority has not been sought within the time periods summarised above will no longer be capable of being implemented within the terms of the permission.
4. The development to which this planning permission in principle relates must commence no later than 2 years from the date of the requisite approval of any matters specified in

conditions (or, in the case of approval of different matters on different date, from the date of the requisite approval for the last such matter being obtained), whichever is later. If the development has not commenced within this period then this planning permission in principle shall lapse.

5. In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start. Failure to comply with this requirement constitutes a breach of planning control under Section 123(1) of the Act.
6. In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.
7. Private drainage arrangements are also subject to separate regulation by Building Standards and SEPA.
8. Further advice on SUDS can be found in SEPA's Standing Advice for Small Scale Development – [www.sepa.org.uk](http://www.sepa.org.uk)
9. An application to provide a drop kerb and verge crossover must be submitted to Road Network Manager prior to work commencing on site. A road opening permit to construct the footway/verge crossover to the Council's standards will be required.
10. Full details of the construction and extent of the footway required for Peaton Road must be submitted for approval to the Road Network Manager prior to any house construction work commencing on site.

**APPENDIX A – RELATIVE TO APPLICATION NUMBER: 12/01287/PPP**

**PLANNING LAND USE AND POLICY ASSESSMENT**

**A. Settlement Strategy**

The site is located within the 'settlement' boundary of Rahane. Rahane is defined as a 'minor settlement' as defined within Table C of the adopted Argyll and Bute Local Plan. Policy STRAT DC1 of the Argyll and Bute Structure Plan gives support to 'small scale' development which is compatible with an essentially rural settlement location on appropriate infill, rounding off and redevelopment sites.

In addition, Local Plan Policy LP HOU 1 is supportive of 'small scale' development (defined as being up to 5 dwellings) in minor settlements.

**B. Location, Nature and Design of Proposed Development**

This application is for Planning Permission in Principle (PPP) and therefore no finalised details of the design have been submitted. The application site measures approximately 1 hectare in size and the indicative plan of the plot layout shows five house plots which are all in excess of 1000 square metres. The land slopes downwards from west to east towards the Gare Loch. It is considered that the plots are of sufficient size and location to be able to accommodate dwellings which would not overlook or result in an unacceptable loss of privacy to neighbouring development.

The applicant has submitted additional details sufficient to demonstrate that an acceptable layout could be achieved which would be in keeping with the rural character of the existing settlement. The detailed design and layout of the scheme is a matter for further consideration at the Approval of Matters Specified in Conditions (AMSC) stage. The Supporting Statement however notes that it is intended that the site be developed incorporating the following features:

- A new native tree belt along the entire length of the new settlement edge;
- That the existing burn which crosses the shall be incorporated as an attractive feature within the development and that the trees growing up the burn will be retained where possible;
- Houses will be a maximum of one and a half storeys and materials shall include a prevalence of traditional stone and timber cladding;
- Stone from the existing dykes on the site will be reused and incorporated into the development;
- Road and driveway surfacing will be a mixture of both stone sett type pavements and natural gravel.

It is considered that subject to a satisfactory design layout and landscaping, the proposal would accord fully with policy LP ENV 19. Appendix A of the adopted Local Plan provides further information on sustainable siting and design principles. While much of this refers to the detailed design of proposals, there is a section on back land development. Back land development is defined in the plans as "new development behind a row or group of existing buildings". The appendix notes that in certain circumstances this type of development will be acceptable where the proposal takes account of the settlement's existing built character and the area's historical development. The settlement of Rahane has mainly two tiers of development, although there are many examples of multi-tiered development around the Gare Loch in Clynder and Shandon. Part of the character of the settlement in this area is multi tiered development on the

banks of the loch facing on to the water and I therefore consider that the proposal would be consistent with this settlement pattern.

**C. Landscape Character and Impact on Woodland**

Rahane is a minor settlement located on the western banks of the Gare Loch. The land slopes steeply upwards from the B833 with the application site being located high up on the westmost boundary of the settlement. A watercourse crosses the centre of the application site. There are a number of trees growing along the banks of the burn and the water feature combined with the trees provide a very attractive landscape feature on the site. Policy LP ENV 7 requires that *inter alia* adequate provision is made for the preservation of and planting of new woodland / trees. This part of the undeveloped settlement sits behind a band of mature trees located to the east of the site. These mature trees currently define and enclose the existing settlement and it is considered important that a further bank of trees be planted to enclose the western settlement boundary to give the new development a sense of inclusion with and belonging to the remainder of Rahane. This approach is supported by the Council's Sustainable Design Guide which suggests that this may be a good approach in order to ensure that new dwellings sit more comfortably within their landscape settings. The incorporation of the watercourse into the design of the scheme is also considered to be important in terms of the visual amenity of the development. Consideration was given to protecting the trees which are currently growing up the side of the watercourse, however, an initial inspection has revealed that many are in poor condition. Taking account of this a condition is proposed requiring a tree survey and replanting proposals as necessary.

**D. Road Network, Parking and Associated Transport Matters.**

The site would be accessed from Peaton Road by means of a private access. The Road Network Manager has advised that he would have no objections to the application subject to a number of conditions.

The development can be served by a private access rather than a public road. Policy LP TRAN 4 details the vehicle access requirements of new developments. The visibility sightlines, road geometry, surfacing requirements and watercourse crossing details, as recommended by the Road Network Manager, are proposed as conditions in order to ensure that the proposal will comply with Policy LP TRAN 4.

Policy LP TRAN 2 requires development to make appropriate provision for encouraging pedestrian and cycle access and linking developments with public transport facilities and routes. In addition to providing acceptable visibility splays, road widths and gradients, a footway is also required along Peaton Road from the east side of the proposed vehicular access linking in to the existing footway further down Peaton Road. This footway is considered necessary in order to facilitate safe pedestrian access to the B833 which is on a public transport route. With the provision of this footway, the proposal would accord with Policy LP TRAN 2 and also with the terms of Policy LP TRAN 5 which is supportive of off-site highway improvements where development would significantly increase vehicular or pedestrian traffic on substandard private or public approach roads.

Each of the 5 plots will require to have vehicle parking provision and turning in accordance with Policy LP TRAN 6 and Appendix C of the adopted Local Plan. In the case of houses, two spaces are required in a house with up to three bedrooms and three spaces in a house with four bedrooms or more. Again a condition is proposed to ensure that the proposal will accord with this policy.

**J. Infrastructure**

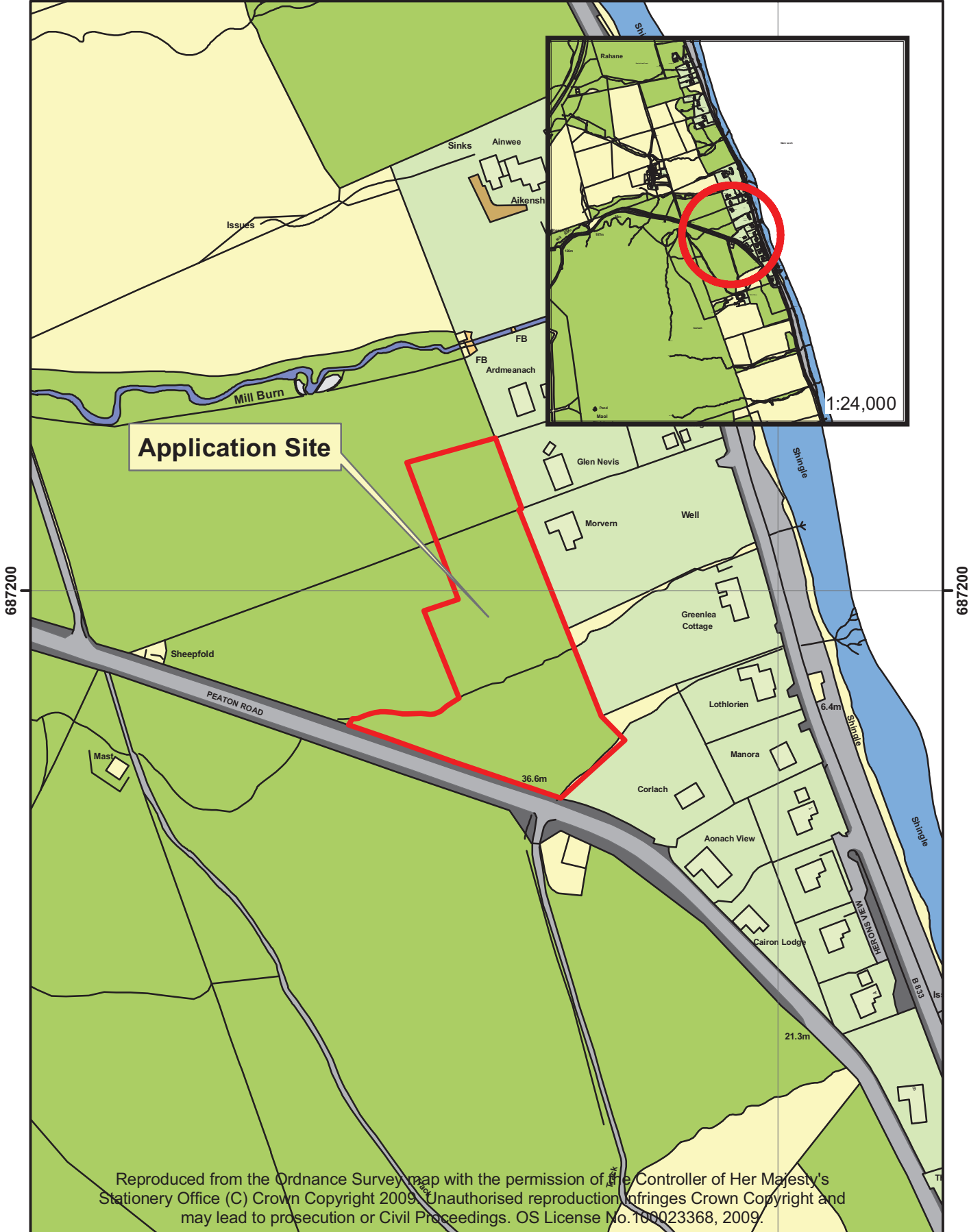
The planning application form indicates that the development will be served by a private sewerage facility. There are no public sewers in the area and therefore the provision of a private sewage system in this location would be consistent with Policy LP SERV 1. As this application is at the “in principle” stage no details have been given of the private sewage system. However, given the size of the site it would not appear to be an insurmountable issue having regard to the balance of probability that a suitable sewage treatment plant could be accommodated within an extensive site such as this.

The treatment or disposal of sewerage falls within the definition of ‘Bad Neighbour’ development and therefore the impacts must be considered against policy LP BAD 1. This policy requires that there are no unacceptable adverse effects on the amenity of neighbouring residents. Currently no details of the sewage treatment system have been given, however, full details of the foul drainage system are required by condition and this will allow consideration of any bad neighbour impacts in detail. What is clear is that there is sufficient land and technical solutions available for the treatment of sewage to ensure that a satisfactory solution can be found.

Policy LP SERV 2 requires the incorporation of Sustainable Urban Drainage Systems (SuDS) in developments. This requirement is also noted in SEPA’s standing advice which requires SuDS for all developments with the exception of single dwelling houses and discharges to coastal waters. A condition is therefore proposed requiring full details of SuDS.

Policy LP SERV 5 requires developments to make provision for the collection, storage and recycling of waste. Full details of this are therefore required prior to the commencement of development and a condition is proposed requiring these details.

The Flood Alleviation Officer has been consulted on this application due to the presence of a watercourse on the site. He has advised that there would be no objections to the proposal subject to the provision of a Drainage Assessment in order to ascertain the suitability of the surface water drainage for the development and the provision of SuDS details. It is considered that there will be a technical solution to address any threat of flooding given the large size of the application site and it is proposed that these two issues be addressed as conditions with the information being required prior to the commencement of any development. Subject to these conditions being satisfied, the proposal would accord with Policy LP SERV 8 which refers to the risk framework for development in terms of flooding.



**Application Site**

1:24,000

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# Location Plan relative to Application Ref: 12/01287/PPP

Date: 29.10.2012

Scale: 1:2,500



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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:** 12/01517/PP

**Planning Hierarchy:** Local Development

**Applicant:** Mr Donald Berry

**Proposal:** Erection of dwelling house

**Site Address:** Land to North West of 4 Ruaig, Ruaig, Isle of Tiree

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## **DECISION ROUTE**

Local Government Scotland Act 1973

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### **(A) THE APPLICATION**

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

- Erection of dwelling house;
- Installation of private foul water treatment facility.

#### **(ii) Other specified operations**

- Connection to public water supply system
- 

### **(B) RECOMMENDATION:**

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

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**(C) HISTORY:** 09/01748/PP – Erection of 5 bedroomed living accommodation for educational holiday use – Approved 27/01/2010

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### **(D) CONSULTATIONS:**

Area Roads Manager (Report dated 02/08/12) - No objection. Existing access is adequate subject to maintenance of sight lines. Parking and turning for three vehicles to be provided

Scottish Water (Letter dated 03/08/12) - No objection.

Highland and Island Airports Limited (Email dated 06/08/12) - No objection.

National Air Traffic Services (Email dated 03/08/12) - No objection.

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**(E) PUBLICITY:**

The proposal has been advertised in terms of regulation 20, closing date 30/08/12.

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**(F) REPRESENTATIONS:**

There have been 18 individual objections to this proposal as detailed below:

Miss Carina Wyatt, 48 Prince George Rd, Hackney, London (13/08/12)  
Ms Lucy Watson, 80 Warwick St. Oxford (16/08/12)  
Mr Tom Wyatt, 39 Outwestgate St., Bury St. Edmunds (17/08/12)  
Mr Simon Laird, Taigh Uilleim, Brock, Tiree (20/08/12)  
Dr Neil Wyatt, Brew Cottage, 280 Green Lane, Turleigh, Bradford-on-Avon (19/08/12)  
Prof Gina Ludlow, 24 Whitney House, Dog Kennel Hill East, East Dulwich (19/08/12)  
Mr Magnus Laird, Brock, Ruaig, Tiree (22/08/12)  
E. H. Lees, 50 Waveney Avenue, Peckham Rye, London (23/08/12)  
Ms Sarah Wyatt, 74 West Holmes Gardens, Musselburgh (21/08/12)  
Mrs Catherine Elliot, 89 Burford Road, Chipping Norton (21/08/12)  
Dr Alison Mason, 38 Chesham Road, Kingston Upon Thames (21/08/12)  
Ms Joanna Wyatt, Hawkins Farm, Monks Eleigh Tye, Ipswich, Suffolk (21/08/12)  
Dr Anna Ashmole, 68 Rosetta Road, Peebles (20/08/12)  
Mr Justin Shreeve, Beulah Cottage, Sandhills, Godalming (20/08/12)  
Mr Martin Swan, Floors Cottage, Dawyck, Peebles (27/08/12)  
Ms Kirsty Laird, 22 Moray Place, Edinburgh (27/08/12)  
Ms Sue Heap, 23 Spring St, Chipping Norton (27/08/12)  
Mrs Susan Marszal, Stone Cottage, Kettlebaston, Ipswich IP7 7QA (20/08/12)

**(i) Summary of issues raised**

- Proposal is significantly larger than adjacent properties and not in proportion. The large amounts of glass are not consistent with local character.

*Comment: The design of the property has the benefit of an existing live permission and there have been no material changes in planning policy since issuing the existing permission. The only issue this application raises is whether or not the description of the proposal can be amended.*

- Adverse impact on the category 'B' listed buildings at Brock.

*Comment: The site is some distance away from the 'B' listed buildings at The Brock and public views into this group will place the new property at the background and it is highly unlikely that the new dwelling will adversely impact on their setting.*

- Impact on the character of 4 Ruaig.

*Comment: The site and the design of building have the benefit of an unexpired permission.*

- Site is a nesting area of Corncrakes.

*Comment: Corncrakes tend to nest in long grass areas and not open machair landscape. The site is not within the Tiree Corncrake SPA. It is not likely that the proposal will have an adverse effect on this protected species.*

- The proposal is close to the shoreline and tidal surges, coupled with rising sea levels, may flood the property.

*Comment: The proposal is outwith the coastal flood zone identified by SEPA.*

- The access track is not suitable for the additional car use.

*Comment: The Council's Area Roads Engineer has commented that the proposal does not raise any road safety concerns.*

- There are no sewers, surface water drainage or water main in the vicinity and the installation of these may damage the coastline. Additionally, the proposed soakaway may not be far enough away from water sources to comply with building regulations.

*Comment: Issues of private waste water drainage are dealt with in detail at the Building Warrant stage, however the use of a biological treatment system can significantly reduce the impact the discharge may have. The applicant intends to extend a nearby water main to the site which satisfies Scottish Water.*

- The proposal will set an undesirable precedent for further development on undeveloped land close to the shore.

*Comment: Each planning application is assessed on its own merits.*

- Ruined dwellings on Tiree would be better to develop than previously undeveloped land.

*Comment: Ruinous dwellings can represent an opportunity for redevelopment in some cases. Planning permission already exists for the building in question on this previously undeveloped area.*

- Proposal is not consistent with the Tiree Design Guide.

*Comment: The design of the building remains unchanged from that which was approved in 2010, after the adoption of the Isle of Tiree Sustainable Design Guide 2009.*

- Adverse impact on croft land.

*Comment: The application is not part of a croft development proposal and the site benefits from an existing permission.*

- The site is not served by a telephone line and the addition of telegraph poles would adversely impact on the setting of the landscape.

*Comment: The siting of telephone poles and wires are not part of this application. Such proposals would be assessed under their own regulations.*

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**(G) SUPPORTING INFORMATION**

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

- |  |    |
|--|----|
| <b>(i) Environmental Statement:</b>                          | No |
| <b>(ii) An appropriate assessment under the Conservation</b> | No |

**(Natural Habitats) Regulations 1994:**

- |       |  |     |
|-------|--|-----|
| (iii) | <b>A design or design/access statement:</b>  | Yes |
| (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> | No  |

**(H) PLANNING OBLIGATIONS**

**Is a Section 75 agreement required:** No

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

**(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 4 – Development in Rural Opportunity Areas  
 STRAT DC 9 – Historic Environment and Development Control  
 STRAT SI 1 – Sustainable Development

Argyll and Bute Local Plan 2009

LP ENV 1 – Impact on the General Environment  
 LP ENV 2 – Development Impact on Biodiversity  
 LP ENV 6 – Development Impact on Habitats and Species  
 LP ENV 13a – Development Impact on Listed Buildings  
 LP ENV 19 – Development Setting, Layout and Design  
 LP HOU 1 – General Housing Development  
 LP SERV 1 – Private Sewage Treatment Plants and Wastewater Systems  
 LP SERV 4 – Water Supply  
 LP TRAN 4 – New and Existing Public Roads and Private Access Regimes  
 LP TRAN 6 – Vehicle Parking Provision  
 LP SERV 8 – Flooding and Land Erosion – The Risk Framework for Development  
 Appendix A – Sustainable Siting and Design Principles  
 Appendix C – Access and Parking Standards

- (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.**

SPP, Scottish Planning Policy, 2010  
 Isle of Tiree Sustainable Design Guide, 2009  
 Island of Tiree Landscape Capacity for New Housing, 2006

**(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:** No

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**(L) Has the application been the subject of statutory pre-application consultation (PAC):** No

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**(M) Has a sustainability check list been submitted:** No

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**(N) Does the Council have an interest in the site:** No

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**(O) Requirement for a hearing:** No. Although there has been a substantial level of objection a discretionary hearing would not add value to the process. The existing permission is a material consideration of substantial weight in the determination of this application. Additionally, a number of points raised by representations are not material planning considerations. This application only seeks to change the description of the proposal rather than its physical attributes .

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

The proposal involves the erection of a dwelling house on the site at land north west of 4 Ruaig on the island of Tiree. The site has previously received permission under reference 09/01748/PP for the erection of a *'five bedroom living accommodation for educational holiday use'*. This permission remains capable of implementation until January 2013 following which it would lapse unless a material start on the development had been made in the interim. The current application is for the same siting, design, access etc. as previously approved. The current permission contains no condition limiting the occupancy of the building to that expressed in the application, nor in any other manner.

Where a building designed for residential purposes is permitted, notwithstanding the description in the application and that expressed in the decision notice, then in the absence of a condition restricting occupation it is regarded as being a Class 9 dwellinghouse. It is therefore open to the applicant to implement the permission and to occupy the building as a dwelling regardless of the description given in the 2010 consent. The current application seeks to make this more formal by applying for the same development described as a dwellinghouse. The only implication in so doing would be that the length of the permission would be extended by a further three years.

The previous consent was for a development within a 'rural opportunity area' within which there would have been no justification to limit the occupancy of the building given the acceptability of single dwellings in policy terms in the absence of environmental constraints. Given the history of the site, the lack of change in policy and other circumstances the amended description of the proposal remains consistent with the provisions of the development plan.

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**(Q) Is the proposal consistent with the Development Plan:** Yes

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**(R) Reasons why planning permission or a Planning Permission in Principle should be approved:**

The proposal amounts to the re-submission of a previously approved development with an amended description of 'dwellinghouse' rather than 'living accommodation for educational holiday use' as described in the original application. The existing permission remains capable of implementation, and in the absence of any planning condition limiting occupancy to that described in the application, or any other restriction, any development implemented pursuant to that permission would in any event be capable of being occupied as a dwelling (Class 9). There have been no material changes in policy or other circumstances since the current permission was granted. This subsequent proposal remains unaltered in physical terms but benefits from an alternative description confirming the ability of the property to be occupied as a Class 9 dwellinghouse. It is therefore consistent with the previous decision and conforms to Policy STRAT DC 4 of the approved Argyll and Bute Structure Plan and Policies LP ENV 1, LP ENV 19, LP TRAN 4 and LP TRAN 6 of the adopted Argyll and Bute Local Plan. There are no other material considerations, including those matters 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:** 02/11/12

**Reviewing Officer:** Richard Kerr

**Date:** 02/11/12

**Angus Gilmour**  
**Head of Planning and Regulatory Services**

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 09/01748/PP**

1. No development shall commence or is hereby authorised until the proposed access to Ruaig Road has been provided with visibility splays measuring 25 metres by 2.4 metres from the centre line of the existing access. The visibility splays shall be cleared of all obstructions over 1.0 metre in height above the level of the adjoining carriageway. The visibility splays shall thereafter be maintained clear of all obstructions over 1.0 metre in height.

*Reason: In the interests of road safety.*

2. No development shall commence or is hereby authorised until full details of the layout and surfacing of a parking and turning area to accommodate 3 vehicles within the application site shall be submitted to and approved in writing by the Planning Authority in consultation with the Council's Roads Engineers. The duly approved scheme shall be implemented in full prior to the development first being occupied and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

*Reason: In the interest of road safety.*

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended), (or any Order revoking and re-enacting that Order(s) with or without modifications), nothing in Article 2(4) of or the Schedule to that Order, shall operate so as to permit, within the area subject of this permission, any development referred to in Part 1 and Classes 1A, 1B, 1C, 1D, 2A, 2B, 3A, 3B, 3C, 3D and 3E and Part 2 and Classes 8 and 9 of the of the aforementioned Schedule, as summarised below:

**PART 1: DEVELOPMENT WITHIN THE CURTILAGE OF A DWELLINGHOUSE**

Class 1A: Any enlargement of a dwellinghouse by way of a single storey ground floor extension, including any alteration to the roof required for the purpose of the enlargement.

Class 1B: Any enlargement of a dwellinghouse by way of a ground floor extension consisting of more than one storey, including any alteration to the roof required for the purpose of the enlargement.

Class 1C: The erection, construction or alteration of any porch outside any external door of a dwellinghouse.

Class 1D: Any enlargement of a dwellinghouse by way of an addition or alteration to its roof.

Class 2A: The erection, construction or alteration of any access ramp outside an external door of a dwellinghouse

Class 2B: Any improvement, addition or other alteration to the external appearance of a dwellinghouse that is not an enlargement.

Class 3A: The provision within the curtilage of a dwellinghouse of a building for any purpose incidental to the enjoyment of that dwellinghouse or the alteration, maintenance or improvement of such a building.

Class 3B: The carrying out of any building, engineering, installation or other operation within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse.

Class 3C: The provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of that dwellinghouse or the replacement in whole or in part of such a surface.

Class 3D: The erection, construction, maintenance, improvement or alteration of any deck or other raised platform within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of that dwellinghouse.

Class 3E: The erection, construction, maintenance, improvement or alteration of any gate, fence, wall or other means of enclosure any part of which would be within or would bound the curtilage of a dwellinghouse.

**PART 2: SUNDRY MINOR OPERATIONS**

Class 8: Formation of means of access to an unclassified road.

Class 9: Stone cleaning or painting of the exterior of a building.

No such development shall be carried out at any time within this Part and these Classes without the express grant of planning permission.

Reason: *To protect the sensitive area and the setting of the proposed dwellinghouse, in the interest of visual amenity and public health, from unsympathetic siting and design of developments normally carried out without planning permission; these normally being permitted under Article 2(4) of the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011.*

4. The development shall be implemented in accordance with the details specified on the application form dated 08/07/12 and the approved drawing reference numbers:

Plan 1 of 5 (Location Plan at scale of 1:10000)  
Plan 2 of 5 (Site Plan at scale of 1:1250)  
Plan 3 of 5 (Site Plan at scale of 1:500)  
Plan 4 of 5 (Block Plan at scale of 1:200)  
Plan 5 of 5 (Plans, Sections & Elevations at scale 1:100)

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

- **The length of the permission:** This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]
- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997 (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.



**APPENDIX A – RELATIVE TO APPLICATION NUMBER: 12/01517/PP**

**PLANNING LAND USE AND POLICY ASSESSMENT**

**A. Settlement Strategy**

The site is located in a Rural Opportunity Area (ROA) as delineated by the adopted Local Plan. Policy STRAT DC 4 of the approved Structure Plan provides support to small scale, infill, rounding off, redevelopment and change of use development. In this instance the proposal already has the benefit of an unexpired permission for a very similar proposal which was approved under the current terms of the development plan. There have been no relevant changes in policy affecting this site or the live permission. The current permission was approved on the basis of being a suitable site for infill development which is supported by STRAT DC 4 and further emphasised in the justification for Local Plan policy LP HOU 1.

The ROAs on Tiree have been subject to review under the Landscape Capacity for New Housing. This document provides guidance as to the siting of appropriate housing development within the ROAs. In this instance Ruaig has been assessed as an area with limited opportunities for new infill development to be sited on the coastal fringes where a more informal clustering of buildings is present. The application for the current permission was approved in the light of this document on the basis of being an appropriate infill development.

The previous officers' report considers the site to be a suitable infill development within the ROA and having consideration for the Landscape Capacity for New Housing as quoted below:

*"It is considered that the site subject of this application represents a suitable opportunity for infill development consistent with the terms of current development plan policy and the Tiree Landscape Assessment."*

This application seeks to only amend the description of the proposal from "*Erection of 5 bedroomed living accommodation for educational holiday use*" to a Class 9 dwelling house. No physical changes are proposed in respect of the development. There have been no material changes in policy since the issuing of the existing permission in January 2010.

**B. Location, Nature and Design of Proposed Development**

The site is located at the north eastern end of Gott Bay within the general crofting township of Ruaig. It is a fairly open site of machair with Point House (4 Ruaig) adjacent to the south east and ruins of a former dwelling/outbuilding to the east between Point House and the proposed site. To the east across open fields/machair is a grouping of properties forming the main nucleus of Ruaig and to the north across open fields/machair is the category 'B' listed grouping of properties known as The Brock.

The building itself is a large building containing elements of traditional Tiree architecture. The building forms an 'H' shape with the long sides appearing as separate traditional cottages with living space in the upper floors and a link between. The building is orientated perpendicular to Point House so that the long side of the property is facing toward The Brock to the north. The building itself contains significant amounts of glazing facing east across Gott Bay. The north long length of the property is longer than the south.

The Isle of Tiree Sustainable Design Guide was approved by the Council in 2009 and would have formed part of the assessment of the existing permission. The previous officer considered the proposal to be consistent with the provisions of the guide as stated below:

*“The accommodation unit is a contemporary interpretation of the traditional blackhouse style and has been orientated within the site to take advantage of the views out over Gott Bay. It has been designed with two parallel wings with a central connecting block which gives the appearance of two parallel blackhouse style cottages. The majority of the glazing has been incorporated into the east elevation which is not readily visible from any public viewpoints with the remaining elevations maintaining a traditional appearance of two parallel blackhouse styled cottages.*

*Finishes to be used in the development include white wet dash render, black elastomeric membrane roofing and white upvc windows.*

*The design and finishes of the accommodation unit are considered acceptable within this location and that the positioning and orientation within the site ensures that there are no adverse privacy or amenity issues with neighbouring properties and therefore the proposal complies with the terms of Policy LP ENV 19 and Appendix A.”*

There are no amendments to the design of the building from what is currently approved and there are no material changes to policy since the existing permission was issued.

#### **C. Natural Environment**

The site is outwith the Tiree Corncrake SPA and is not a designated site for any nature conservation purposes. It is highly unlikely that Corncrakes will nest on the site as they tend to choose areas of long grass. The proposal is unlikely to impact on the on the qualifying interests of the SPA.

The site is close to the shoreline of Gott Bay. There are no designations covering this area so far back from the coastline and, given the distances involved, it is not considered likely that the development will have an adverse effect on the machair or coastline. The site is outwith the SEPA designated coastal flood risk zone.

The application is considered consistent with the provisions of adopted Local Plan policies LP ENV 2 (Biodiversity), LP ENV 6 (Habitats) and LP SERV 8 (Flooding).

#### **D. Built Environment**

The existing permission was approved in 2010 with consideration being given to the Isle of Tiree Sustainable Design Guide, which was approved by the Council in 2009. There are no proposed changes to the design other than to exchange the east and west elevations. This was an error on the plans and the architect has asked that this be rectified. The size of building previously approved and now the subject of this application is of a larger scale than other buildings in the locality. With the prospect of it being occupied as permanent living accommodation there is potential demand for householder 'permitted development' rights to be exercised, with the prospect of inappropriate enlargement. With that in mind, in this particular case, it is considered appropriate to remove such rights by condition so as to ensure that there is no future adverse impact on the setting of The Brock, 4 Ruaig or the immediate landscape character through permitted development rights being exercised. In this way, further enlargement of the building, the addition of outbuildings and so on, would be subject to the requirement for planning permission in order that their suitability could be assessed.

#### **I. Road Network, Parking and Associated Transport Matters**

The proposal will use the existing access from Ruaig Road which also serves those properties at The Brock and Point House. The current access at Ruaig Road does not require upgrading but it is necessary to clear visibility splays measuring 2.4m x 25m in each direction involving both land in the road verge and land in the applicant's control. Parking and turning for 3 vehicles on site is to be provided.

The Area Roads Engineer has raised no objection and it is considered that the use of the existing machair track to access the site is consistent with the Tiree Design Guide. Such tracks are commonplace on the island and often add to the general character. Therefore the proposal is consistent with Local Plan policy LP TRAN 4.

**J. Infrastructure**

The applicant intends to provide private foul waste and surface water systems. It is also proposed to extend an existing public water main from a nearby field into the site. This is consistent with the existing permission and raises no concern.

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**Argyll and Bute Council**  
**Development and Infrastructure 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**

---

**Reference No:** 12/01533/PP

**Planning Hierarchy:** Local Application

**Applicant:** Helensburgh Cricket and Rugby Football Club

**Proposal:** Improvements to sports ground comprising new vehicular and pedestrian access points, internal roadways, formation of viewing mound and bridge connection to adjacent school pitches

**Site Address:** Helensburgh Cricket and Rugby Club, Rhu Road Higher, Helensburgh

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**DECISION ROUTE**

Local Government Scotland Act 1973

---

**(A) THE APPLICATION**

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

- Formation of pedestrian and vehicle access points onto a classified road;
- Formation of internal access way within the site;
- Formation of viewing mound and pedestrian bridge connection.

**(ii) Other specified operations**

- None
- 

**(B) RECOMMENDATION:**

It is recommended that planning permission be approved subject to conditions.

---

**(C) HISTORY:**

97/00372/DET – Extension to club pavilion. Approved 14/6/97  
 98/00092/NMA - Variation to Planning Consent 97/00372/DET. Approved 2/3/98.  
 98/01322/NMA - Alterations to extension to clubhouse. Approved 24/9/98.  
 08/00324/DET – Erection of grandstand. Approved 14/5/09  
 09/01052/NMA - Non Material Variation to 08/00324/DET - Reduce length of grandstand. Approved 21/7/09

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**(D) CONSULTATIONS:**

Roads – Helensburgh and Lomond (dated 27/9/12): No objections.

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**(E) PUBLICITY:**

ADVERT TYPE: Regulation 20 Advert Local Application  
EXPIRY DATE: 27.09.2012

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**(F) REPRESENTATIONS:**

**(i) Summary of issues raised**

One letter of representation has been received from the following:

Helensburgh Green Belt Group (dated 30/9/12): No objections, however, the following conditions are recommended:

- That the viewing mound should not be extended beyond the dimensions given;
- That the view mound should be grass covered;
- That no additional structures be added to the viewing mound;
- No advertising hoarding be added to the viewing mound;
- That nothing is done to the viewing mound or added to any other aspect of the application that would worsen the visual impact of the site of view beyond.

*Comment: The dimensions of the mound are detailed on the submitted plans which have been drawn to scale. Further planning permission / advert consent for advertising hoardings or additional structures would be required therefore it is considered that it is not necessary to add this as a condition to the current proposal. A condition is, however, proposed to ensure to that the mound has a grassed finish.*

The above represents a summary of the issues raised. Full details of the letters of representation are available on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

---

**(G) SUPPORTING INFORMATION**

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

- (i) **Environmental Statement:** No
- (ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
- (iii) **A design or design/access statement:** No



- (iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No  
**Summary of main issues raised by each assessment/report**
- 

**(H) PLANNING OBLIGATIONS**

**Is a Section 75 agreement required:** No

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- (I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** No
- 

**(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 3 – Development within the Greenbelt

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment

LP ENV 19 – Development Setting, Layout and Design

LP TRAN 4 – New and Existing Public Roads and Private Access Regimes

LP REC 1 – Sport, Leisure and Recreation

LP REC 2 – Safeguarding of Recreational Land and Important Open Spaces

- (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.**

None

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- (K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:** No
- 

- (L) Has the application been the subject of statutory pre-application consultation (PAC):** No
-

**(M) Has a sustainability check list been submitted:** No

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**(N) Does the Council have an interest in the site:** Yes – The Council owns the land which forms the application site.

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**(O) Requirement for a hearing (PAN41 or other):** No

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

Planning permission is sought for the installation of a separate pedestrian and vehicular access to Helensburgh Cricket and Rugby Football Club. The proposal also involves the construction of a bound gravel roadway, a section of reinforced grass and the formation of a viewing mound. In addition, a new pedestrian bridge across the burn is proposed to provide a link with the playing field to the north.

The site lies within the designated green belt. Structure Plan Policy STRAT DC 3 is supportive of outdoor sport and recreational development and as the current proposal is associated with this use, the proposal is therefore considered to be consistent with this policy. Local Plan Policy LP REC 1 is supportive of improved sport and recreation facilities where they accord with the relevant Structure Plan policy and where, in the case of the Green Belt, they are consistent with the purposes and nature of the Green Belt. The proposal would therefore accord with Policy LP REC 1.

Policy LP REC 2 seeks to protect recreational land and important open spaces. As this access is supportive of the recreational land, the proposal does not conflict with this Policy.

Where a new private access is proposed, Policy LP TRAN 4 requires a number of standards to be met. The Road Network Manager has confirmed that he is satisfied with the proposal which is in accordance with Policy LP TRAN 4. As a result of these improvements, this will also improve the existing access onto to Rhu Road Higher by virtue of enhanced visibility sightlines.

An oval shaped viewing mound is proposed at the location of the new pedestrian access. This would be formed from excavated material and would measure 51 metres by 14 metres with a maximum height of 2.2 metres. Subject to this being grassed over it is considered that the mound would be in keeping with the Green Belt setting and in accordance with Policy LP ENV 19 which requires development to be sited and positioned so as to pay regard to the context within which it is located.

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**(Q) Is the proposal consistent with the Development Plan:** Yes

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**(R) Reasons why planning permission or a Planning Permission in Principle should be granted**

The proposed development is ancillary to the main use of the site as an outdoor sports ground. The proposal to enhance the facility by upgrading the access provision and movement across the site is considered to be in accordance with Development Plan Policy. Further, the proposed viewing mound represents an enhancement to the sports

facility and is considered to be acceptable in terms of Development Plan Policy subject to a grassed finish.

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

Not Applicable

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**(T) Need for notification to Scottish Ministers or Historic Scotland:** Not required

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**Author of Report:** Sandra Davies

**Date:** 29/10/2012

**Reviewing Officer:** Howard Young

**Date:** 29/10/2012

**Angus Gilmour**  
**Head of Planning and Regulatory Services**

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO.12/01533/PP**

1. The development shall be implemented in accordance with the details specified on the application form dated 13/7/12 and the approved drawing reference numbers 1 of 5, 2 of 5, 3 of 5, 4 of 5 and 5 of 5 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.

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

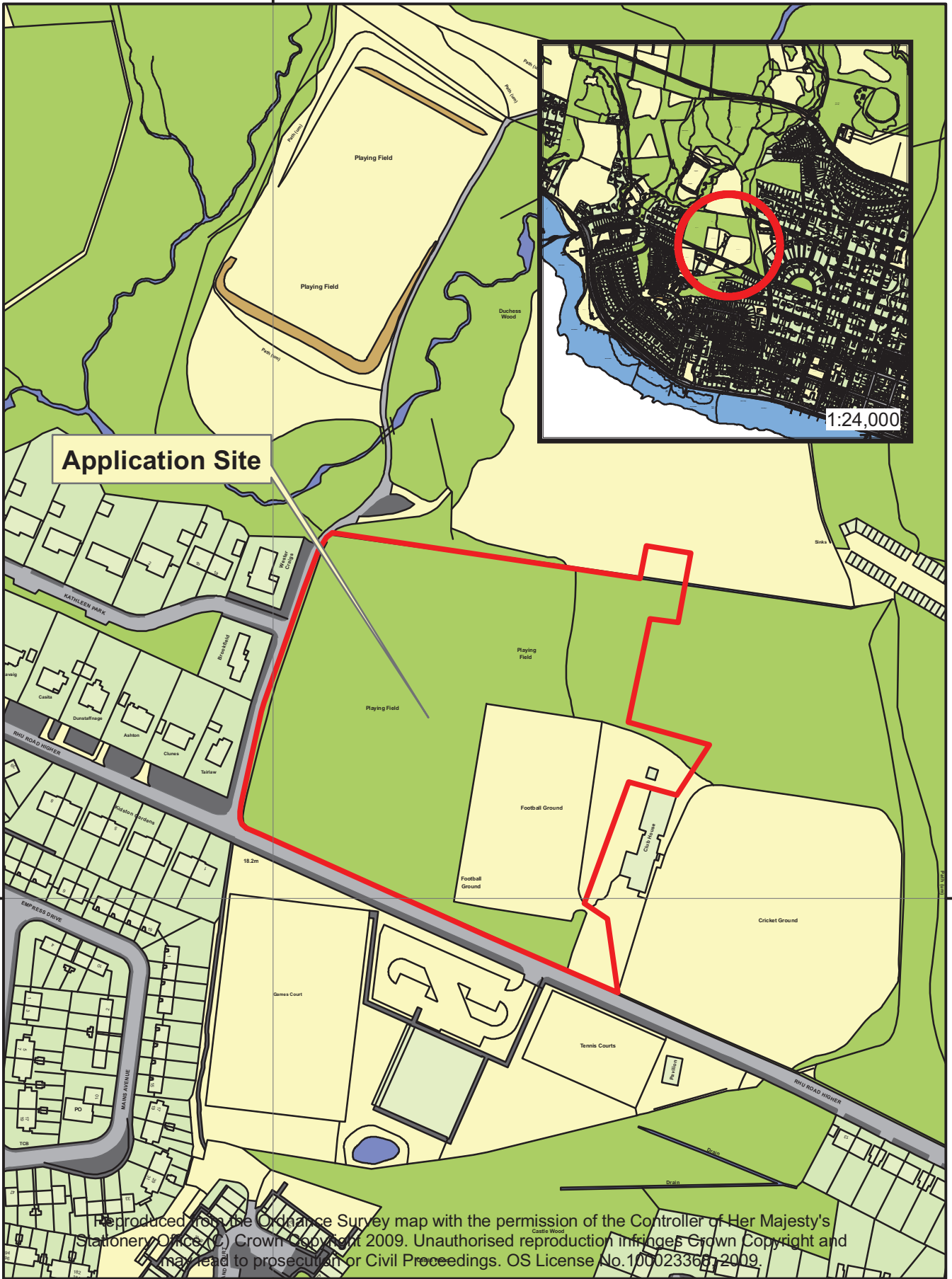
2. Following the completion of the viewing mound, it shall be seeded in grass and maintained with a grass surface thereafter.

Reason: In the interests of visual amenity in order that the view mound is sympathetic to the Green Belt setting.

**NOTES TO APPLICANT**

1. **The length of this planning permission:** This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]
2. In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
3. In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.
4. In accordance with the Roads (Scotland) Act 1984, there will be a requirement to apply separately for permission from the Roads Network Manager to form a new crossing over the existing road verge.

228400



Application Site

1:24,000

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228400



**Location Plan relative to  
Application Ref: 12/01533/PP**

Date: 29.10.2012

Scale: 1:2,500



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**Argyll and Bute Council  
Development & Regulatory 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**

---

**Reference No:** 12/01688/PP

**Planning Hierarchy:** Local Application

**Applicant:** Mrs Rosemary Noon

**Proposal:** Erection of dwellinghouse

**Site Address:** Garden ground of 9 Stafford Street West, Helensburgh

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#### **DECISION ROUTE**

Local Government Scotland Act 1973

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#### **(A) THE APPLICATION**

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

- Erection of dwellinghouse

**(ii) Other specified operations**

- Connection to existing public water supply
  - Connection to existing public sewer
- 

#### **(B) RECOMMENDATION:**

It is recommended that planning permission be approved subject to the conditions and reasons set out overleaf and subject to a discretionary local hearing being convened in response to the number of third party representations received.

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#### **(C) HISTORY:** None

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#### **(D) CONSULTATIONS:**

Scottish Water	(14.08.12)	No objections.
Roads Helensburgh And Lomond	(31.10.2012)	No objections.

Helensburgh Community Council (20.08.2012) Object. It is a large building on a small plot and totally dominates the total area of 540 square metres. Its close proximity to its neighbours to the east, west and south will tend to dominate their properties. It does not reflect its position in the Conservation Area and works against the green, open aspect of the surrounding area.

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**(E) PUBLICITY:** Setting of listed building/Conservation Advert (expiry date 06.09.2012)

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**(F) REPRESENTATIONS:**

Eighteen e-mail objections and an 11 signature petition have been received from the following:

Arthur Wylie, 30 Suffolk Street, Helensburgh e-mails dated 19/08/12 and 20/08/12)

Ms Bonnie Gilmour, 29 Glasgow Street, Helensburgh (e-mails dated 20/08/12 and 18/09/12)

Mr Sam Lindsay, Strathculm, 30 Stafford Street, Helensburgh (e-mail dated 22/08/12)

Mrs Zena Lindsay, Strathculm, 30 Stafford Street, Helensburgh (e-mail dated 22/08/12)

Mrs Gloria Syme, 54 James Street, Helensburgh (e-mail dated 26/08/12)

Mr Michael Logan, 31 Glasgow Street, Helensburgh (e-mail dated 26/08/12)

Mrs Gillian Logan, 31 Glasgow Street, Helensburgh (e-mail dated 26/08/12)

Mr Malcolm Garrity, West Winds, 41 Campbell Street, Helensburgh (e-mail dated 26/08/12)

Mrs Barbara Croft, 47 William Street, Helensburgh (e-mail dated 27/08/2012)

Mr Malcolm MacLeod, 50b Glasgow Street, Helensburgh (e-mail dated 27/08/12)

Mrs Louise Chapuis, 5a Edward Drive, Colquhoun Square, Helensburgh (e-mail dated 27/08/12)

Mr Simon Mills, 8 Millig Street, Helensburgh (e-mail dated 28/08/12)

Mr John Lawn, 4 Ferniegair Avenue, Helensburgh (e-mail dated 29/08/12)

Mrs Karen Smith, 34 West Montrose Street, Helensburgh (e-mail dated 29/08/12)

Mrs Lucy Swigciski, Heathfield, 20A West Montrose Street, Helensburgh (e-mail dated 30/08/12)

Clive and Judith Petrovski, 32 West Montrose Street, Helensburgh (e-mail dated 30/08/12)

Ms Bonnie Gilmour, 29 Glasgow Street, Helensburgh (enclosing 11 signature petition dated 27/08/12)



**(i) Summary of issues raised**

- The garden of 9 Stafford Street is inappropriate for development due to its location within the conservation area. Scottish Historic Environment Policy (SHEP) aims to protect the character or historic interest of an area created by individual dwellings and open spaces and their relationship with one another. By proposing to build on what is currently open space, this is clearly in conflict with policy.
- The applicant has stated that their garden is a vast plot. However, the existing house is built hard against Glasgow Street and Stafford Street and therefore has only one area of garden ground, which is insufficient to be divided between the two properties. The proposal would result in a dense, over-developed corner within a block which is a fine example of town planning.
- The proposal is contrary to national guidance, local plan policy and the Council's design guidance. The massing, scale, materials, orientation and overall design are out of keeping with adjoining properties and the surrounding area. In addition, outlook from listed buildings at 29 Glasgow Street and 30 and 32 West Montrose Street, would be negatively affected by development as would 30 Suffolk Street.
- Other houses have been built in the gardens of houses in the surrounding area, but these were all on much larger plots with large front and rear gardens, which following development maintained a very generous open space/density ratio for both the new and original houses.
- The design statement states that *"there are two large houses on the other side of the block and in plan the new house mirrors the adjacent house, number 30 Suffolk Street."* It is inappropriate to mirror the footprint of the large house which sits comfortably on a large plot and apply that to an extremely small plot. Thus resulting in over-development contrary to Local Plan Policies LP ENV 1 and LP ENV 14 which require that development should preserve or enhance the character of conservation areas.
- The Design Statement states that the gable of the new house abuts the back of the garden wall, facing out towards the street – which is consistent with the other three houses on the block, all of which sit in line. Therefore the main massing of the proposed house actually sits in front of the existing building line. However, there is no adherence to the building line of the adjacent houses. The true building line of the adjacent houses is set by the original 2 storey houses.

*Comment on the above points: See my assessment below.*

- The accessible bedroom does have east facing glazing, but this is screened from 9 Stafford Street by a 2 metre high timber fence. Planning policy insists that there should be no apartments overlooking those of adjacent properties within 18 metres. The erection of a 2 metre fence will result in a high degree of overshadowing to the garden.

*Comment: Planning policy does seek to maintain an 18 metre separation between habitable rooms of different properties set at an angle of 90 degrees. However, this distance can reduce if there is intervening screening although this only applies with ground floor windows. See also my assessment.*

- The intention is to use the existing double gates as the vehicular access to the new house and to form a dynamic new entrance through the Victorian wall. This vehicular access was created 7 years ago and no neighbours were notified at the time. Neighbours wish to question whether permission was granted from Argyll and Bute Council and Luss Estates who own the grass verge. The access is at the most remote location to the house and we now suspect that this was created with a long term development plan in mind.

*Comment: I can find no record of planning permission being granted. The consent of Luss Estates is a separate matter for them. The applicant's agent has indicated that the second access was added by the previous owner in 1996. In either case, whether the access was created in 1996 or 7 years ago as specified, then it would be exempt from enforcement action, the limit for which in the case of this form of development would be 4 years from substantial completion.*

- The proposed changes to the parking provision will not comply with Policy LP TRAN 6. The only parking provision will be a single integral garage on Glasgow Street. Integral garages do not count as parking provision as permitted development allows owners to change the garage to a room. At the moment the car parked at the existing house blocks pedestrian pavements on Glasgow Street and has no parking even as it stands.

*Comment: The amended plans show 3 parking spaces plus the garage. The Area Roads Manager has no objections.*

- On the planning application form the question on whether there are any trees on or adjacent to the application site has been ticked "No". Several trees had been felled in recent months and we would again question whether the appropriate permissions had been granted for this work.

*Comment: There are trees on the site. They are not covered by a Tree Preservation Order (TPO). However, as the site is within the Conservation Area the trees are protected and would have needed permission to be removed. The applicant contacted the Department in January 2012 concerning the removal of a Leylandi Hedge. She was advised that as it was a hedge, consent was not required. It is also understood that a damaged Cherry tree was removed and a replacement replanted. See also my assessment.*

---

**(G) SUPPORTING INFORMATION**

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

- (i) **Environmental Statement:** No
- (ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
- (iii) **A design or design/access statement:** Yes
- (iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No

## Summary of main issues raised by each assessment/report

### Design/Access Statement

The application site is fairly unusual in that the coach house is set within a full half block i.e. 42m width, but has been built squarely up against the boundary of Glasgow Street. This gives it a unique advantage in that most of the 42m width is garden ground, and therefore easier to divide without tight spacing between buildings.

The starting point for the plot was the open space requirement of the local plan. The existing garden is 42m across and the existing house is tucked against Glasgow Street and linear in design, which therefore frees up more than 35m of the plot - unique in the area. The plot was divided mindful of the 33% open space requirement in the Local Plan.

One of the main objectives of the design was to make it completely DDA accessible with all day space and accessible bedroom and bathroom at ground level since the applicant wishes to live here in old age. The footprint is therefore large on account of achieving this objective as well as including an integral garage.

Proposed New House:  
Footprint of New Build  
(including garage) = 159m<sup>2</sup>  
Amenity = 393  
Total area = 159 + 393m<sup>2</sup> = 552m<sup>2</sup>

Therefore comfortably meets the criteria of the Local Plan

Two sections and one street elevation have been produced to show more clearly the massing and scale of the proposed house, which it can be seen is in keeping with the street that it sits in. Most of the building is hidden completely by the existing Victorian Boundary wall.

In terms of the width of the plot it can also be seen on the drawing showing the Stafford Street West street elevation, that the widths of the plot are exactly as the other two houses on the South of the street-one at 23m and one 19m. Therefore the spacing's of the plots is not something which sets any new precedent.

Having established the principle of developing the site in the pre-application discussions with planning, it was important that any building should be designed with the scale of the other houses in mind. Therefore, a ridge height in keeping with both No. 9 and No. 30 was chosen. It can clearly be seen from the drawings that the scale of the proposal fits in very well with the two adjacent buildings.

Not only is the ridge height set closely to the two adjacent buildings, but the eaves height also closely matches both the main roof of No.30 and roof of No.9. This is in contrast to proposing a bungalow or a full two storey height building on the site, and matches the adjacent buildings by proposing something in-between.

Access to the coach house and parking for the coach house of No. 9 was always from Glasgow Street, which was why the coach house was built in its current position. It was only in 1996 that the previous owner of the coach house added a second vehicular access to allow for parking for large vehicles such as his motor-

home/caravan. The Coach house has a right of access to its garage, and will retain its historic use of Glasgow Street for access.

The design for the new house allows for turning in the courtyard created in front of the garage by the L-shaped plan. Not only is street parking not required, but the existing access doors, once closed will prevent even the sight of cars from the street- a neat and tidy solution for parking.

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**(H) PLANNING OBLIGATIONS**

**Is a Section 75 agreement required:** No

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**(I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** No

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**(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  
STRAT DC 9 – Historic Environment and Development Control  
STRAT FW 2 – Development Impact on Woodland

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment  
LP ENV 7 – Impact on Tree/Woodland  
LP ENV 13(a) – Development Impact on Listed Buildings  
LP ENV 14 – Conservation Areas and Special Built Environment Areas  
LP ENV 19 – Development Setting, Layout and Design

LP HOU 1 – General Housing Development

LP TRAN 4 – New and Existing Public Roads and Private Access Regimes  
LP TRAN 6 – Vehicle Parking Provision

Appendix A – Sustainable Siting and Design Principles

**(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)  
Scottish Historic Environment Policy

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**(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:** No

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**(L) Has the application been the subject of statutory pre-application consultation (PAC):** No

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**(M) Has a sustainability check list been submitted:** No

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**(N) Does the Council have an interest in the site:** No

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**(O) Requirement for a hearing (PAN41 or other):** Eighteen letters of representation and a petition have been submitted, objection has been raised by the community council and the plans have been amended but have not been re-advertised. As such, it is considered that a discretionary local hearing would be justified in this instance.

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

Planning permission is sought for the erection of an L-shaped dwellinghouse within the garden ground of 9 Stafford Street West, Helensburgh. The proposal is to sub-divide the plot with the western part being used for the new dwellinghouse which will sit gable end on to the road. An existing access onto Stafford Street will serve the proposed house.

The plot is large enough to accommodate a new dwellinghouse and the design, which has been amended, is considered acceptable. It will not have a detrimental impact on the amenity of adjoining properties, the wider Conservation Area or undermine the setting of the adjoining listed building to the north. As such the proposal accords with Structure Plan Policy STRAT DC 9 and adopted Local Plan Policies LP ENV 1, LP ENV 13(a), LP ENV 14, LP ENV 19, LP TRAN 6, Appendix A and the Council's Design Guidance.

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**(Q) Is the proposal consistent with the Development Plan:** Yes

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**(R) Reasons why planning permission or a Planning Permission in Principle should be granted**

It is considered that the scale, design and choice of materials of the proposed dwellinghouse are acceptable. The application site is large enough to accommodate a dwelling and a new house will not appear as overdevelopment or undermine the character of the Conservation Area. To the north at 29 Glasgow Street is a Category C(s) listed building. However, given the position of the plot a new house would not impact on its setting. A listed building to the south of the proposed plot on Montrose Street will be similarly unaffected. It is considered that the application site is large enough to accommodate a dwelling and the development will not create any amenity issues to neighbours or the surrounding area by way of overlooking, overshadowing or loss of daylight. It will complement the existing Victorian architecture and in terms of the Council's Sustainable Design Guidance the building would fit with the suggested approach to urban infill. Whilst the building would have a different architectural style from surrounding properties, it is acceptable within this part of the conservation area which already has a mix of architectural styles.

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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:** Howard Young

**Date:** 01/11/2012

**Reviewing Officer:** Ross McLaughlin

**Date:** 05/11/2012

**Angus Gilmour**  
**Head of Planning & Regulatory Services**

**CONDITIONS AND REASONS RELATIVE TO APPLICATION 12/01688/PP**

1. The development shall be implemented in accordance with the details specified on the application form dated 03/08/2012 and the approved drawing reference numbers D001, Location Plan, D003, Ground Floor Plan (Amended), D004 (Amended), First Floor Plan, D005 (Amended), Elevations, D006 (Amended), Sections and 3D, D007 (Amended), Additional Information and D008, Design Statement 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.

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

2. Development shall not begin until samples of materials to be use (on external surfaces of the buildings and/or in constriction of hard standings/walls/fences) have been submitted to and approved in writing by the Planning Authority. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.

*Reason: In order to integrate the development into its surroundings.*

3. All surface water from the site shall be treated in accordance with the principles of the Sustainable Urban Drainage Systems Manual for Scotland and Northern Ireland (2000) unless otherwise agreed with the planning authority. Details and specifications of the treatment of surface water shall be submitted for the written approval of the planning authority prior to the commencement of works which shall be implemented in accordance with the duly approved details.

*Reason: To ensure that an acceptable scheme of surface water drainage is implemented.*

4. Prior to the commencement of development the developer shall submit written evidence to the Planning Authority that an agreement with Scottish Water is in place for the connection of the proposed development to the public water supply (and/or public sewer).

*Reason: In the interests of public health and to ensure the availability of an adequate water supply (and/or drainage system) to serve the proposed development.*

5. Prior to commencement of development a scheme of boundary treatment, surface treatment and landscaping shall be submitted to and approved in writing by the Planning Authority. The scheme shall include details of:
  - i) Location, design and materials of proposed walls, fences and gates;
  - ii) Surface treatment of proposed means of access and hardstanding areas;
  - iii) Any proposed re-contouring of the site by means of existing and proposed ground levels.
  - iv) Proposed hard and soft landscape works.

The development shall not be occupied until such time as the boundary treatment, surface treatment and any re-contouring works have been completed in accordance with the duly approved scheme.

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme during the first planting season following the commencement of the development, unless otherwise agreed in writing by the Planning Authority.

*Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity.*

**NOTES TO APPLICANT**

1. **The length of the permission:** This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)].
2. In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
3. In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.



**APPENDIX A – RELATIVE TO APPLICATION NUMBER: 12/01688/PP**

**PLANNING LAND USE AND POLICY ASSESSMENT**

**A. Settlement Strategy**

The site is within the 'settlement' boundary of Helensburgh as defined by the adopted Local Plan. The site is also within the Upper Helensburgh Conservation Area. Within the settlement boundary there is a presumption in favour of development subject to site specific criteria being met. In this instance, the development must also preserve or enhance the character and appearance of the Conservation Area. Policy LP STRAT DC 9 of the Structure Plan and Policies LP ENV 1, LP ENV 13(a), LP ENV 14, LP ENV 19, LP HOU 1, LP TRAN 6 and Appendix A of the adopted Local Plan are applicable together with the Council's Design Guidance.

**B. Location, Nature and Design of Proposed Development**

The application site is located on the south side of Stafford Street West within the curtilage of 9 Stafford Street West in the Upper Helensburgh Conservation Area. Number 9 is a traditional Coach House with some modern features. The site as a whole measures approximately 960 square metres of which the area of the proposed building plot is approximately 540 square metres. It appears as an extended garden area and contributes little if anything to the setting of number 9 or the wider Conservation Area. Therefore, it is considered that the application site is large enough to accommodate a dwelling and that a new house will not appear as overdevelopment or undermine the character of the Conservation Area. To the north at 29 Glasgow Street is a Category C(s) listed building. However, given the position of the plot a new house would not impact on its setting. A listed building to the south of the proposed plot on Montrose Street will be similarly unaffected.

Legislation specifically provides that in determining an application for development in a conservation area there is a statutory duty *'to pay special attention to the desirability of preserving or enhancing the character of a conservation area'*. Case law has established that this amounts to a duty to only approve those developments which either enhance or which have a neutral effect upon the designated area. Proposals which erode the character of a conservation area by being detrimental in terms of scale, siting, design or materials should be refused. This position is reflected in local plan policy LP ENV 14, whilst policy LP ENV 13a augments this by requiring consideration as to the implications of development for the setting of adjoining listed buildings.

In assessing the impact of the proposal it is firstly important to highlight that the site sits within a larger development block running along Stafford Street West from Glasgow Street in the east, Suffolk Street in the west with Montrose Street to the south. It is characterised by traditional properties although in the next blocks to the north there is a mix of traditional and more modern dwellings. Both the immediate properties to the west sit up against the boundary with Stafford Street West. The modern infill is less successful architecturally but pre-dates the designation of the conservation area.

From the majority of publically accessible viewpoints within the Conservation Area the development shall be largely screened by the existing 3.3m Victorian stone boundary wall and No 9 Stafford Street with its hipped ridge at first storey being the most visible feature. Gable end protrusions juxtaposed to the boundary wall and extending above it are relatively common place in Stafford Street and elsewhere in the Conservation Area as they have historically been the location for ancillary buildings / coach houses associated with the larger feu plot and main house. The Victorian boundary wall is an important feature of this part of the Conservation Area and shall be retained with a new pedestrian access being made not dissimilar to the existing provisions of No9. The site

as an extended garden and contributes little if anything to the setting of number 9 or the wider Conservation Area so the introduction of an appropriate development should enhance the locale. The streetscape of Stafford Street is characterised by buildings attached to or close to the Victorian boundary wall and the introduction of a well designed building will at least be of neutral effect if not enhance the Conservation Area.

The Council's 'Sustainable Design Guidance' gives advice on how to approach sustainable urban infill. It offers three possible solutions. The first is contemporary landmark which is sensitive design of a high architectural quality which is essentially of a different architectural style to the buildings surrounding it. The second option is a design which more obviously is based on the architecture of the buildings adjacent. Finally, there is traditional design.

Original plans plus amended plans have been submitted. Under the original plans, the proposed dwellinghouse is shown to be a combination of 1½ storey and single storey with an L-shaped footprint and a zinc roof. Following discussions a number of amendments have been made. The overall footprint of the house has been reduced by 10% to take account of concerns from Helensburgh Community Council. The open space ratio which was 31% is now under 29%. The distance to the neighbour on the west boundary wall has been increased by 1m to 2.5m (the width of a car) and the depth of the living room has been reduced by 1m in the west wing in the North-South dimension. The roof over the living room has been lowered by 600mm to minimise impact and the roof finish has been changed from zinc to more traditional slate, responding to concerns that materials were too modern. A zinc extrusion at the front entrance has been removed and the new entrance in the wall has been reduced by 70% to 2m which is enough to allow a wheel chair to stop under the porch. Finally, the width of the bedroom window in the North gable has been reduced.

As amended, it is considered that the proposed design is acceptable. The applicant's existing property and curtilage, which includes the application site, has a frontage with Stafford Street West of 42 metres. The adjoining properties to the west have frontages of 19 metres and 22 metres respectively. If the new house is approved the amended frontages will be 19 metres for the existing house and 23 metres for the new one. This is compatible with other frontages in the adjoining development blocks.

The proposed house would be just over 14 metres from the applicant's existing property. There are two windows proposed at ground floor level but these would be obscured by bathroom windows and a 2.2 metre high fence is also proposed along the boundary. On the other side the new house would be some 7 metres away from number 30 Stafford Street West at the nearest point. This nearest section is the garage and is single storey with a hipped roof. It is considered that it would not have a detrimental impact on adjoining properties in terms of loss of amenity either in terms of loss of privacy or daylight/sunlight. There will be a degree of overlook from both adjoining properties but this is within acceptable limits and meets the appropriate window to window distances. It will complement the existing Victorian architecture and in terms of the Council's Sustainable Design Guidance the building would fit with the suggested approach to urban infill. It is considered that the proposed dwelling would maintain the character and appearance of the conservation area. Although it is modern in design, it uses traditional materials which help integrate it with the area and the design also uses hints of traditional architecture. While the building would have a different architectural style from surrounding properties, it is acceptable within this part of the conservation area in which there is a mix of architectural styles. As such it is considered that it accords with policy.

**C. Impact on Woodland/Access to Countryside.**

Policy LP ENV 7 of the adopted Local Plan states that the Council will protect trees and resist development which is likely to have an adverse impact on them. The proposed application site has a number of small trees and bushes on it which do not contribute to the wider Conservation Area. As such their loss will have little or no impact.

**D. Road Network, Parking and Associated Transport Matters.**

Access is proposed from the existing one onto Stafford Street West whilst the other access onto Glasgow Street will be retained for the existing dwelling. The Area Roads Manager has advised that as the existing dwellinghouse retains the parking facility onto Glasgow Road the loss of the vehicular access on Stafford Street is not a concern. The existing vehicular access has good visibility sightlines in both directions and the width is suitable to serve the proposed dwellinghouse. The parking and turning is in accordance with Policy LP TRAN 6 and therefore the Area Roads Manager has no objections.

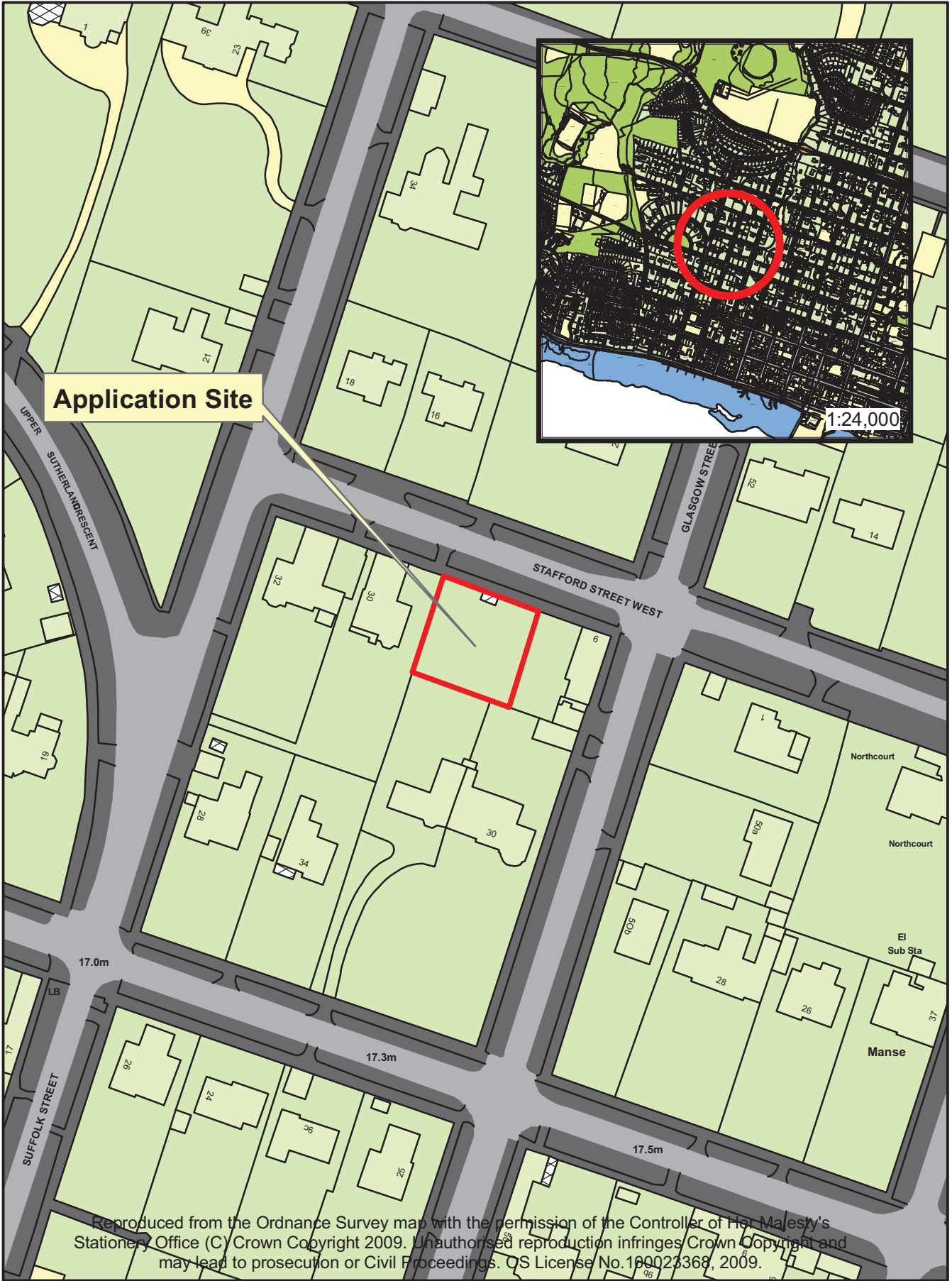
**E. Infrastructure**

Scottish Water has no objections to the proposal.

**F. Conclusion.**

Policy LP STRAT DC 9 of the Structure Plan and Policies LP ENV 13(a) and LP ENV 14 of the adopted Local Plan require that all development must maintain or enhance the conservation area and not undermine the setting of any adjoining listed buildings. In accordance with Policies LP ENV 1, LP ENV 19 and Appendix A of the adopted Local Plan, the proposed new dwelling should be sited so as to pay regard to the context in which it is located, should be of a density compatible with the surrounding area and be designed to be compatible with its surroundings. It is considered that the scale, design and choice of materials of the proposed dwellinghouse are acceptable. The application site is large enough to accommodate a dwelling and a new house will not appear as overdevelopment or undermine the character of the Conservation Area. To the north at 29 Glasgow Street is a Category C(s) listed building. However, given the position of the plot a new house would not impact on its setting. A listed building to the south of the proposed plot on Montrose Street will be similarly unaffected. It is considered that the application site is large enough to accommodate a dwelling and the development will not create any amenity issues to neighbours or the surrounding area by way of overlooking, overshadowing or loss of daylight. As such it accords with policy and is recommended for approval.

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## Location Plan relative to Application Ref: 12/01688/PP

Date: 29.10.2012

Scale: 1:1,250



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**Argyll and Bute Council  
Development and Infrastructure**

**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:** 12/01833/PP

**Planning Hierarchy:** Local Development

**Applicant:** JD Wetherspoon PLC

**Proposal:** Change of use of retail unit (class 1) to public house (Sui Generis) and existing external area to pavement cafe, installation of new shopfront doors and sliding folding doors to north elevation, mechanical extract for kitchen and fireplace and installation of air condition condensers to rear yard

**Site Address:** Caithness Glass, Railway Pier, Oban

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## **DECISION ROUTE**

Local Government Scotland Act 1973

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### **(A) THE APPLICATION**

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

- Change of use of retail unit (Class 1) to Public House (Sui Generis);
- Formation of pavement café;
- Installation of new shopfront doors and sliding folding doors;
- Installation of mechanical extract for kitchen and fireplace;
- Installation of air condition condensers to rear yard.

#### **(ii) Other specified operations**

- Connection to public water main;
  - Connection to public drainage system.
- 

### **(B) RECOMMENDATION:**

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission be granted subject to the conditions and reasons appended to this report.

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**(C) HISTORY:**

00/00203/COU

Proposed Change of Use of Exhibition Area (Class 10) and Store (Class 10) to Retail Areas (Class 1) – Granted: 23/03/00

97/0179/COU

Change of use of exhibition area (Class 15) to retail (class1) Granted 04/02/98

96/01265/COU

Alterations and change of use to form exhibition area – Granted: 20/02/97

96/00364/COU

Change of use to enlarge tearoom and form retail/office unit with installation of windows – Granted: 07/06/96

95/05317/DET

Proposed alterations to form exhibition area – Granted: 13/02/96

94/00504/COU

Change of use of factory studio to shop with new door– Granted: 07/07/94

94/00255/COU001

Alterations and change of use to form tearoom and retail unit class 1– Refused 19/05/94

93/00234/DET

Phase 2 of the redevelopment was granted on 13/08/12 for development of flats, shops, offices, bar/bistro, library and ice rink subject to a Section 50 Agreement to ensure a phased development in order that the ice rink and library were provided concurrently with the residential and retail elements of the proposal.

92/00310/DET

Material amendment to include toilets and class 3 food and drink– Granted: 24/06/92

88/00012//DET

Detailed planning permission was granted on 25/01/85 for the redevelopment of the former Railway Station and Railway Pier. Phase 1 of the redevelopment scheme was completed (glassworks, heritage centre and two retail units).

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**(D) CONSULTATIONS:**

Area Roads Manager

Report dated 17/09/12 advising no objection to the proposed development, which is accessed over private roads.

Scottish Water

Letter dated 17/09/12 advising no objection to the proposed development but providing advisory comments for the applicant.

Licensing Unit

Memo dated 11/09/12 advising no comments regarding the proposed development.

Environmental Health Unit

E-mail dated 25/10/12 advising no objection to the proposed development. Stating the external plant/equipment for the development is to be located at the rear of the premises



in a location away from the likely sensitive receptors which will not present any noise issues. The kitchen extract system and flue outlets are to be placed above eaves levels which will ensure adequate dispersal and will not present any local air quality issues.

A further e-mail dated 31/10/12 advised that in addition the arrangement of the building will ensure that the outside areas which are proposed for use by smokers are on the seaward side of the development meaning these areas will be shielded by the main building from the nearby residential properties. This will ensure that any patron noise will not have an adverse impact upon nearby residential property.

The type of premises does not provide live music and therefore will not present any entertainment noise issues. They also advise that there are similar establishments close by to the development which currently operate without complaint.

#### ScotRail

Letter dated 27/09/12 outlining the following reservations regarding the proposed development, acting as a lessee of Network Rail Infrastructure Ltd.

- § ScotRail's car park access road is not particularly wide and is not suitable for service vehicles and must be kept clear at all times. Furthermore, ScotRail could not permit the road to be used by any service, delivery or refuse vehicles wishing to access the proposed development.

*Comment: These are not material considerations in the determination of this planning application but legal matters between relevant parties. It should however be noted that the Council's refuse collection vehicle regularly uses the car park access road to service existing commercial premises in this area.*

- § The proposal will lead to a greater demand to the current car parking which could lead to inappropriate parking i.e. outwith designated bays or on the road.

*Comment: The site is situated within the main town centre of Oban where there is no requirement to provide dedicated parking for this type of development. Any issues with inappropriate parking would be a matter for the owners of the car park or ultimately the police.*

- § Concerns over potential for overfilled bins resulting in rubbish being strewn on the road.

*Comment: This is not a material consideration in the determination of this planning application. An enclosed bin store is illustrated as part of the application. Should management of this become a problem it would be a matter for the Council's Environmental Health and Operational Services units.*

#### Caledonian Maritime Assets Ltd (CMAL)

Letter dated 15/10/12 advising that they are the Statutory Harbour Authority for the Railway Pier and are accountable for safety in and around the harbour for all users with CalMac Ferries undertaking management of the pier under control of CMAL.

They advise that they are supportive of the plans but have the following concerns regarding the proposed development.

- § The main entrance/exit to the proposed development is from the Railway Pier which is the narrowest part of the pier and offers little by way of restrictions should a customer depart from the safe access/egress route. The applicant would need to ensure that there is sufficient door staff during all opening times to facilitate the safe access and egress of their customers.

CMAL will require details and to sign off to their safe management system surrounding access and egress of customers. If at any time this is not being managed appropriately CMAL would close down the activity at the main entrance and instruct the tenants to utilise the side door where customers can be clearly ushered away from the pier front.

*Comment: This is noted and clarifies the responsibility for safety at the entrance and how it can be managed and controlled. The existing harbour edge is approximately 5 metres away from the entrance and has a low but wide concrete upstand wall at its edge.*

§ Any signage and lighting on CMAL infrastructure will require agreement with CMAL prior to erection.

*Comment: This is not a material consideration in the determination of this planning application but a civil matter between both parties. Advertisements on separate land will require Advertisement Consent.*

§ There will be no vehicular access along the railway pier for the tenant.

*Comment: This is not a material consideration in the determination of this planning application but a civil matter between both parties.*

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**(E) PUBLICITY:**

The proposal has been advertised in terms of Regulation 20 procedures, closing date 11/10/12.

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**(F) REPRESENTATIONS:**

27 representations have been received regarding the proposed development, 20 objections and 7 support.

**OBJECTION**

Oban & District Licensed Trade Association, Boswell House, Argyll Square, Oban, PA34 4BD

Mr R J Scott, 6 Hayfield, Oban, PA34 4PJ

Ms Elaine Cameron, Holidays in Oban, St Annes Guest House, Dunollie Road, Oban, PA34 5PH

Mr Ruari Armstrong, 5 Craigard Road, Oban, PA34 5NT

John Stewart, The George Street Fish & Chip Shop, George Street, Oban

L C Swann, The Pantry, Argyll Square, Oban

Mr Allan Mckie, Woodside Hotel, Tweedale Street, Oban, PA34 5DD

Mr Tommie Hayward, 10 Croft Avenue, Oban, PA34 5JJ

Sylvia Bossard, Bossards Patisserie, Gibraltar Street, Oban, PA34 4AY

Lindsay MacDonald, Markie Dans Bar, Corran Esplanade, Oban, PA34 5PN

Renatto Di Ciacca, Oban Bay Fish & Chip Shop, George Street, Oban

Antonio Di Ciacca, Norrie's Fish & Chip Shop, George Street, Oban

Erica Mouat, McCaigs Return, 1 Shore Street, Oban, PA34 4LJ

Abdul, Light Of India, 43 Stevenson Street, Oban, PA34 5NT

Mrs Anne Mac Donald, Corran House Hostel, Oban, PA34 5PN

Mr Allan Watt, D. Watt & Son, Railway Pier, Oban, PA34 4LW

Steven Shaw, Rowan Tree Hotel, George Street, Oban, PA34 5NX

J M Breckenridge, Old Tweedmill, Soroba Road, Oban, PA34 4HQ  
Mr Alex Needham, No 1 The Pier, Oban, PA34 4LW  
Mr & Mrs Andy & Marjie Thornton, Ardenlinne, Ganavan Road, Oban, PA34 5TU

### Summary of issues raised

- Oban already has a massive overprovision of licensed premises per head of population.

*Comment: The number of licensed premises in the area is a matter determined by market forces and licensing considerations. It is considered that an appropriate mix of uses exists within the town to underpin its vibrancy and vitality. There are no policy reasons for seeking to resist this as an appropriate town centre use.*

- JD Wetherspoon's is a corporate giant and the proposal is for a 'super pub' which independent establishments cannot compete against. The proposal will have a detrimental impact on them, potentially putting them out of business.

*Comment: This is not a material consideration in the determination of this planning application but a matter which is down to market forces and represents concerns over business competition which the Planning Authority must not adjudicate. Wetherspoon's premises are now commonplace within towns across the country where they co-exist with other food and drink outlets.*

- The proposal will have a negative knock on effect for local suppliers, many of whom are small operators reliant on current local business and who will not have an opportunity to provide services to JD Wetherspoons. Should the smaller businesses close down these suppliers could also potentially close down.

*Comment: This is not a material consideration in the determination of this planning application but a matter which is down to market forces.*

- This is not the introduction of healthy competition but a grave risk to a town already struggling at a time of unprecedented economic pressure.

*Comment: This is not a material consideration in the determination of this planning application but a matter which is down to market forces.*

- A massive part of the economy of Oban is based on tourism and one of the reasons visitors come to the area is the unique character of the local area with its vibrant mix of individual shops, food retailers, public houses and hotels. Oban is already very competitively priced for both food and drink compared to bigger cities and should stay unique. The introduction of a corporate giant will have an adverse impact on this character and draw visitors away from the main town centre.

*Comment: It is not considered that the proposed development will have any adverse impact on tourism but will help further promote the vibrancy and vitality of the town centre and add to the choice available to tourists and locals alike for eating and drinking establishments. Beyond this, the concerns here relate to business competition which is not a material planning consideration.*

- Money spent in such corporate establishments tends to leave the local community altogether.

*Comment: This is not a material consideration in the determination of this planning application.*

- When the Waterfront Centre was built it was envisaged it would be mainly retail, to encourage visitors to the harbour front with a smaller percentage of the building given over to licensed premises to serve the increased customer base. This use should be retained.

*Comment: Every application for planning permission is judged on merit and in accordance with the Development Plan in place at the time.*

- There is a compromise to health and safety with such vast premises opening onto a working pier.

*Comment: CMAL are accountable for safety in and around the harbour for all users with CalMac Ferries undertaking management of the pier under control of CMAL. In their consultation response they advised that the applicant will have to sign off to their safe management system surrounding access and egress of customers.*

- There is already congestion with delivery trucks coming in to supply the existing premises which will be exacerbated by the proposed development.

*Comment: ScotRail has advised that no permission will be given for the proposed development to utilise the existing access. Access arrangements will be a separate civil matter between both parties. Any issues with inappropriate parking would be a matter for the owners of the access or ultimately the police. No objections have been submitted by the Roads Authority.*

- The application shows deliveries coming in through the railway however all deliveries at present are routed onto the pier.

*Comment: CMAL has advised that there will be no access for deliveries through the railway pier. Access arrangements will be a separate civil matter between affected parties. In the event that no service access can be secured, the business would not be able to operate.*

- The design and extension to the front of the building is intruding on most of the public area and walkway for the pier and will not allow delivery trucks to be able to deliver to existing units and will restrict access to existing premises.

*Comment: The proposed works to facilitate the pavement cafes will not encroach onto the service road. The applicant has submitted an updated plan showing the pavement cafes in relation to the service road. Furthermore, CMAL are accountable for safety in and around the harbour for all users with CalMac Ferries undertaking management of the pier under control of CMA and in their consultation response did not raise any concerns with regards to any adverse impact on vehicular access to existing premises.*

- The proposed development will restrict access for emergency vehicles on the pier.

*Comment: CMAL are accountable for safety in and around the harbour for all users with CalMac Ferries undertaking management of the pier under control of CMAL. In their consultation response they did not raise any concerns with regards to access for emergency vehicles.*

- The fans and other infrastructure are proposed to the rear of the development which are unsightly and are not what visitors to the area should see as their first view of

the town as the train disembarks. This could have a severe detrimental impact on Argyll's tourist economy.

*Comment: It is not considered that the proposed fans and infrastructure will have any significant adverse impact considering the context of the site. The service yard will be contained by a close boarded timber fence.*

- § The over-intensification of drinking/food establishments within this area could result in an increase in public order issues which could have an adverse impact on police cover.

*Comment: This is not a material consideration in the determination of this application. The Licensing Board and the Police control these issues.*

- § The proposed development is likely to result in an adverse noise impact for local residents, particularly those in Lismore House.

*Comment: The Council's Environmental Health Unit was consulted on the proposed development and raised no issues with regards to noise stating that the arrangement of the building will ensure that the outside areas which are proposed for use by smokers are on the seaward side of the development meaning these areas will be shielded by the main building from the nearby residential properties. This will ensure that any patron noise will not have an adverse impact upon nearby residential property.*

*They further state that the type of premises does not provide live music and therefore will not present any entertainment noise issues. They also advise that there are similar establishments close by to the development which currently operate without complaint.*

## **SUPPORT**

Alan MacLeod, Ee-usk, North Pier, Oban, PA34 5QD  
Karen Campbell, 13B Corran Brae, Oban, PA34 5AJ  
Andrea Kay, Flat 2/1, 2 Glenshellach Terrace, Oban, PA34 4BH  
Claire Evans, The Glebe, Kilmelford, by Oban, PA34 4XF  
Miss Julie McKenzie, 37 Creag Bhan Village, Glengallan Road, Oban, PA34 4BF  
Mr William MacDonald, 61 Kirkland Road, Dumfries, DG1 4EZ  
Miss Jacqueline Cullen, 1C Ulva Road, Soroba, Oban, PA34 4YA

## **Summary of issues raised**

- It is very important that new and diverse pubs and restaurants come to the town. Competition drives up standards and adds variety and vibrancy.
- Wetherspoon's establishments in other locations has led to a thriving pub scene as the existing operators have been forced to offer better value and service to customers as there is genuine competition.
- It would be a retrograde step for the Council to reject this proposal.
- Oban has more and more empty retail units, this proposal would bring investment and jobs to the town which it desperately needs.
- There is little value in the argument that this proposal would simply take money out of the town and it should only be locally run pubs that provide this service so that the

same old can benefit. This has done very little to provide value to the residents of the town.

- The proposed location would provide a wonderful view across towards Kerrera, Mull and the town itself which cannot be seen as a bad thing in anyone's eyes.
- Fantastic to see new business moving into the town, about time.
- Oban will benefit from the proposal as it will mean more employment and boost Oban's tourism.
- Oban has to look to the future, entice the tourist trade in to the town with realistic prices to keep them staying and coming back.

*Comment: These points are noted. The existing retail unit lies between a bar and restaurant on one side and a restaurant on the other. Redevelopment of the building, providing pavement cafes and opening up the frontage will enliven this building on an important pier in the main town centre of Oban.*

The above represents a summary of the issues raised. Full details of the letters of representation are available on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

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**(G) SUPPORTING INFORMATION**

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

- |   |     |
|---|-----|
| <b>(i) Environmental Statement:</b>   | No  |
| <b>(ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:</b> | No  |
| <b>(iii) A design or design/access statement:</b>   | Yes |

*"JD Wetherspoon plc plan to completely upgrade and refurbish the existing building to form a traditional public house with an all day restaurant. This includes the introduction of a new shop front main entrance and a beer garden to both sides.*

*JD Wetherspoon offers a friendly service that is responsive to needs of customers. We intend to comply with current regulations and good practice. The premises will be accessible as possible in all areas.*

*The redevelopment proposals should:*

- *Reinstate the life and vitality of the building back to its original condition.*
- *Use materials and finishes which are sympathetic with the existing building to reinforce the original aesthetic concepts.*
- *Create employment.*
- *Utilise existing service routes.*

*The site is within the town centre therefore represents an opportunity for sustainable re-development. The proposed works will not in any way adversely impact upon the neighbouring properties or the local environment.*

*The use of existing faculties and drainage is a priority. The management of fume extraction is particularly important. A vertical extract duct from the kitchen through the pitched roof is proposed to discharge, well away from properties adjacent to the site.*

Appearance

*The proposed buildings overall aesthetics will not change apart from redecoration of existing features and a new shopfront being inserted into existing openings. The internal works will be to a high specification 'fit out' bringing the existing building back into a useable space. Internally, it will be comfortable and welcoming and local historical artwork will be displayed throughout the premises along with commissioned artwork by locally sourced artists.*

Landscaping

*It is essential to create an outdoor area which looks attractive all year for the use and enjoyment of all customers. It is essential that these areas are maintained to a very high standard.*

Access

*The site is located within walking distance of a number of regular bus services and well maintained footways.*

*The proposal presents an opportunity to bring a viable, sustainable use to this building. The contribution this site makes to the quality of the area can therefore be considerably enhanced by this redevelopment. It is able to address a range of townscape and urban design issues dramatically and improve the coherence and legibility of this area.*

*The proposals will regenerate the building and meet the needs of modern leisure businesses which will promote future investment in Oban”.*

The above represents a summary of the Design and Access Statement. Full details is available on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>

- (iv) **A report on the impact of the proposed development e.g. retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No

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**(H) PLANNING OBLIGATIONS**

**Is a Section 75 agreement required:** No

- 
- (I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** No
-

**(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 19 – Development Setting, Layout and Design

LP BAD 1 – Bad Neighbour Development

LP RET 1 – Retail Development in the Towns – The Sequential Approach

LP TRAN 6 – Vehicle Parking Provision

Area for Action (AFA 5/1) Oban – South Pier/Railway

Appendix A – Sustainable Siting and Design Principles

Appendix B – Shop Front/Advertising Design Principles

Appendix E – Allocations, Potential Development Area Schedules and Areas 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)

SPP, Scottish Planning Policy, 2010

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

No

In deciding whether to exercise the Council's discretion to allow respondents to appear at a discretionary hearing, the following are of significance:

- How up to date the Development Plan is, the relevance of the policies to the proposed development and whether the representations are on development plan policy grounds which have recently been considered through the development plan process.
- The degree of local interest and controversy on material considerations together with the relative size of community affected set against the relative number of representations, and their provenance.

In this case, whilst the proposal has elicited a number of representations, it is not considered that the application raises any complex or technical issues. Most objections are based on issues that are not material planning considerations, such as legitimate business competition. Given that the site is situated within the main town centre of Oban where there is a presumption in favour of new commercial uses, it is not considered that a hearing would add value to the process.

It is recommended that the Committee does not hold a hearing prior to the application being determined.

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

Planning permission is sought for change of use of a retail unit (Class 1) to a public house (Sui Generis) at the former Caithness Glass shop, Railway Pier, Oban. The premises are currently used as a retail unit by a factory outlet store.

In terms of the adopted 'Argyll and Bute Local Plan', the site is within the main town centre of Oban where Policy STRAT DC 1 of the approved 'Argyll and Bute Structure Plan' gives encouragement to development serving a wide community of interest subject to compliance with other relevant local plan policies.

The site is within Area for Action (AFA 5/1) Oban – South Pier/Railway which has been designated primarily to ensure that any redevelopment or new building conforms to strategic level objectives for the overall area. However, there is nothing specific associated with the action plan which would preclude a change of use of existing premises.

It is considered that the use of the building as a public house fits well with the established development within this area of the town centre which is characterised by a varied mix of commercial and retail uses, including food and drink outlets. The site lies between a bar/restaurant to the southwest and a restaurant and shop to the northeast.

This is a town centre site readily accessible to the transport interchange and town centre facilities, which lends itself to this form of development.

Subject to the conditions recommended below, the development is considered to represent a suitable opportunity for the proposal consistent with the terms of the current Development Plan.

The proposal has elicited 27 representations, 20 objections and 7 support.

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**(Q) Is the proposal consistent with the Development Plan: Yes**

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**(R) Reasons why planning permission should be granted**

The adopted 'Argyll and Bute Local Plan' gives a presumption in favour of commercial development within the main town centre and as such it is considered that this site offers a suitable opportunity for change of use from retail premises to a public house.

The proposal accords with Policy STRAT DC 1 of the approved 'Argyll and Bute Structure Plan' and Policies LP BAD 1, LP ENV 1, LP ENV 10, LP ENV 19 and LP RET 1 of the adopted 'Argyll and Bute Local Plan'.

Furthermore 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: Fiona Scott Date: 29/10/12**

**Reviewing Officer: Stephen Fair Date: 31/10/12**

**Angus Gilmour  
Head of Planning and Regulatory Services**

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 12/01833/PP**

1. No development shall commence on site, or is hereby authorised, until full details, in plan form, of a proposed barrier to enclose the external seating areas has been submitted and approved in writing by the Planning Authority. Thereafter, such details as are approved to contain the outdoor seating area shall be utilised at all times when the seating area is in use and all temporary barriers must be removed during all times when the business is closed unless otherwise first agreed in writing by the Planning Authority.

*Reason: In the interest of pedestrian safety.*

2. Notwithstanding the plans hereby approved, the proposed pavement cafes shall in no way encroach onto the Railway Pier Service Road. Any change to the areas proposed for the pavement cafes will require the prior written approval of the Planning Authority.

*Reason: In the interest of road and pedestrian safety.*

3. The development shall be implemented in accordance with the details specified on the application form dated 26/09/12 and the approved drawing reference numbers:

Plan 1 of 6 (Drawing Number AS03)  
Plan 2 of 6 (Drawing Number AS02/A)  
Plan 3 of 6 (Drawing Number AS01)  
Plan 4 of 6 (Drawing Number AL01 Rev D)  
Plan 5 of 6 (Drawing Number AV01 Rev D)  
Plan 6 of 6 (Drawing Number AV02 Rev D)

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**

- **Length of the permission:** This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)].
- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997 (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.
- Please note that this consent is for the purposes of the Town and Country Planning (Scotland) Act 1997 only. Separate Advertisement Consent will be required for any signage proposed, unless it benefits from 'deemed consent' under the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984.
- Please note the advice contained within the attached letter from Scottish Water. Please contact them direct to discuss any of the issues raised.
- Please note the advice contained within the attached letter from CMAL. Please contact them direct to discuss any of the issues raised.
- Please note the advice contained within the attached letter from ScotRail. Please contact them direct to discuss any of the issues raised.

**APPENDIX A – RELATIVE TO APPLICATION NUMBER: 12/01833/PP**

**PLANNING LAND USE AND POLICY ASSESSMENT**

**A. Settlement Strategy**

Planning permission is sought for change of use of a retail unit (Class 1) to a public house (Sui Generis) at the former Caithness Glass shop, Railway Pier, Oban. The premises are currently used as a retail unit by a factory outlet store.

In terms of the adopted 'Argyll and Bute Local Plan', the site is within the main town centre of Oban where Policy STRAT DC 1 of the approved 'Argyll and Bute Structure Plan' gives encouragement to development serving a wide community of interest subject to compliance with other relevant local plan policies.

The site is within Area for Action (AFA 5/1) Oban – South Pier/Railway which has been designated primarily to ensure that any redevelopment or new building conforms to strategic level objectives for the overall area. However, there is nothing specific associated with the action plan which would preclude a change of use of existing premises.

It is considered that the use of the building as a public house fits well with the established development within this area of the town centre which is characterised by a varied mix of commercial and retail uses. The site lies between a bar/restaurant to the southwest and a restaurant and shop to the northeast.

This is a town centre site readily accessible to the transport interchange and town centre facilities, which lends itself to this form of development.

**B. Location, Nature and Design of Proposed Development**

The premises form part of a larger building known as the Waterfront Centre which is situated on the Railway Pier within the main town centre of Oban. The premises are currently used as a retail unit by a factory outlet store.

The building is a single storey purpose built structure finished in reconstituted stone with a natural slate roof.

The proposal is to utilise the existing building and completely refurbish the interior in order to make best use of the internal space to accommodate a public house and restaurant facilities. The main alterations to the building comprise the following.

- § Installation of new main entrance doors to the north and east elevations.
- § Replacement of two sets of windows in the north elevation with folding sliding opening doors for summer use.
- § Replacement of timber louvre panelling to the west elevation with glazing.
- § Blocking up doorway to west elevation.
- § Installation of closed boarded timber fencing to external yard at southern corner of the site.
- § Formation of pavement cafes to the north and east elevations by using temporary barriers.
- § Installation of mechanical extract flue and kitchen extract.

In addition to the above, new signage is indicated but this will require separate Advertisement Consent.

The proposal leaves a small retail unit intact within the site, and utilises the rest as the public house, with food served all day. The adjacent unit is a restaurant and a further retail unit exists within the same building. To the southwest is another bar and restaurant.

**The proposal is considered to be acceptable under Policy LP ENV 19 and Appendix A which seek to ensure that developments are positioned so as to pay regard to the context within which they are located and that they integrate with the setting of surrounding development.**

The use of the premises as a public house constitutes a form of 'Bad Neighbour' development and therefore the provisions of Policy LP BAD 1 require to be considered in the determination of the proposal. Policy LP BAD 1 seeks to ensure that proposed developments do not have an adverse effect on the amenity of neighbouring residents and that they include appropriate measures to reduce the impact on amenity.

The Council's Environmental Health Unit has not objected and has advised that the external plant/equipment is proposed a location away from any likely noise sensitive receptors and therefore will not present any noise issues. They have further advised that the arrangement of the building will ensure that the outside areas which are proposed for use by smokers are on the seaward side of the development meaning these areas will be shielded by the main building from the nearby residential properties. This will ensure that any patron noise will not have an adverse impact upon nearby residential property.

The type of premises does not provide live music and therefore will not present any entertainment noise issues. They also advise that there are similar establishments close by to the development which currently operate without complaint.

With regards to noise from patrons visiting the premises, it is inevitable that nearby residents already experience a certain amount of noise and disturbance in this area given the busy location within the town centre and within close proximity to existing licensed premises. Town centre noise and disturbance is already higher than that experienced in quieter residential streets. Disturbance associated with anti-social behaviour would be a matter for the police.

**The proposal is considered to be acceptable under Policy LP BAD 1.**

**C. Road Network, Parking and Associated Transport Matters.**

The site is situated within Oban town centre where Appendix C, Car Parking Standards, states that the use of premises as restaurants and public houses will not be expected to provide any off-street car parking provision. The Area Roads Authority has confirmed no objection to the proposed development being in a town centre the site is well served by public transport and by existing public car parks.

**The proposal is considered to be acceptable in terms of Policy LP TRAN 6 and Appendix C of the adopted 'Argyll and Bute Local Plan' which seek to ensure developments are served by an appropriate parking provision.**



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**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:** 12/01908/PP

**Planning Hierarchy:** Local Development

**Applicant:** Mr Paul McFatridge

**Proposal:** Erection of 4 semi-detached dwellinghouses

**Site Address:** Land east of Lynwood, North Connel, Oban, Argyll and Bute, PA37 1RA

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**DECISION ROUTE**

Local Government Scotland Act 1973

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**(A) THE APPLICATION**

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

- Erection of 4 semi-detached dwellinghouses;
- Construction of a new shared, private vehicular access;
- Construction of 8 on-site vehicular parking spaces and associated turning arrangements;
- Installation of a septic tank and closed loop soakaway.

**(ii) Other specified operations**

- Connection to an existing public water main.
- 

**(B) RECOMMENDATION:**

Having due regard to the Argyll and Bute Development Plan 2009 and all other material planning considerations, it is recommended that planning permission be granted subject to the conditions and reasons appended to this report.

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**(C) HISTORY:**

On-site

12/01318/PP - Erection of 3 flats – *application withdrawn 21<sup>st</sup> September 2012*

On-land immediately adjacent to the application site

06/02322/COU - Change of use of craft shop to form a dwelling, alterations and extension, including the erection of a double garage – *application approved 15<sup>th</sup> February 2007*

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**(D) CONSULTATIONS:**

Ardchattan Community Council

Response received 16<sup>th</sup> October 2012 – do not object to the proposal, but wish for a condition to be attached in the granting of planning permission which would specify that an additional passing place be provided at the junction of the C25 Bonawe public road.

*Comment: A recommended condition would ensure that the proposed, shared private vehicular access at the junction of the C25 Bonawe public is constructed in accordance with the Council's Road Engineers Drawing No. (SD 08/004a) which includes the requirement for an integral passing place to be formed as part of the junction.*

Area Roads Officer

Response received 20<sup>th</sup> September 2012 – no objection subject to conditions and advisory comments which can be viewed within section 'Note to Applicant' below

Local Biodiversity Officer

Response received 1<sup>st</sup> November 2012 – no objection

Outdoor Access Team

Response received 2<sup>nd</sup> November 2012 – no objection subject to a condition and advisory comments which can be viewed within section 'Note to Applicant' below

Scottish Environment Protection Agency

Response received 20<sup>th</sup> September 2012 – no objection

Scottish Natural Heritage

Initial response received 3<sup>rd</sup> October 2012 – no objection

Further response 15<sup>th</sup> October 2012 – in response to further information from a member of the public who had informed them that European Protected Species may be present within the application site. However, SNH have not objected and recommend consultation with the Council's Biodiversity Officer in respect of any local natural heritage impacts which require to be addressed.

Scottish Water

Response received 20<sup>th</sup> September 2012 – no objection but advisory comments which can be viewed within section 'Note to Applicant' below

West of Scotland Archaeology Service

Response received 8<sup>th</sup> October 2012 – no objection subject to a condition and advisory comments which can be viewed within section 'Note to Applicant' below

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**(E) PUBLICITY:**

'Regulation 20 – Advert Local Application' from the 27<sup>th</sup> September to the 18<sup>th</sup> October 2012.

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**(F) REPRESENTATIONS:**

14 representations of objection have been received during the determination process of this planning application. The representations were received from;

- Mr and Mrs G.E. Brennan, Lynwood, North Connel, Oban, Argyll and Bute, PA37 1RA (letter dated 28.09.2012)
- Mr W. Charlton, Shira, North Connel, Oban, Argyll and Bute, PA37 1RA (letter dated 02.10.2012)
- Ms J. Charlton, Shira, North Connel, Oban, Argyll and Bute, PA37 1RA (letter dated 02.10.2012)
- Mr D. Hagerty, 5 McPhee Court, Hamilton, ML3 6BP (e-mail sent 07.10.2012)
- Mrs L. McDonald, 51 Coshneuk Road, Millerston, Glasgow, G33 6JH (e-mail sent 07.10.2012)
- Mr M. McDonald, 51 Coshneuk Road, Millerston, Glasgow, G33 6JH (e-mail sent 07.10.2012)
- Miss E. Inglis, 13 Queensby Road, Baillieston, Glasgow, G69 6PR (e-mail sent 07.10.2012)
- Mr and Mrs S. Charlton, Cruachan, Corslet, Rosemarkie, IV10 8SL (e-mail sent 08.10.2012)
- Mr J. Inglis, Flat 3/3, 3 Firpark Court, Glasgow, G31 2GA (e-mail sent 08.10.2012)
- Dr D. Anthony, 3 Malloch Street, 1/1, Glasgow, G20 8TP (e-mail sent 08.10.2012)
- Mr A. Crabb, 7 Dalnabeich, North Connel, Oban, Argyll and Bute, PA37 1QY (e-mail sent 09.10.2012)
- Mr G. Seaton, East Plot, The Whins, North Connel, Oban, Argyll and Bute, PA37 1RA (letter dated 09.10.2012)
- Mr A. Hunt, Springfield, North Connel, Oban, Argyll and Bute, PA37 1RA (letter dated 09.10.2012)
- Mr and Mrs P. Hunt, An Grianan, North Connel, Oban, Argyll and Bute, PA37 1RA (letter dated 09.10.2012)

The concerns raised are summarised as follows:

- If planning permission is granted then it will reduce the value of surrounding properties.

*Comment: Property value related matters are not material planning considerations.*

- If planning permission is granted then it will cause a detrimental impact upon my view.

*Comment: The matter relating to 'a right to a view' does not form a material planning consideration.*

- If planning permission is granted then this will establish a principle which shall lead to further grants of planning permission for additional dwellinghouses within the immediately surrounding area.

*Comment: Every planning application must be assessed on its own merits.*

- The applicant already owns a development site within close proximity to the current application site. Most of the plots which form this development have remained unsold for a number of years and the proposed shared, private vehicular access into the development site has been left in a dangerous condition for some time now.

*Comment: The success of other development land owned by the applicant is not a material consideration in respect of this proposal.*

- No development should be permitted between Loch Etive and the C25 Bonawe public road.

*Comment: With reference to the Argyll and Bute Development Plan 2009, the application site is situated within the 'Settlement Zone' for North Connel. With reference to the Argyll and Bute Structure Plan 2002, Policy 'STRAT DC 1 – Development within the Settlements' states that there is a general presumption in favour of residential development within this development control zone. Therefore, as the proposal constitutes a form of small scale (small scale corresponding to developments not exceeding 5 dwelling units) residential development, the proposal satisfies Policy 'STRAT DC 1'.*

- The existing C25 Bonawe public road is no longer capable of withstanding any further increase in vehicular traffic.

*Comment: The Area Roads Engineer has not objected to the proposal on access or road safety grounds.*

- The application site constitutes an area of natural beauty where a number of European Protected Species and Non-European Protected Species can be found. If planning permission is granted then this would cause an unacceptable impact upon the natural environment.

*Comment: During the determination process of this planning application Scottish Natural Heritage were consulted and responded on the 3<sup>rd</sup> and 15<sup>th</sup> October 2012 recommending no objection within each response. However, within the later response received from Scottish Natural Heritage, they did advise that Argyll and Bute Council's Local Biodiversity Officer should be consulted. Consequently, the Local Biodiversity Officer was consulted during the determination process of this planning application and responded on the 1<sup>st</sup> November 2012 recommending no objection subject to conditions. Therefore, subject to the requirements of recommended conditions being met, the proposal satisfies Policy 'STRAT DC 7', 'LP ENV 2', 'LP ENV 6' and 'LP ENV 7'.*

- We are concerned about the proposed foul drainage arrangements for the size of the development proposed.

*Comment: With regards to foul drainage arrangements it is proposed to install a private septic tank and closed loop soakaway within the curtilage and within close proximity to the south eastern boundary of the application site. All foul waste will be discharged via the closed loop soakaway down into the land. Scottish Environment Protection Agency were consulted during the determination process of this planning application and recommended no objection subject to advisory comments which can be viewed within section 'Note to Applicant' below. Therefore, the proposed foul drainage arrangements are acceptable and accordingly, the proposal satisfies Policies 'LP ENV 12' and 'LP SERV 1'.*

- The proposed development will overlook and overshadow my existing property which shall cause an unacceptable impact.

*Comment: With reference to the Argyll and Bute Local Plan 2009, 'Appendix A – Sustainable Siting and Design Principles – Overlooking' states that no main window of a habitable room (i.e. all rooms except bathrooms and hallways) within a dwelling shall overlook (directly facing) the main windows of habitable rooms in neighbouring dwellings at a distance of less than 18 metres. Consequently, at its minimum, a habitable window within the proposed development measures a distance of approximately 28 metres from any habitable room window within the existing properties of Lynwood and Shira, in excess of exceeds the required 18 metres. Furthermore, and again with reference to the Argyll and Bute Local Plan 2009, 'Appendix A – Sustainable Siting and Design Principles – Developments Affecting Daylight to Neighbouring Properties' states that the proposal must satisfy the 'Site Layout Planning for Sunlight and Daylight BRE 1991'. As is analysed and appraised above, the proposed development is situated approximately a minimum of 28 metres from the existing properties at Lynwood and Shira which ensures that the proposed development satisfies the 'Site Layout Planning for Sunlight and Daylight BRE 1991'. Therefore, the proposal does not cause any evident detrimental overlooking or overshadowing impacts upon existing properties within the immediately surrounding area which ensures that the proposal satisfies Policies 'LP ENV 1' and 'LP ENV 19'.*

- There is an informal path within the application site which should be preserved as it is used by the local community to gain access down to the foreshore.

*Comment: During the determination process of this planning application the Outdoor Access Team were consulted and recommended no objection subject to a condition and advisory comments which can be viewed within section 'Note to Applicant' below. Therefore, subject to the requirements of recommended conditions being met, the proposal satisfies Policies 'LP CST 4' and 'LP TRAN 1'.*

The above represents a summary of the issues raised. Full details in relation to the representations are available on the Council's Public Access System by following the link below:

<http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

**(G) SUPPORTING INFORMATION**

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

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

**(H) PLANNING OBLIGATIONS**

**Is a Section 75 agreement required:** No

- (I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** No

**(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 the assessment of the application**

Argyll and Bute Structure Plan 2002

Policy 'STRAT SI 1 – Sustainable Development'

Policy 'STRAT DC 1 – Development within the Settlements'

Policy 'STRAT DC 7 – Nature Conservation and Development Control'

Policy 'STRAT DC 8 – Landscape and Development Control'

Policy 'STRAT DC 9 – Historic Environment and Development Control'

Full details of the Argyll and Bute Structure Plan 2002, including proposal maps and full policy wording can be viewed on the Council's website by following the link below:

<http://www.argyll-bute.gov.uk/planning-and-environment/argyll-and-bute-structure-plan>

Argyll and Bute Local Plan 2009

Policy 'LP ENV 1 – Development Impact on the General Environment'

Policy 'LP ENV 2 – Development Impact on Biodiversity (i.e. biological diversity)'

Policy 'LP ENV 6 – Development Impact on Habitats and Species'

Policy 'LP ENV 7 – Development Impact on Trees/Woodland'

Policy 'LP ENV 12 – Water Quality and Environment'

Policy 'LP ENV 16 – Development Impact on Scheduled Ancient Monuments'

Policy 'LP ENV 17 – Development Impact on Sites of Archaeological Importance'

Policy 'LP ENV 19 – Development Setting, Layout and Design'

Policy 'LP CST 4 – Development Impact on the Natural Foreshore'

Policy 'LP HOU 1 – General Housing Development'

Policy 'LP SERV 1 – Private Sewage Treatment Plants and Wastewater (i.e. drainage) Systems'

Policy 'LP SERV 2 – Incorporation of Natural Features/Sustainable Drainage Systems (SUDS)'

Policy 'LP TRAN 1 – Public Access and Rights of Way'

Policy 'LP TRAN 4 – New and Existing, Public Roads and Private Access Regimes'

Policy 'LP TRAN 6 – Vehicle Parking Provision'

Appendix A – Sustainable Siting and Design Principles

Appendix C – Access and Parking Standards

**(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 and Bute Council Sustainable Design Guidance (2006)

Land Reform (Scotland) Act 2003

Scottish Planning Policy (2010)

The Planning etc. (Scotland) Act 2006

The Town & Country Planning (Scotland) Act 1997

**(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:** No

**(L) Has the application been the subject of statutory pre-application consultation (PAC):** No

**(M) Has a sustainability check list been submitted:** No

**(N) Does the Council have an interest in the site:** No

**(O) Requirement for a hearing:** No

Despite 14 representations having been received, which is of significance in the context of a small settlement such as North Connel, the majority of the issues which have been raised either relate to the principle of the development or constitute non-material planning considerations. Given that the development site falls within the local plan defined 'settlement' boundary within which the principle of development is supported by development plan policy, it is not considered that there would be value added to the process by the convening of a hearing in these circumstances.

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

This application is seeking planning permission for the erection of 4 semi-detached dwellinghouses on land situated to the east of the existing property at Lynwood, North Connel, Oban, Argyll and Bute, PA37 1RA.

With reference to the Argyll and Bute Development Plan 2009, the application site is situated within the 'Settlement Zone' for North Connel. With reference to the Argyll and Bute Structure Plan 2002, Policy 'STRAT DC 1 – Development within the Settlements' states:

“Encouragement shall be given...to development...Within the Small Towns and Villages to development serving a local community of interest, including medium scale development (medium scale corresponding to development of between 6 and 30 dwelling units), on appropriate infill, rounding-off and redevelopment sites...”.

In relation to the above, it is considered that the proposal constitutes an acceptable form of ‘small scale’ development (small scale corresponds to developments not exceeding 5 dwelling units) which is situated within the ‘Settlement Zone’ for North Connel where there is a general presumption in favour of residential development. The proposal will conform with the settlement pattern and landscape character of the immediately surrounding area which ensures that the proposal satisfies Policy ‘STRAT DC 1’.

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**(Q) Is the proposal consistent with the Development Plan:** Yes

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**(R) Reasons why planning permission should be granted**

The proposal for the erection of 4 semi-detached dwellinghouses within a local plan defined ‘settlement’ boundary where there is a presumption in favour of development. The proposal conforms with the settlement pattern of the immediately surrounding area which is predominantly characterised by low density residential dwellinghouses which form small clusters located within close proximity to the C25 Bonawe public road. The scale, form, proportions, materials, detailing and colour of the proposed 4 semi-detached dwellinghouses are acceptable and the proposal will cause no evident detrimental privacy or amenity issues within the immediately surrounding area.

Furthermore, the proposal satisfies Policies STRAT SI 1, STRAT DC 1, STRAT DC 7, STRAT DC 8, STRAT DC 9, LP ENV 1, LP ENV 2, LP ENV 6, LP ENV 7, LP ENV 12, LP ENV 16, LP ENV 17, LP ENV 19, LP CST 4, LP HOU 1, LP SERV 1, LP SERV 2, LP TRAN 1, LP TRAN 4 and LP TRAN 6. Therefore, there are no material considerations, including those matters raised by third parties, that would warrant the refusal of planning permission for this particular proposal.

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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:** Walter Wyllie

**Date:** 2<sup>nd</sup> November 2012

**Reviewing Officer:** Richard Kerr

**Date:** 2<sup>nd</sup> November 2012

**Angus Gilmour**  
**Head of Planning and Regulatory Services**



**CONDITIONS AND REASONS RELATIVE TO APPLICATION 12/01908/PP**

1. The development shall be implemented in accordance with the details specified on the application form dated 4<sup>th</sup> September 2012 and the approved drawing reference numbers:

- Plan 1 of 1 (Drawing No. 1146 Rev 07) (Location Plan at a scale of 1:2500, Site Plan as Proposed at a scale of 1:500 and Proposed Elevations and Floor Plans at a scale of 1:100)

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.

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

2. No development shall commence on-site or is hereby authorised until the proposed shared, private vehicular access at the junction of the C25 Bonawe public road has been constructed in accordance with the Council's Road Engineers Drawing No. (SD 08/004a) with visibility splays measuring 42 metres x 2.4 metres in each direction formed from the centre line of the proposed shared, private vehicular access. Prior to any works commencing on-site these visibility splays shall be cleared of all obstructions measuring over 1 metre in height above the level of the adjoining C25 Bonawe public road and thereafter maintained to the satisfaction of the Planning Authority. No obstructions measuring over 1 metre in height will be permitted within 2 metres from the channel line of the C25 Bonawe public road.

The shared, private vehicular access hereby approved shall be constructed to at least base course level prior to any works commencing on-site and the final wearing surface of the shared, private vehicular access shall be applied prior to first occupation of any of the 4 semi-detached dwellinghouses hereby approved.

*Reason: In the interests of road safety and to ensure the proposed development is served by a safe means of vehicular access and to accord with Policy 'LP TRAN 4'.*

3. No development shall commence on-site or is hereby authorised until details of a Sustainable Urban Drainage System (SUDS) must be submitted to and approved in writing by the Planning Authority. Such details shall include a drainage layout plan which shall include any mitigation measures required to address surface water run-off from the development site. The development thereafter shall be carried out in accordance with this plan.

*Reason: To ensure that there is a satisfactory drainage system in place for the development, in the interests of health and amenity and environmental protection and to accord with Policies 'LP ENV 12' and 'LP SERV 2'.*

4. No development shall commence on-site or is hereby authorised until the developer has secured the implementation of an archaeological watching brief, to be carried out by an archaeological organisation acceptable to the Planning Authority, during all ground disturbance. The retained archaeological organisation shall be afforded access at all reasonable times and allowed to record, recover and report items of interest and finds. A method statement for the watching brief will be submitted by the applicant, agreed by the West of Scotland Archaeology Service, and approved by

the Planning Authority prior to the commencement of the watching brief. The name of the archaeological organisation retained by the developer shall be given to the Planning Authority and to the West of Scotland Archaeology Service in writing not less than 14 days before development commences.

*Reason: To enable the opportunity to identify and examine any items of archaeological interest and finds which may be found within the application site, to allow any action required for the recording, recovering or reporting of such remains to occur and to accord with Policies 'STRAT DC 9', 'LP ENV 16' and 'LP ENV 17'.*

5. All existing trees and shrubs present within the application site as identified by the red line within Plan 1 of 1 (Drawing No. 1146 Rev 07) shall not be lopped, topped, felled, lifted or removed without the prior written approval of the Planning Authority.

*Reason: To ensure the retention of the existing trees and shrubs so that they may contribute to the environmental quality of the development and to accord with Policies 'LP ENV 2' and 'LP ENV 7'.*

6. As details pursuant to Condition 5 above, prior to occupation of any of the 4 semi-detached dwellinghouses hereby approved, details of a landscaping scheme which shall include a screen planting belt not less than 45 metres in length along the south western boundary and not less than 25 metres along the north eastern boundary of the application site, shall be agreed with the Local Biodiversity Officer and approved in writing by the Planning Authority. The proposed landscaping scheme and screen planting belt shall include full details such as the location, species and size (to BS standard) of each tree to be included in the screen planting belt. The proposed landscaping scheme and screen planting belt shall not encroach onto the required visibility splays but must screen the respective gable ends of either semi-detached unit from the C25 Bonawe public road.

*Reason: To ensure that the proposal is satisfactorily screened in the interest of visual amenity, in order to successfully integrate the proposal with its surroundings and to accord with Policies 'LP ENV 2' and 'LP ENV 7'.*

7. No development shall commence on-site or is hereby authorised until the developer has submitted an Ecological Survey which is to be carried out by an ecological organisation acceptable to the Planning Authority. The submitted Ecological Survey must be carried out during the optimum time of the year and include relevant mitigation details which shall ensure that no detrimental impacts are caused upon the natural environment. The submitted Ecological Survey shall be agreed by the Local Biodiversity Officer and approved in writing by the Planning Authority.

*Reason: In the interests of biodiversity and to accord with Policy 'LP ENV 2'.*

8. No development shall commence on-site or is hereby approved until a path measuring a minimum of 3 metres in width is constructed along the south western boundary of the application site as identified by Plan 1 of 1 (Drawing No. 1146 Rev 07). The proposed path shall measure approximately 1.5 metres in width and shall be finished in a Type 1 material. A verge measuring approximately 1 metre in width shall be kept clear of landscaping or planting on either side of the proposed path. The proposed path shall be levelled and the gradient shall be minimised between the 2 end points.

*Reason: In the interests of public access and rights of way and to accord with Policies 'LP CST 4' and 'LP TRAN 1'.*

**NOTE TO APPLICANT**

- **Length of this planning permission:** The development to which this permission relates must be begun within three years from the date of this permission in accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on-site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997, it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.
- A Road Opening Permit (S56) under the Roads (Scotland) Act 1984 will be required in connection with the construction of a new shared, private vehicular access at the junction of the C25 Bonawe public road. The Council's highway engineers should be contacted in this regard prior to any works commencing on-site. The access should be formed so as not to discharge surface water onto the C25 Bonawe public road.

Outdoor Access Team have advised as follows:

Please see the consultee response received from the Outdoor Access Team which is attached along with the decision notice and approved plans.

Scottish Environment Protection Agency have advised as follows:

Please see the consultee response received from Scottish Environment Protection Agency which is attached along with the decision notice and approved plans.

Scottish Water have advised as follows:

Please see the consultee response received from Scottish Water which is attached along with the decision notice and approved plans.

West of Scotland Archaeology Service have advised as follows:

Please see the consultee response received from the West of Scotland Archaeology Service which is attached along with the decision notice and approved plans.

**APPENDIX B – RELATIVE TO APPLICATION NUMBER 12/01908/PP**

**PLANNING LAND USE AND POLICY ASSESSMENT**

**A. Settlement Strategy**

With reference to the Argyll and Bute Development Plan 2009, the application site is situated within the 'Settlement Zone' for North Connel. With reference to the Argyll and Bute Structure Plan 2002, Policy 'STRAT DC 1 – Development within the Settlements' states:

“Encouragement shall be given...to development...Within the Small Towns and Villages to development serving a local community of interest, including medium scale development (medium scale corresponding to development of between 6 and 30 dwelling units), on appropriate infill, rounding-off and redevelopment sites...”.

In relation to the above, it is considered that the proposal constitutes an acceptable form of small scale (small scale corresponds to developments not exceeding 5 dwelling units) development which is situated within the 'Settlement Zone' for North Connel where there is a general presumption in favour of residential development. Therefore, the proposal satisfies Policy 'STRAT DC 1'.

**B. Location, Nature and Design of Proposed Development**

The application site is located within the small settlement known as North Connel which is situated to the north east of Connel Bridge and approximately 5 miles north east of Oban. Situated directly to the north, east and south of the application site is predominantly open, improved grassland/agricultural grazing land with small copses of deciduous trees sporadically distributed. Situated directly to the west of the application site is the C25 Bonawe public road and further to the west are 2 existing properties known as Lynwood and Shira.

The application site is flat and has been utilised in the past for agricultural grazing. The application site measures approximately 3300 metres<sup>2</sup> with the actual ground floor area of all 4 semi-detached dwellinghouses measuring approximately 351 metres<sup>2</sup>. With reference to the Argyll and Bute Local Plan 2009, 'Appendix A: Sustainable Siting and Design Principles – Open Space/Density' states:

“all development...should only occupy a maximum of 33% of their site...”

In relation to the above, the proposal only occupies approximately 20% of the application site. Therefore, the proposal does not constitute a form of over-development.

The proposal is for the erection of 2 detached, predominantly rectangular shaped, pitched roofed, single storey, traditionally designed, semi-detached dwellinghouse units which shall comprise 4 semi-detached dwellinghouses in total. The proposed semi-detached dwellinghouse units will measure approximately 6.35 metres in height to the ridge of the roof, 19.25 metres in length and 8.85 metres in width (including the bay window which adjoins the rear (eastern) elevation. The outside walls will be finished in white coloured smooth cement render with the bay windows adjoining the rear (eastern) elevation being finished in natural coloured larch cladding. The roof covering will be finished in natural blue/grey coloured slate, will feature 2 dummy chimneys and a lead

ridge. The doors will be finished in blue/grey coloured timber and the windows will be finished in double swing 'sash and case' lookalike windows with stooled concrete cills.

Therefore and in relation to all the above, it is considered that the scale, form, proportions, materials, detailing and colour of the proposed 4 semi-detached dwellinghouse units are acceptable which ensures that the proposal satisfies Policies LP ENV 1, LP ENV 19 and LP HOU 1.

### **C. Natural Environment**

The application site is situated within the 'Achnaba – Moss of Achnacree Geological Conservation Review Site' which is noted for its Quaternary of Scotland interest. During the determination process of this planning application Scottish Natural Heritage were consulted and recommended that the proposal should not affect the integrity of this site.

Furthermore, Argyll and Bute Council's Local Biodiversity Officer was also consulted during the determination process of this planning application and recommended no objection subject to conditions. Therefore, subject to the requirements of recommended conditions being met, the proposal satisfies Policies STRAT DC 7, LP ENV 2, LP ENV 6 and LP ENV 7.

### **D. Built Environment**

Existing development within the immediately surrounding area is low density and predominantly forms small clusters of residential dwellinghouses which are located within close proximity to the C25 Bonawe public road. This settlement pattern is evidently demonstrated by the 2 existing properties which are situated directly adjacent to the application site on the western side of the C25 Bonawe public road. There are no existing buildings situated directly to the north, east and south of the application site.

Situated within close proximity to the application site is the Moss of Achnacree which has long been known as a concentration of some of the largest and best preserved prehistoric monuments within Argyll and Bute. The recorded sites within the immediately surrounding area form a concentration sufficiently dense to be labelled as an area of high potential. Although the degree of archaeological significance or survival within the current application site is uncertain, the West of Scotland Archaeology Service have been consulted and recommended no objection subject to a condition which specifies that the applicant shall secure the implementation of a watching brief prior to the commencement of any works on-site. Therefore, subject to the requirements of recommended conditions being met, the proposal satisfies Policy STRAT DC 9, LP ENV 16, LP ENV 17 and Scottish Planning Policy (2010).

### **E. Landscape Character**

The application site lies within a predominantly flat area which is now utilised as agricultural grazing land. To the north east, east, and south east of the application site the land gradually declines in an easterly manner down towards the foreshore of Loch Etive. With reference to the Argyll and Bute Structure Plan 2002, Policy 'STRAT DC 8 – Landscape and Development Control' states:

"Development which, by reason of location, siting, scale, form, design or cumulative impact, damages or undermines the key environmental features of a visually contained or wider landscape or coastscape shall be treated as 'non-sustainable' and is contrary to this policy".

In relation to the above, the proposal will conform with the existing settlement pattern and will not compromise the landscape character of the surrounding area. Therefore, the proposal will not cause any evident detrimental visual impacts upon the wider landscape which ensures that the proposal satisfies Policy STRAT DC 8.

**F. Road Network, Parking and Associated Transport Matters**

With regards to vehicular access arrangements it is proposed to construct a new shared, private vehicular access at the junction of the C25 Bonawe public road. The Area Roads Officer has no objection subject to conditions and advisory comments. Therefore, subject to the requirements of recommended conditions being met, the proposed shared, private vehicular access arrangements are acceptable which ensures that the proposal satisfies Policy 'LP TRAN 4'.

With regards to vehicular on-site parking and associated turning arrangements, the Area Roads Officer was consulted and recommended no objection subject to a minimum of 8 on-site vehicular parking spaces must be provided as shown. The proposed vehicular on-site parking and associated turning arrangements are acceptable and the proposal satisfies Policy LP TRAN 6.

With regards to public access and rights of way, the Outdoor Access Team have been consulted during the determination process of this planning application and recommended no objection subject to a condition and advisory comments which can be viewed within section 'Note to Applicant' above. Therefore, subject to the requirements of recommended conditions being met, the proposal satisfies Policies LP CST 4 and LP TRAN 1.

**G. Infrastructure**

With regards to water supply arrangements it is proposed to utilise an existing public water main. Scottish Water have no objection subject to advisory comments which can be viewed within section 'Note to Applicant' above. With regards to foul drainage arrangements it is proposed to install a private septic tank and closed loop soakaway within the curtilage and within close proximity to the south eastern boundary of the application site. All foul waste will be discharged via the closed loop soakaway down into the land. Scottish Environment Protection Agency were consulted and have no objection subject to advisory comments which can be viewed within section 'Note to Applicant' above. Therefore, the proposed foul drainage arrangements are acceptable and accordingly the proposal satisfies Policies LP ENV 12 and LP SERV 1.

With regards to surface water run-off drainage arrangements there have been no details submitted in relation to this matter during the determination process of this planning application. Consequently, a condition has been attached in the granting of planning permission to address this matter. Therefore, subject to the requirements of recommended conditions being met, the proposal satisfies Policies LP ENV 12 and LP SERV 2.



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**Argyll and Bute Council  
Development & Infrastructure 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:** 12/01984/PP  
**Planning Hierarchy:** Local  
**Applicant:** Argyll College UHI Ltd  
**Proposal:** Erection of extension  
**Site Address:** Argyll College, Islay High School, Flora Street, Bowmore, Isle of Islay.

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**DECISION ROUTE**

Local Government Scotland Act 1973

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**(A) THE APPLICATION**

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

- Erection of extension to high school to provide new educational accommodation for Argyll College.

**(ii) Other specified operations**

- N/A
- 

**(B) RECOMMENDATION:**

That permission be granted subject to the conditions and reasons contained in this report.

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**(C) CONSULTATIONS:**

Area Roads Mid Argyll Kintyre And Islay	11.10.2012	No objection.
Environmental Health - MAKI	03.10.2012	No objection.

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**(D) HISTORY:**

None relevant.

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**(E) PUBLICITY:**

ADVERT TYPE:  
Regulation 20 Advert Local Application  
EXPIRY DATE: 25.10.2012

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**(F) REPRESENTATIONS:** None

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**(G) SUPPORTING INFORMATION**

Has the application been the subject of:

- |       |  |    |
|-------|--|----|
| (i)   | Environmental Statement:   | No |
| (ii)  | An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:  | No |
| (iii) | A design or design/access statement:   | No |
| (iv)  | A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: | No |
- 

**(H) PLANNING OBLIGATIONS**

Is a Section 75 agreement required: No

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**(I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: No**

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**(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 19 – Development Setting, Layout and Design

LP COM 1 – Community Facility Development

- (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.** N/a
- 

**(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:** No

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**(L) Has the application been the subject of statutory pre-application consultation (PAC):** No

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**(M) Has a sustainability check list been submitted:** No

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**(N) Does the Council have an interest in the site:** No

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**(O) Requirement for a hearing (PAN41 or other):** No

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

This application involves land within the Council's ownership.

This application relates to the Islay High School buildings in Bowmore, an educational complex within the defined 'settlement' area and one which incorporates a small self-contained area within the main school premises utilised as a learning centre for Argyll College.

It is proposed to enlarge the learning centre area by the erection of a modest single storey extension to the front of the building (the south east elevation) to provide a new general study area and two new video conferencing rooms.

The proposed extension would have a gross floor area of 53 square metres and would consist of a simple building of rectangular footprint and reverse-angled pent roof, glazed to the front and finished in white painted render to match the existing school building. The proposed building would, in effect, be a free standing structure, linked to the main school building by a lightweight glazed roof above an existing ramped access with a new gated entrance to one end and a glazed screen to the other.

The scale and form of the proposed development is considered acceptable and in keeping with this modern complex of educational buildings.

This proposed small scale development would be in accordance with locational strategy policy STRAT DC 1 and would provide additional educational facilities benefitting the wider island community and supported by Local Plan policy LP COM 1 which offers a general presumption in favour of new or improved community facilities of a form, scale and location consistent with the provisions of the Development Plan.

The design and detailing of the proposed development is considered acceptable and appropriate to the site and its surroundings, in accordance with the provisions of Development Plan policies LP ENV 1 and LP ENV 19 and raises no adverse amenity, access or servicing implications.

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**(Q) Is the proposal consistent with the Development Plan: Yes**

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**(R) Reasons why Planning Permission or Planning Permission in Principle Should be Granted:**

This proposed small scale development would be in accordance with locational strategy policy STRAT DC 1 and would provide additional educational facilities benefitting the wider island community and supported by Local Plan policy LP COM 1 which offers a general presumption in favour of new or improved community facilities of a form, scale and location consistent with the provisions of the Development Plan.

The design and detailing of the proposed development is considered acceptable and appropriate to the site and its surroundings, in accordance with the provisions of Development Plan policies LP ENV 1 and LP ENV 19 and raises no adverse amenity, access or servicing implications.

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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:** Tim Williams **Date:** 30<sup>th</sup> October 2012

**Reviewing Officer:** Richard Kerr **Date:** 30<sup>th</sup> October 2012

**Angus Gilmour**  
**Head of Planning & Regulatory Services**

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 12/01984/PP**

1. The proposed development shall be carried out in accordance with the details specified in the application form dated 10<sup>th</sup> September 2012; and the approved drawings numbered 1 of 6 to 6 of 6; and stamped approved by Argyll and Bute Council.

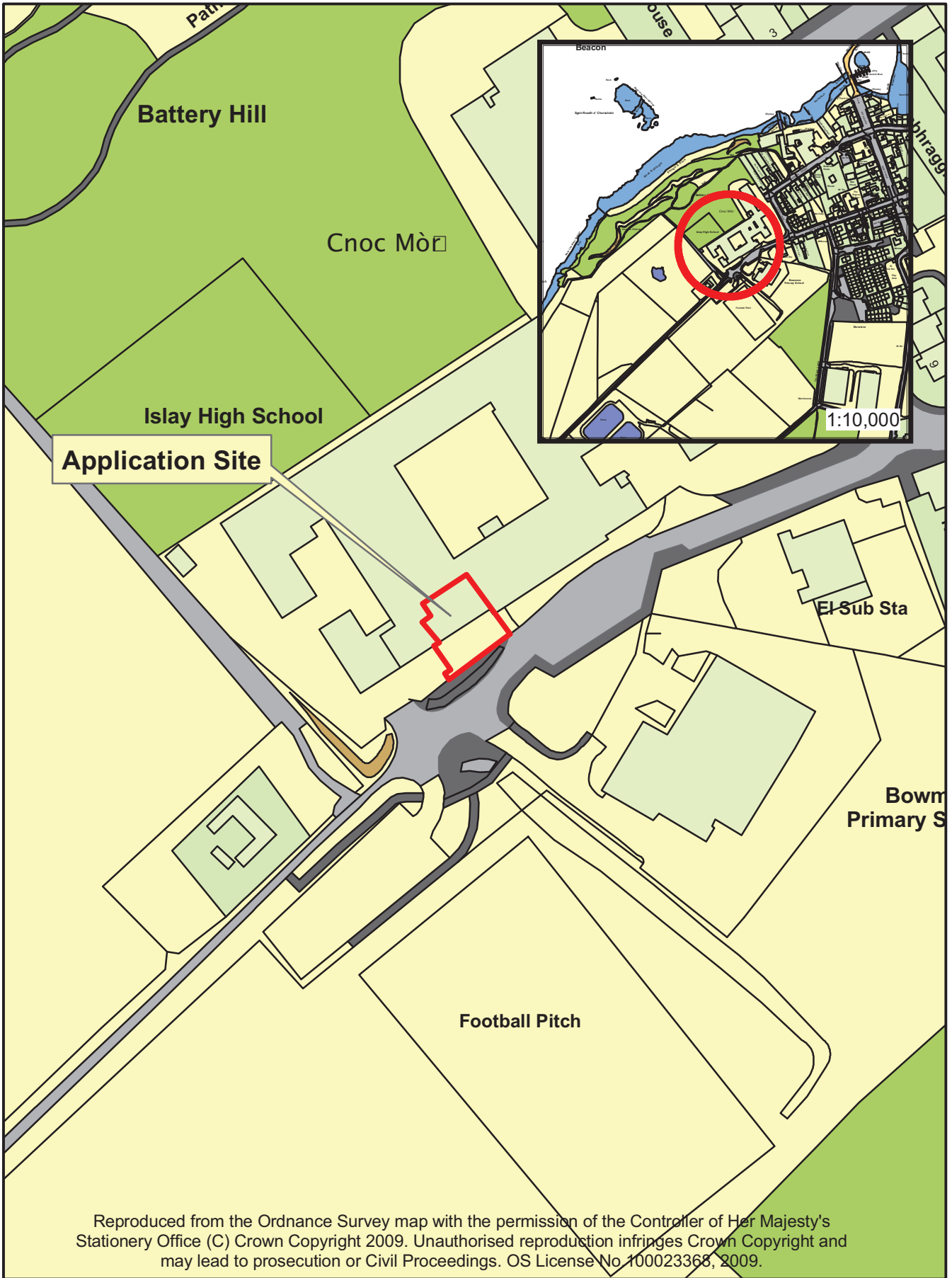
*Reason: In order to ensure that the proposed development is carried out in accordance with the details submitted and the approved drawings.*

Standard Note: In terms of condition 2 above, the council can approve minor variations to the approved plans in terms of Section 64 of the Town and Country Planning (Scotland) Act 1997 although no variations should be undertaken without obtaining the prior written approval of the Planning Authority. If you wish to seek any minor variation of the application, an application for a non material amendment (NMA) should be made in writing to Planning Services, Dalriada House, Lochgilphead, PA31 8ST which should list all the proposed changes, enclosing a copy of a plan(s) detailing these changes together with a copy of the original approved plans. Any amendments deemed by the Council to be material, would require the submission of a further application for planning permission.

**NOTE TO APPLICANT**

- **The length of the permission:** This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.

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**Location Plan relative to  
Application Ref: 12/01984/PP**

Date: 29.10.2012

Scale: 1:1,250



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**Argyll and Bute Council  
Development & Infrastructure 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:** 12/02153/ADV

**Planning Hierarchy:** Local application.

**Applicant:** Colintrave Hotel

**Proposal:** Painted advertisement on seawall

**Site Address:** Seawall West of A886 generally South West of Cul Mhor

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**DECISION ROUTE**

**(i) Local Government Scotland Act 1973**

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**(A) THE APPLICATION**

**(i) Development Requiring Advertisement Consent**

Display of painted advertisement on seawall (retrospective)

**(ii) Other specified operations**

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**(B) RECOMMENDATION:**

It is recommended that Advertisement Consent be granted as a 'minor departure' to the provisions of development plan the subject to the standard conditions applicable to all advertisement consents.

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**(C) HISTORY:**

No previous history

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**(D) CONSULTATIONS:**

Area Roads Manager – (response dated 12.10.12): No objection

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**(E) PUBLICITY:** None required.

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**(F) REPRESENTATIONS:**

Following receipt of the application, both supporters and complainants who had previously corresponded with the Planning Service were contacted and invited to make fresh representation. 14 representations have subsequently been received from third parties.

Two representations in support have been received from

Dr Lew-Chin Chee, Butesbhain, Colintraive PA22 (e-mail dated 29 October 2012)  
Jean Herbison, Cladach, Colintraive PA22 3AS (e-mail dated 29 October 2012)

The following 12 parties object to the application:

John Sutton, Gortan, Colintraive PA22 3AR (e-mails dated 5 & 31 October 2012)  
Irene McNaughton, 3 Ferry Bank, Colintraive PA22 3AR (e-mail dated 5 October 2012)  
Danielle and Graham Clark, 2 Ferry Bank, Colintraive PA22 3AR (e-mail dated 8 October)  
Mr and Mrs R L and N M Perry, Tigh-na-Bhead, Colintraive PA22 3AR (e-mail dated 17 October 2012)  
Kirsteen Black, Losganbeag, Colintraive PA22 3AR (e-mail dated 29 October 2012)  
Mrs M Sinclair, 5 Ferrybank, Colintraive PA22 3AR (e-mail dated 30 October 2012)  
Eileen Sutton, Gortan, Colintraive PA22 3AR (e-mail dated 2 November 2012)  
Adrienne Macdonald, Faoilinn, Colintraive PA22 3AR (letter dated 1 November 2012)  
Robin Macdonald, Faoilinn, Colintraive PA22 3AR (letter dated 1 November 2012)  
Moyra Donald, Dunyvaig, Colintraive PA22 3AR (letter dated 2 November 2012)

Irene McNaughton and Mr Sutton object on the following grounds: The Kyles of Bute is an area of National Scenic Beauty. Approval of the signage would set a difficult precedent particularly as the Kyles of Bute is a National Scenic Area. The hotel business is some distance from the advert and the sign is in front of private houses not the business in question. The sign is adjacent to a dangerous, derelict jetty which could cause injury to users of the foreshore. The sign implies all moorings are at the discretion of the advertiser.

Mr & Mrs Clark object on the following grounds: The Kyles of Bute are an Area of National Scenic Beauty. It would set a precedent that seawalls in the Kyles of Bute and other areas of National Scenic Beauty, or anywhere else in Argyll and Bute or Scotland, can be used for advertising. The sign implies all moorings in the bay belong to the Colintraive hotel although only 5 moorings may belong to the hotel. The other moorings are privately managed by the Moorings Association. The signage is the equivalent of graffiti.

Mr & Mrs Perry object to the visual "graffiti" like appearance of the sign and the negative impact it has particularly in proximity to the Kyles of Bute National Scenic Area. Again reference is made to the unfortunate precedent that could be set for Argyll if the sign were to be approved. The objectors also query the description of the sign dimensions as inaccurate, understating the true size.

Kirsteen Black regards the sign as graffiti and an embarrassment to residents of Colintraive. Mrs M Sinclair and Eileen Sutton consider the sign unsightly and unsuitable for an area of natural beauty. Adrienne Macdonald feels that the sign is incompatible with Argyll's Secret Coast. Robin Macdonald feels that the wall signs are inappropriate for the area. Moyra Donald considers that the signage is unnecessary

*Comment: These representations are fully addressed as part of the assessment below.*

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**(G) SUPPORTING INFORMATION**

Has the application been the subject of:

- (i) **Environmental Statement:** No
  - (ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
  - (iii) **A design or design/access statement:** No
  - (iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No
- 

**(H) PLANNING OBLIGATIONS**

Is a Section 75 agreement required: No

---

- (I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** No
- 

- (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 & Bute Structure Plan (2002)

Policy STRAT DC 2 - Development in Countryside Around Settlement

Argyll and Bute Local Plan (2009)

Policy LP ENV 9 - Development Impact on National Scenic Areas

Policy LP ADV 1 - Advertisements

Appendix B – Advertising Design Principles

- (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.**

The Control of Advertisements (Scotland) Regulations 1984

The applicant has submitted a short statement in support of the application. In essence the applicant opines that the sign has existed for some time without adverse comment. It is important to her hotel business to retain this sign which is designed to advise mooring yachtsmen. The applicant also intimates an intention to obscure the second sign.

---

**(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: No**

---

**(L) Has the application been the subject of statutory pre-application consultation (PAC): No**

---

**(M) Has a sustainability check list been submitted: No**

---

**(N) Does the Council have an interest in the site: No**

---

**(O) Requirement for a hearing (PAN41 or other): No**

---

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

In the 'Argyll and Bute Local Plan' the application site is located in Countryside around Settlement development control zone, adjacent to the village settlement of Colintraive.

The applicant is the proprietor of the Colintraive Hotel. The applicant also owns the village shop and post office and maintains five private moorings for hotel customers' use. Application is made for retrospective permission to site an advanced advertisement on the seaward side of the concrete seawall adjacent to the A886. The application is intended to regularise a breach of advertisement control following receipt of a complaint in June 2012 and subsequent enforcement investigation and challenge.

The application sign is applied in white paint and large block lettering and it reads:

“ WELCOME COLINTRAIVE HOTEL  
MOORINGS. SHOP. 01700 841207”

Another larger and similarly styled sign referred to here as Sign 2 has recently been applied by the same applicant to the seawall immediately adjacent and to the South of the sign subject to the current application.

Sign 2 reads:

“MOORINGS ARE FOR PATRONS OF THE HOTEL  
DINERS HAVE PRIORITY PLEASE PHONE HOTEL ON ARRIVAL”

The addition of Sign 2 along with other advanced roadside signs sited locally precipitated an enforcement complaint to the Planning Service. Sign 2 is not depicted on the applicant's submissions and photographs. The applicant has attempted to obscure or obliterate the advertisement with a further application of white paint but the sign has not been removed satisfactorily and the effect of the painted out white lettering against the grey background of the concrete seawall is visually jarring.

Although the applicant's misjudged attempts to obliterate sign 2 appear only to have aggravated matters, this is a separate issue that will be addressed by the Planning Service and may be subject to a future report to Committee if the matter cannot be resolved through negotiation. Although Sign 2 has also attracted adverse comment by the objectors, it is not the subject of the current application although it is

considered material to this assessment.

The application sign is substantial and is designed to be viewed over some distance but, because it faces towards the water and is intended to attract and advise visiting yachtsmen, it is not widely visible from the Cowal landward side or from Rhubodoch on the Bute side of the Kyles of Bute which is over 500 metres distant. It is visible from the headland at the ferry terminal, which is closer, and also to ferry traffic and visiting marine craft.

The sign has been in place for some time. The applicant advises that the sign has existed for 9 years. Although the Planning Service has been unable to verify this information it is not disputed that the sign is longstanding.

The sign does not benefit from any previous advertisement consent nor does it benefit from immunity. It requires permission under the Planning Act and Control of Advertisement (Scotland) Regulations 1984. The display of an unauthorised advertisement is an offence under legislation and the related regulations.

The application requires to be assessed against the above regulations, the Council's adopted Local Plan policy on advertisements and Appendix B of the Local Plan which offers further detailed guidance on siting and design of advertisements. The Council as Planning Authority should assess and determine the application having regard only to the siting and design of the advert and its likely impact upon public amenity and safety in accordance with the Advertisement Regulations.

The sign is not visible from the main road and is not assessed to be a distraction or hazard to road users. Objectors have cited potential danger to visiting yachtsmen due to the condition of a nearby old jetty. The hotel owns a number of moorings just offshore which are available for hotel patrons and visitors. The sign is large and is designed to be legible to visiting small craft. Visiting yachtsmen use a tender to reach the shore and would be expected to exercise reasonable care having regard to shoreside conditions. The advertisement is not assessed to present a hazard to relatively slow moving or moored marine craft or to yachtsmen arriving ashore.

The Kyles of Bute is a National Scenic Area and is recognised to be one of Scotland's most picturesque stretches of coastline appreciated by visitors and yachtsmen. Accordingly this stretch of the waterfront is more visually sensitive than a built up or commercial area and is worthy of enhanced protection from inappropriate commercial signage but it is also the Gateway to Bute and a well used tourist route.

The sign is located some distance from the applicant's premises and is categorised as an advanced sign, although it is acknowledged that the sign is sited as close as practicable to the Hotel's private moorings. Although the application signage is currently unlawful it is not categorised as graffiti. The application sign fulfils principally an advisory function. Visiting yachtsmen are able to telephone the hotel to clarify the status and availability of the moorings. The lettering is bold, functional and regular and it would be unfair to the applicant to categorise it as simple vandalism.

All objectors cite precedent. It is important to exercise care to administer the regulations and apply Council planning policies on advertisement control fairly and consistently, but applications should be treated on their individual merits and a decision to approve one sign does not bind future planning decisions of the Council, as the facts of each case will generally differ.

In this case, the application sign has been in place and tolerated for many years and until recently had attracted no complaint to the Planning Authority. This is an important material consideration in this case. The sign is located in a Countryside development

control zone and, in terms of Local Plan policy LP ADV 1, the sign fails to satisfy criteria B (advertisements in countryside development zones will be refused unless they are directional or advance warning signs for businesses not visible from the road where a brown tourist sign is not a suitable first option), although it is acknowledged that in these particular circumstances a brown tourist sign would not be appropriate as the signage is orientated towards the sea and yachtsmen and not road users.

In terms of criteria A (i), (ii) and (iii), (impact upon amenity and safety in terms of positioning, scale, materials and design) it is assessed that the proposal only partly satisfies the requirements of the policy because the advertisement. Although sizeable, the sign is nevertheless simple, uncluttered and for the most part advisory. It does not have severe detrimental visual impact upon the coastline or wider area.

The objectors make a well argued and valid point that a proliferation of signage at this location could have a very undesirable impact on a sensitive stretch of coastline. It could also be argued reasonably that toleration of illegal signage may have encouraged a proliferation of similar advertisements. Left unchecked, unauthorised advertisements will over time have a cumulative and adverse affect particularly in open or sensitive landscape.

In this case, having regard to the Council's existing policies, the nature of the applicant's business, the availability of private moorings and given the long-standing history of this sign it is assessed reasonable to grant consent to allow it to be retained for the standard period prescribed by the Advertisement Regulations of five years.

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**(Q) Is the proposal consistent with the Development Plan: No**

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**(R) Reasons why planning permission or a Planning Permission in Principle should be granted**

Given its substantial size and location in a Countryside development control zone, this sign does not comply in full with the terms of Local Plan policy LP ADV 1 or Appendix B of the adopted local plan. However, given the purpose of this sign which is designed to be of assistance to visiting yachtsman, the fact that it has been in place for many years, its advisory function and moderate visual impact when viewed from the landward side, a 'minor departure' from adopted policy can be justified in this case.

---

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

Given its substantial size and location in a Countryside development control zone, this sign does not comply in full with the terms of Local Plan policy LP ADV 1 or Appendix B of the adopted local plan. However, given the purpose of this sign which is designed to be of assistance to visiting yachtsman, the fact that it has been in place for many years, its advisory function and moderate visual impact when viewed from the landward side, a 'minor departure' from adopted policy can be justified in this case.

---

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

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**Author of Report:** Martin Hannah

**Date:** 5 November 2012

**Reviewing Officer:** David Eaglesham

**Date:** 5 November 2012

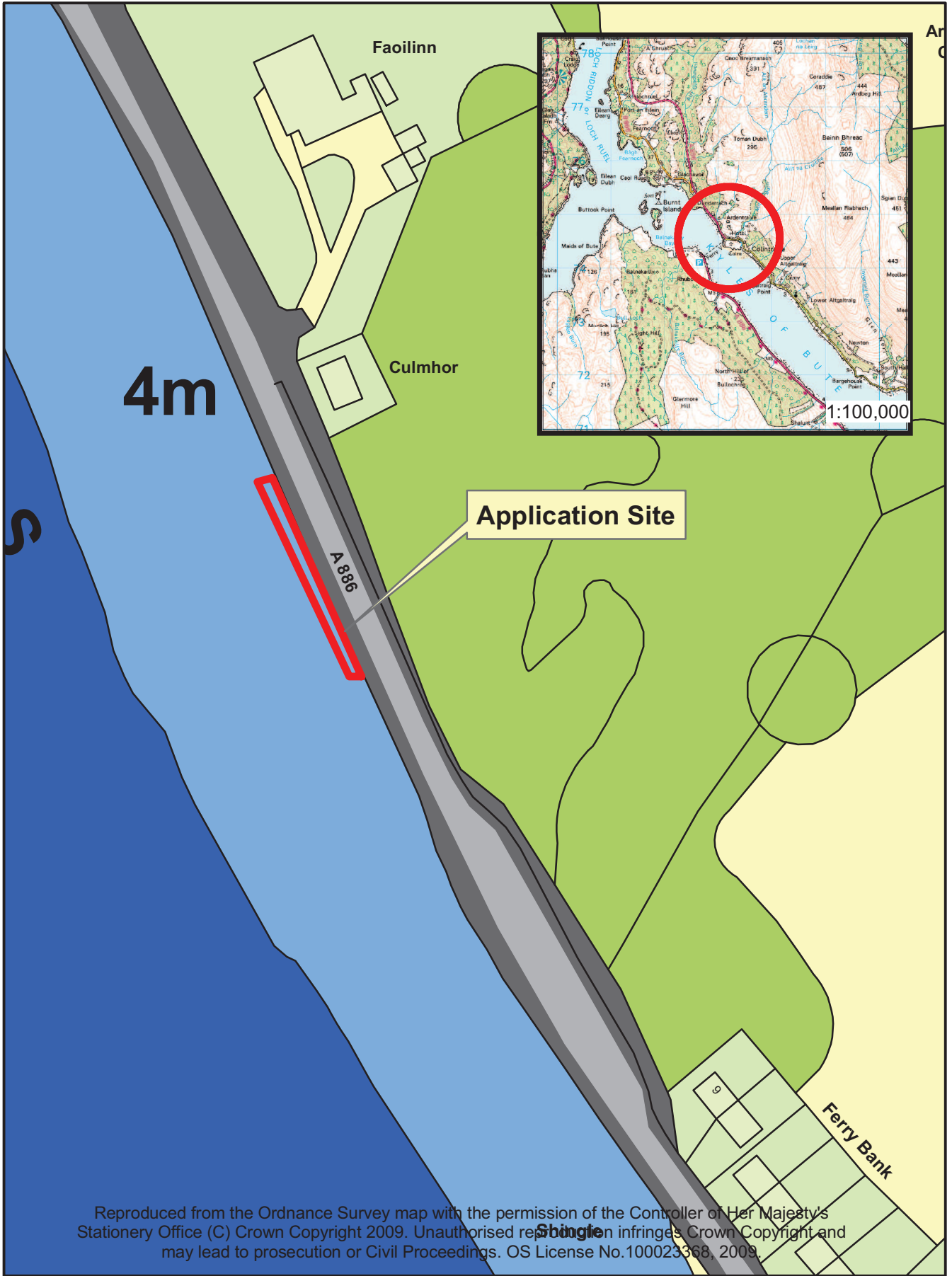
**Angus Gilmour**  
**Head of Planning & Regulatory Services**

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO 12/02153/ADV**

1. This consent is granted for a maximum period of 5 years from the date of this decision notice.

*Reason: In accordance with the provisions of Regulations 18(1) of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984.*





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**Location Plan relative to  
Application Ref: 12/02153/ADV**

Date: 29.10.12

Scale: 1:1,250



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**Argyll and Bute Council  
Development & Regulatory 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**

---

**Reference No:** 12/02203/PP

**Planning Hierarchy:** Local Application

**Applicant:** Winter Festival Steering Group

**Proposal:** Temporary change of use for formation of open air market including the erection of stalls, fairground ride, bouncy castle and marquees.

**Site Address:** Colquhoun Square, Helensburgh

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#### **DECISION ROUTE**

Local Government Scotland Act 1973

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#### **(A) THE APPLICATION**

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

- Temporary change of use of land for the formation of an open air market including the erection of stalls, fairground ride, bouncy castle and marquees.

##### **(ii) Other specified operations**

- None
- 

#### **(B) RECOMMENDATION:**

It is recommended that planning permission be approved subject to the attached conditions and reasons.

---

#### **(C) HISTORY:**

06/01401/COU - Temporary change of use of road to host Farmer's Market – Permitted 08.02.2007  
08/00806/COU - Temporary Change of use of Pedestrian area and part of road to form Farmers Market - 12 stalls on one day per month – Permitted 23.07.2008  
09/00981/COU - Temporary Change of Use of pedestrian area and part of road to form Farmers Market - 12 stalls on one day per month. Renewal of consent 08/00806/COU – Permitted 14.08.2009

Renewal of planning consent 08/00806/COU (Temporary change of use of pedestrian area and part of road to form Farmers Market - 12 stalls on one day per month) – Permitted 08.09.2011

---

**(D) CONSULTATIONS:**

Public Protection – response awaited

Area Roads Engineer (17.10.12) – no objection

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**(E) PUBLICITY:** Setting of a Listed Building Advert (expiry date 08.11.2012)

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**(F) REPRESENTATIONS:** Three representations have been received from the following:

Mr David Morrice, Flat 9, 12 Colquhoun Square, Helensburgh, G84 8AD (e-mail dated 13.10.2012)

Mr Christopher Swallow, Flat 9, 5 Colquhoun Square, Helensburgh, G84 8AD (e-mail dated 18.10.2012)

Patricia Cairns, Proprietor, A Cut Above, 28 Colquhoun Square, Helensburgh, G84 8UJ (letter dated 22 October 2012)

**(i) Summary of issues raised**

This is another potential noise nuisance for the residents of Colquhoun Square. Have little confidence that the Council will pay any heed to the interests of residents. Nor is there any confidence we will be notified of the decision.

*Comment: Whilst there will be some disturbance the proposed use is temporary for a period of 2 days plus a day to set up and any nuisance will be limited. Any representations from the public will be made known to the committee and those persons making representations will be notified of the decision.*

As a shift worker (Mr Swallow) I usually work 2 x 12 hour dayshifts, then 2 x 12 hour nightshifts followed by 4 rest days off. My concern is the level of noise generated by the stalls, fairground ride, bouncy castle and marquees during its operation when I may be on nightshift. May I suggest that noise be kept to an absolute minimum until after 14.00 hours. This would give me the chance to get 6 hours sleep when on nightshift.

*Comment: Whilst there will be some disturbance the proposed use is temporary for a period of 2 days plus a day to set up and any nuisance will be limited. Persons residing in a town centre environment cannot be expected to be afforded the same level of amenity as those residing in exclusively residential areas. However, a condition has been attached limiting the hours of operation.*

Whilst I have no basic objection to the location I note that there is no provision for disabled access to our premises (A Cut Above). should it be required, during our hours of operation. The Neighbour Notification does not provide any date information of when the proposed street closure would take place. Would like assurance that general and disabled access will be available to my premises.

*Comment: On previous experience the proposed market would not limit access to existing premises. However, a condition has been added to ensure access to existing premises is retained.*

---

**(G) SUPPORTING INFORMATION**

Has the application been the subject of:

- (i) **Environmental Statement:** No
  - (ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
  - (iii) **A design or design/access statement:** No
  - (iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No
- 

**(H) PLANNING OBLIGATIONS**

Is a Section 75 agreement required: No

---

- (I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** No
- 

- (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 Local Plan' 2009

LP ENV 1 – Impact on the General Environment  
LP ENV 13(a) – Development Impact on Listed Buildings  
LP RET 1 – Retail Development in the Towns – The Sequential Approach  
LP BAD 1 – Bad Neighbour Development  
LP TRAN 1 – Public Access and Rights of Way

- (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.**
- 

- (K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:** No
- 

- (L) Has the application been the subject of statutory pre-application consultation (PAC):** No
- 

- (M) Has a sustainability check list been submitted:** No
-

**(N) Does the Council have an interest in the site:** Yes, as landowner.

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**(O) Requirement for a hearing (PAN41 or other):** No

---

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

Planning permission is sought for temporary change of use of land at Colquhoun Square in Helensburgh town centre for the formation of open air market including the erection of stalls, fairground ride, bouncy castle and marquees. It is proposed to set up the market on Friday 30 November 2012 and operate on Saturday 1 and Sunday 2 December 2012. The site is within the defined town centre where retail developments are generally located therefore this proposal is consistent with Policy LP RET 1 of the adopted Local Plan.

Whilst there will be some disturbance and noise nuisance for adjoining residential properties, the site is within the Town Centre and the proposed market will only operate for 2 days plus the day to set up. As such, any impact on amenity in terms of being a bad neighbour will be of limited duration and does not constitute grounds for refusal, particularly as activity will be in the daytime rather than at unsocial hours. A condition specifying hours of operation has been agreed with the applicant and is set out overleaf.

Moreover, such markets can add value to and enhance the economic benefit of the Town Centre helping to offset any short-term detrimental impact on amenity. The market and associated elements, being temporary in nature, will not impact on the setting of adjoining listed buildings. The Area Roads Manager has been consulted and has no objections to the proposal. The proposal is therefore consistent with Policies LP ENV 1, LP ENV 13(a), LP BAD 1, and LP TRAN 1 of the Argyll and Bute Local Plan.

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**(Q) Is the proposal consistent with the Development Plan:** Yes

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**(R) Reasons why planning permission or a Planning Permission in Principle should be granted**

The site is within Helensburgh Town Centre where retail developments are generally located. Whilst there will be some disturbance and noise nuisance for adjoining residential properties, the site is within the Town Centre and the proposed market will only operate for 2 days plus a day to set up. As such, any impact on amenity will be of limited duration and does not constitute grounds for refusal, particularly as activity will be in the daytime rather than at unsocial hours. The market and associated elements, being temporary in nature, will not impact on the setting of adjoining listed buildings and there are no road safety issues. The proposal is consistent with Policies LP ENV 1, LP ENV 13(a), LP BAD 1, LP RET 1 and LP TRAN 1 of the Argyll and Bute Local Plan.

---

**(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:** Howard Young

**Date:** 29/10/2012

**Reviewing Officer:** Richard Kerr

**Date:** 30/10/2012

**Angus Gilmour**  
**Head of Planning & Regulatory Services**

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 12/02203/PP**

1. The development to which this consent relates shall only take place between Friday 30 November 2012 and Sunday 2 December 2012. It will operate from 10.00 until 19.00 on Saturday 1 December 2012 and between 12.00 until 17.00 on Sunday 2 December 2012. It will include a setting up period between 08.00 and 11.00 on Friday 30 November 2012 and a period for dismantling the market and related operations between 18.00 and 20.00 on Sunday 2 December 2012, unless otherwise agreed in writing with the Planning Authority. All market stalls and associated plant and equipment, fairground ride, bouncy castle and marquees associated with the open air market shall be removed from site thereafter.

*Reason: In order to safeguard the amenity of the users and occupiers of the property within the surrounding area.*

2. The development shall be implemented in accordance with the details specified on the application form dated 04/10/2012 and the approved drawing reference numbers 1/2 and 2/2 unless the prior written approval of the planning authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

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

3. The stalls and any other plant and equipment associated with the open air market shall be sited so as to ensure that the full width of pedestrian facilities shall remain available, and existing access(es) to adjacent properties are maintained at all times.

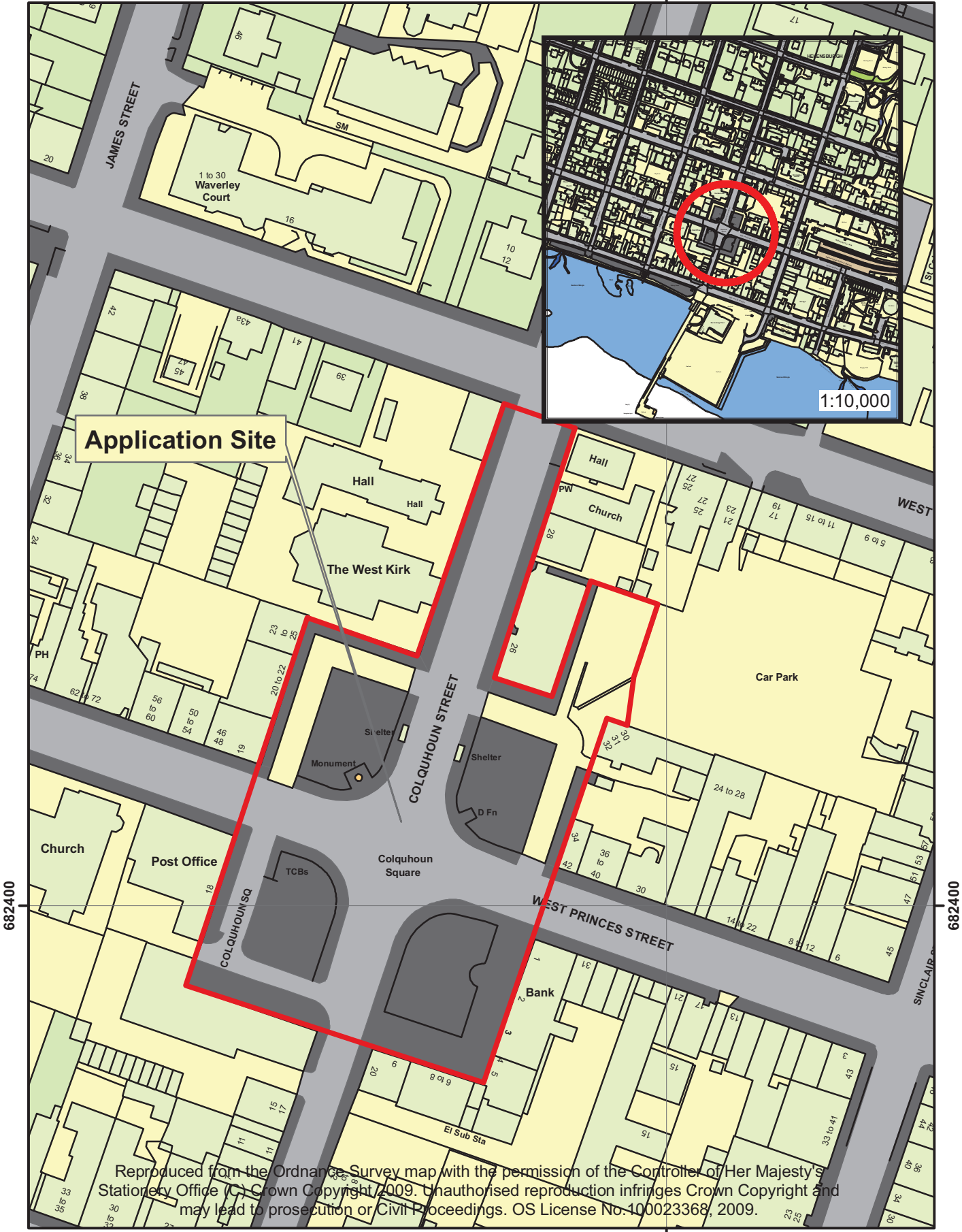
*Reason: In the interest of road and pedestrian safety.*

**NOTES TO APPLICANT**

1. In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
2. In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.
3. In accordance with the Roads Scotland Act 1984 there will be a requirement to apply separately for permission to temporarily prohibit vehicles on Colquhoun Street and West Princes Street.



229600



**Application Site**

1:10,000

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229600



**Location Plan relative to  
Application Ref: 12/02203/PP**

Date: 29.10.2012

Scale: 1:1,250



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**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**

---

**Reference No:** 12/02228/PP

**Planning Hierarchy:** Local Development

**Applicant:** Argyll and Bute Council

**Proposal:** Upgrading of synthetic grass sports pitch, incorporating a larger pitch, new ballstop fencing and floodlighting

**Site Address:** Tiree High School, Cornaigmore, Isle of Tiree

---

**DECISION ROUTE**

Local Government Scotland Act 1973

---

**(A) THE APPLICATION****(i) Development Requiring Express Planning Permission**

- Extension to existing artificial sports pitch
  - Erection of flood lights
  - Erection of fencing
  - Installation of sustainable drainage system (SuDS)
- 

**(B) RECOMMENDATION:**

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

---

**(C) HISTORY:**

04/01752/DET - Erection of a Combined Primary and Secondary School – Approved (03/12/04)  
10/00108/CPD – Formation of additional car parking – Approved (27/01/10)  
12/02002/PREAPP - Upgrading of existing sports pitch, remove existing fencing and floodlighting. Stripping and removal of topsoil, re-grading exposed formation, installation of perimeter drainage system, ball-stop fencing and floodlighting – Generally positive advice given confirming an application is required (02/10/12)

---

**(D) CONSULTATIONS:** None**(E) PUBLICITY:**

The proposal has been advertised in terms of Regulation 20, closing date 15/11/12.

---

**(F) REPRESENTATIONS:**

None received at time of writing the report of handling but any representations received before the committee considers the application will be separately reported.

---

**(G) SUPPORTING INFORMATION**

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

- |       |  |    |
|-------|--|----|
| (i)   | <b>Environmental Statement:</b>  | No |
| (ii)  | <b>An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:</b>   | No |
| (iii) | <b>A design or design/access statement:</b>  | No |
| (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> | No |
- 

**(H) PLANNING OBLIGATIONS**

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

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

**(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  
STRAT DC 7 – Nature Conservation and Development Control

Argyll and Bute Local Plan 2009

LP ENV 1 – Impact on the General Environment  
LP ENV 8 – Impact on Local Nature Conservation Sites  
LP ENV 19 – Development Setting, Layout and Design  
LP SERV 2 – Incorporation of Natural Features/Sustainable Drainage Systems (SuDS)  
LP REC 1 – Sport, Leisure and Recreation  
LP COM 1 – Community Facility Development

- (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.**

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

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

The site is within the 'settlement' boundary of Cornaigmore, Isle of Tiree adjacent to the Tiree High School. The site itself is currently used as an artificial sports pitch facility with informal recreation areas surrounding, all within the existing school grounds. Structure Plan policy STRAT DC 1 is generally supportive of development on suitable sites within the settlement development control zones. Local Plan policy LP REC 1 provides a general presumption in favour of new or improved sport and recreation facilities subject to specific criteria. The proposal seeks to upgrade the existing sports facilities and therefore the proposal is acceptable in principle.

The application is for the extension of an existing artificial all-weather synthetic sports pitch from 36m x 18m to 50m x 25m. The proposal also seeks to install four flood lights on 10m columns, one in each corner, and a 3m high ball-stop fence around the pitch. The land proposed for the extension is already used as an informal sports area. The applicant has also specified the use of SuDS to control the flow and treatment of surface water drainage. No details of this have been provided in the submission but a planning condition ensures the submission of these details prior to the commencement of works.

The application respects the landscape of the area given that it is an extension to an existing facility visually associated with the school and other existing buildings. The proposal is also accessible to by a means of transport modes and is located adjacent to the school who will be the primary users of the facility. With the above in mind the application is consistent with the provisions of policy LP REC 1 and STRAT DC 1.

The proposal is on the opposite side of the single track road to the school but is clearly linked to the use of the school. There is existing parking at the site associated with the school. The site is located in a Local Nature Conservation Site (LNCS). The land around the existing pitch is an area of maintained grass already used for recreation by the school and the works will improve its sport/recreation usage. The proposal will not affect any features of nature conservation interest and accordingly proposal will adversely affect the wider LNCS.

During the pre-application application assessment the planning department consulted with Environmental Health officers who raised no concern to any aspect of this proposal including the proposed flood lights. The details submitted show that no neighbouring property will be affected by light spillage.

The development will result in formalised use of a maintained grassed area already in use ancillary to the existing sports pitch. It satisfies the requirements of policy LP REC 1 and it is recommended that the application is approved subject to conditions.

---

**(Q) Is the proposal consistent with the Development Plan: Yes**

---

**(R) Reasons why planning permission or a Planning Permission in Principle should be granted**

The proposal will provide an upgrade to existing sports facilities at Tiree High School and will provide recreational opportunities in an accessible location. The proposal conforms to the relevant development plan policies and that there are no other material considerations which would warrant anything other than the application being determined in accordance with the provisions of the development plan.

---

**(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**

---

**Author of Report:** David Love

**Date:** 30/10/12

**Reviewing Officer:** Stephen Fair

**Date:** 30/10/12

**Angus Gilmour**  
**Head of Planning and Regulatory Services**

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 12/02228/PP**

1. No development shall commence until details of the intended means of surface water drainage to serve the development have been submitted to and approved in writing by the Planning Authority. The duly approved scheme shall be implemented in full concurrently with the development that it is intended to serve and shall be operational prior to the initial use of the development and maintained as such thereafter.

*Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding.*

2. The development shall be implemented in accordance with the details specified on the application form dated 03/10/12 and the approved drawing reference numbers:

Plan 1 of 7 (Location Plan at scale of 1:10000)  
Plan 2 of 7 (Site Plan at scale of 1:1250)  
Plan 3 of 7 (General Layout at scale of 1:250)  
Plan 4 of 7 (Floodlighting – Light Levels at scale of 1:500)  
Plan 5 of 7 (Fencing Details at scale of 1:50)  
Plan 6 of 7 (Typical Section at scale of 1:10)  
Plan 7 of 7 (Lighting Column Details at scale of 1:50)

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.*

3. No development shall commence or is hereby authorised until full details of the proposed colour finish to the lighting columns and fencing hereby approved have been submitted to and approved in writing by the Planning Authority. The development shall be completed and maintained thereafter in strict accordance with such details as are approved, unless any variation thereof is agreed in advance in writing by the Planning Authority.

*Reason: In the interests of visual amenity.*

**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 length of the permission:** This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]



APPLICATION SITE

Cattle Grid

Cornaimore High School



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Argyll and Bute Council  
Development and Infrastructure Services

PLANNING, PROTECTIVE SERVICES AND  
LICENSING COMMITTEE

21 November 2012

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## UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING DECISIONS

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### A) INTRODUCTION

This report advises of a recent appeal decision by the Scottish Government Directorate for Planning and Environmental Appeals relative to the case set out below.

### B) RECOMMENDATION

Members are asked to note the contents of the report.

### C) DETAILS OF APPEAL DECISION

#### **Appeal Reference ENA-130-2006**

**Council Reference – 10/00323/ENOTH2: Land at Camsail Woodland Roseneath Road, Roseneath - Unauthorised Engineering and other Operations.**

This report has been prepared to inform members that an appeal against the serving of an Enforcement Notice at the above site, requiring restoration and planting works by Mr. D Bruce the site owner, has been dismissed and the Enforcement Notice served by the Council upheld.

The main issues addressed in the appeal were as follows:

- a) Whether the works carried out constituted development
- b) Whether the restoration works required were excessive
- c) Whether the timescale to comply with the notice was too short.

The Reporters findings are summarised below:

#### a) Whether the works carried out constituted development

The Reporter found that the Council was correct in determining that unauthorised development had occurred, and that planning permission was required for the works carried out to scour the quarry face and both remove rock from the quarry face and transfer materials around the site.

#### b) Whether the restoration works required were excessive

The Reporter considered that the steps the council required, including the making safe of the quarry face, and tree and grass replanting to assist in habitat creation and amenity improvements, were both justified and necessary in the context of the unauthorised development which had been undertaken. The Reporter considered that the replanting scheme would assist in the regeneration of the quarry and improve both the visual

appearance of the site, as well as assisting in reinstating the habitat features destroyed by the unauthorised works.

However, the Reporter did consider the requirement to bring in additional soil in to resurface the new terrace slope along the exposed quarry face in its entirety to a depth of 150mm, formed in making safe the quarry face, was not required. He also did not consider the erection of a new fence 4metres back from the edge of the quarry face necessary for safety reasons.

c) Whether the timescale to comply with the notice was too short.

As the appeal process had delayed the planting works commencing by a number of months, and given the ground conditions at the quarry caused by adverse weather this year, the Reporter felt that it was reasonable to alter the period of compliance to allow the grass seeding to take place in more favourable conditions next spring.

He therefore amended the period of compliance contained in the notice from within 6 months starting from 1 October 2012, to within 6 Months starting from 30 April 2013. Therefore works will take place in next year's planting season, and require to be completed by 31 October 2013.

Conclusions

The Councils contention that unacceptable engineering operations had taken place was upheld by the Reporter, as was the Councils view that a replanting scheme and other engineering works are required to restore and make safe the former quarry. Mr. Bruce the site owner is required to carry out the restoration works, as altered, by the Reporter in his decision notice within the amended timescale.

Members will be updated on whether the works are carried out in accordance with the notice. If they are not further authorisation to pass the matter to the procurator fiscal will be sought.

**D) IMPLICATIONS**

Policy: None.  
Financial: None.  
Personnel: None.  
Equal Opportunities: None

**Author and contact officer:** David Moore (01436 658916)

**Angus J Gilmour**  
**Head of Planning & Regulatory Services**

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