

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

*Customer Services*  
*Executive Director: Douglas Hendry*



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11 June 2014

## **NOTICE OF MEETING**

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held in the **COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD** on **WEDNESDAY, 18 JUNE 2014 at 2:00 PM**, or at the conclusion of the Planning, Protective Services and Licensing Committee at 10.30 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**

### **3. MINUTES**

- (a) Planning, Protective Services and Licensing Committee 21 May 2014 at 11.30 am (Pages 1 - 10)
- (b) Planning, Protective Services and Licensing Committee 21 May 2014 at 2.00 pm (Pages 11 - 16)
- (c) Planning, Protective Services and Licensing Committee 21 May 2014 at 2.20 pm (Pages 17 - 24)
- (d) Planning, Protective Services and Licensing Committee 21 May 2014 at 2.40 pm (Pages 25 - 28)
- (e) Planning, Protective Services and Licensing Committee 21 May 2014 at 3.00 pm (Pages 29 - 32)

- (f) Planning, Protective Services and Licensing Committee 28 May 2014 (Pages 33 - 70)
  - (g) Planning, Protective Services and Licensing Committee 5 June 2014 (to follow)
  - (h) Planning, Protective Services and Licensing Committee 6 June 2014 (to follow)
4. **FOOD SAFETY LAW ENFORCEMENT WORKPLAN AND ENFORCEMENT POLICY**  
Report by Executive Director – Development and Infrastructure Services (to follow)
  5. **PROPOSALS FOR AN 'APPROVED TRADER SCHEME' IN ARGYLL AND BUTE**  
Report by Executive Director – Development and Infrastructure Services (Pages 71 - 78)
  6. **STRACHUR HOUSING ALLOCATION (H-AL 2/15) MASTERPLAN REPORT (REF: 14/001330/MPLAN)**  
Report by Head of Planning and Regulatory Services (Pages 79 - 86)
  7. **MR AND MRS HALL: ERECTION OF DWELLINGHOUSE: PLOT 7, LAND TO THE SOUTH WEST OF HEATHER COTTAGE, STRACHUR (REF: 13/01625/PP)**  
Report by Head of Planning and Regulatory Services (Pages 87 - 96)
  8. **ARCHD FERGUSSON LTD: FORMATION OF ACCESS ROAD, INSTALLATION OF PRIVATE SEWERAGE SYSTEM AND INSTALLATION OF SURFACE WATER DRAINAGE (ALL TO SERVE A SEVEN PLOT HOUSING DEVELOPMENT) AND SUBMISSION OF A HOUSING ALLOCATION MASTERPLAN: LAND TO THE SOUTH WEST OF HEATHER COTTAGE AND KIKUT, STRACHUR (REF: 14/00557/PP)**  
Report by Head of Planning and Regulatory Services (Pages 97 - 108)
  9. **SRONDRE WIND FARMERS LLP: AMENDMENT TO PLANNING PERMISSION REFERENCE 13/01427/PP (ERECTION OF 3 WIND TURBINES WITH MAXIMUM BLADE TIP HEIGHT ABOVE GROUND LEVEL OF 110M TURBINES 1 AND 2 AND 100M TURBINE 3, TOGETHER WITH A CONTROL BUILDING, ANCILLARY INFRASTRUCTURE INCLUDING CRANE HARD STANDINGS AND ACCESS TRACK AND TEMPORARY GROUND WORKS) - INCREASE IN HEIGHT OF S1 AND S2 TURBINES FROM 110 METRES TO 120 METRES (TO BLADE TIP): LAND AT CRUAICH A' PHUBUILL (ADAJENT TO ALLT DEARG WINDFARM), ARDRISHAIG (REF: 14/00489/PP)**  
Report by Head of Planning and Regulatory Services (Pages 109 - 124)
  10. **MRS MARY TURNER: ERECTION OF 40.4M (BLADE TIP) WIND TURBINE ERECTION OF 40.4M (AMENDED BY PLANNING CONDITION TO 35M TO BLADE TIP): LAND APPROXIMATELY 515M NORTH WEST OF AUCHENHOAN COTTAGE, CAMPBELTOWN (REF: 14/00589/PP)**  
Report by Head of Planning and Regulatory Services (Pages 125 - 144)

- 11. MR STUART ANDERSON: ERECTION OF DWELLINGHOUSE AND FORMATION OF NEW VEHICULAR ACCESS (AMENDED DESIGN RELATIVE TO PLANNING PERMISSION REFERENCE 11/00399/PP): 146 FREDERICK CRESCENT, PORT ELLEN, ISLE OF ISLAY (REF: 14/00653/PP)**  
Report by Head of Planning and Regulatory Services (Pages 145 - 162)
- 12. LUSS ESTATES COMPANY: SITE FOR THE ERECTION OF A RESIDENTIAL DEVELOPMENT INCLUDING FORMATION OF VEHICULAR ACCESS AND DEMOLITION OF EXISTING CLUBHOUSE: RHU BOWLING CLUB, MANSE BRAE, RHU (REF: 14/00821/PPP)**  
Report by Head of Planning and Regulatory Services (Pages 163 - 174)
- 13. MRS MARGARET MUIR: INSTALLATION OF GROUND MOUNTED PHOTOVOLTAIC ARRAY (RETROSPECTIVE): THE ANCHORAGE, MINARD, INVERARAY (REF: 14/00861/PP)**  
Report by Head of Planning and Regulatory Services (Pages 175 - 188)
- 14. SCOTTISH WATER: ERECTION OF 3 X 5KW WIND TURBINES (15M HUB HEIGHT, 17.7M BLADE TIP): WATER TREATMENT WORKS, TARBERT ROAD, CAMPBELTOWN (REF: 14/00863/PP)**  
Report by Head of Planning and Regulatory Services (Pages 189 - 202)
- 15. MR THOMAS PATERSON AND MRS MARGERY OSBORNE: ERECTION OF 1.8 METRE HIGH FENCE AND GATES (RETROSPECTIVE): LAND OPPOSITE 21 TO 25 CUMBERLAND AVENUE, HELENSBURGH (REF: 14/00885/PP)**  
Report by Head of Planning and Regulatory Services (Pages 203 - 214)
- 16. MR TONY HILL: CHANGE OF USE OF LAND FOR SITING OF TIMBER SHED, INSTALLATION OF PETROL STORAGE TANK AND ERECTION OF ASSOCIATED FENCING: LAND ADJACENT TO PUBLIC CAR PARK, ELLENABEICH, ISLE OF SEIL (REF: 14/00914/PP)**  
Report by Head of Planning and Regulatory Services (Pages 215 - 234)
- 17. COSTA COFFEE: CHANGE OF USE FROM CLASS 1 (RETAIL) TO COMBINED CLASS 1 AND CLASS 3 (RETAIL AND FOOD AND DRINK) INCLUDING EXTERNAL SEATING AREA: UNIT 1, KILMARTIN COURT, STATION ROAD, OBAN (REF: 14/00942/PP)**  
Report by Head of Planning and Regulatory Services (Pages 235 - 252)
- 18. ARGYLL ESTATES: INVERARAY PROJECT MASTERPLAN - MAST 1/5 RE PROPOSED ARGYLL AND BUTE LOCAL DEVELOPMENT PLAN (FEB 2013): ARGYLL ESTATES, INVERARAY (REF: 13/02860/MPLAN)**  
Report by Head of Planning and Regulatory Services (to follow)
- 19. STEWART MCNEE (DUNOON) LTD: ERECTION OF 8 DWELLINGHOUSES AND 4 FLATS AND FORMATION OF VEHICULAR ACCESS, PARKING AND INFRASTRUCTURE: LAND NORTH OF BARN PARK, INVERARAY (REF: 14/01082/PP)**  
Report by Head of Planning and Regulatory Services (to follow)

- 20. SCOTTISH GOVERNMENT CONSULTATION UNDER SECTION 36 OF THE ELECTRICITY ACT 1989: PROPOSED INSTALLATION OF 10MW DEMONSTRATION TIDAL ARRAY INCLUDING CABLE LANDFALL AND SUB STATION: SOUND OF ISLAY, ISLE OF ISLAY (REF: 14/01152/S36)**  
Report by Head of Planning and Regulatory Services (Pages 253 - 266)
- E1 21. ENFORCEMENT UPDATE - 13/00328/ENFOC2**  
Report by Head of Planning and Regulatory Services (to follow)
- E1 22. ENFORCEMENT UPDATE - 14/00059/ENFLB**  
Report by Head of Planning and Regulatory Services (to follow)
- E1 23. ENFORCEMENT REPORT - 14/00022/ENFHSB**  
Report by Head of Planning and Regulatory Services (Pages 267 - 270)
- E1 24. ENFORCEMENT REPORT - 13/00099/ENOTH2**  
Report by Head of Planning and Regulatory Services (Pages 271 - 294)
- E1 25. ENFORCEMENT REPORT - 13/00384/ENF**  
Report by Head of Planning and Regulatory Services (to follow)

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

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING  
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD  
on WEDNESDAY, 21 MAY 2014**

**Present:** Councillor David Kinniburgh (Chair)

Councillor Rory Colville	Councillor Donald MacMillan
Councillor Robin Currie	Councillor Alex McNaughton
Councillor George Freeman	Councillor James McQueen
Councillor Alistair MacDougall	Councillor Sandy Taylor
Councillor Robert G MacIntyre	Councillor Richard Trail

**Attending:** Patricia O'Neill, Central Governance Manager  
Angus Gilmour, Head of Planning and Regulatory Services  
Peter Bain, Area Team Leader, Mid Argyll, Kintyre and the Islands

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were intimated from Councillors Gordon Blair, Mary-Jean Devon and Roderick McCuish.

**2. DECLARATIONS OF INTEREST**

Councillor David Kinniburgh declared a non financial interest in relation to planning application reference 14/00194/PP as he is employed by a business which undertakes similar activities to the proposed development. He left the room and took no part in the determination of this application which is dealt with an item 5 of this Minute.

**3. MINUTES**

- (a) The Minutes of the Planning, Protective Services and Licensing Committee held on 23 April 2014 at 10.15 am were approved as a correct record.
- (b) The Minutes of the Planning, Protective Services and Licensing Committee held on 23 April 2014 at 2.00 pm were approved as a correct record.
- (c) The Minutes of the Planning, Protective Services and Licensing Committee held on 23 April 2014 at 2.20 pm were approved as a correct record.
- (d) The Minutes of the Planning, Protective Services and Licensing Committee held on 23 April 2014 at 2.40 pm were approved as a correct record.
- (e) The Minutes of the Planning, Protective Services and Licensing Committee held on 23 April 2014 at 3.00 pm were approved as a correct record.

**4. BROXBURN PROPERTIES LIMITED: ERECTION OF BONDED WAREHOUSE (CLASS 6), ASSOCIATED ACCESS AND INSTALLATION OF SEPTIC TANK: LAND NORTH OF AVONVOGIE ABATTOIR, BOWMORE, ISLE OF ISLAY (REF: 13/02649/PP)**

The Area Team Leader for Mid Argyll, Kintyre and the Islands spoke to the terms of the report advising that planning permission was sought for the erection of a very large bonded whisky maturation warehouse with a footprint area of just under 10,000 sqm on a site some 1.9 hectares in area, located partly within a defined Rural Opportunity Area but mainly within an area of Sensitive Countryside. Settlement strategy policies STRAT DC 4, STRAT DC 5 and LP BUS 2 would normally offer support only for new business development of up to 'small scale' defined as buildings not exceeding a footprint area of 200 sqm and on sites of not larger than 0.5 hectares. However policies STRAT DC 4 and STRAT DC 5 both allow for the possibility of larger scale development in the countryside development management zones on a 'special case' basis when such development is supported by an ACE. In this case it is considered that sufficient locational need and wider economic benefit has been established to outweigh the generally policy presumption against such large scale development in the rural opportunity/sensitive countryside and a competent ACE has been carried out which demonstrates that the proposed site can support the development proposed without having any materially detrimental impact upon the key landscape characteristics of the identified ACE compartment. The ACE was recommended to Members for approval as a material consideration in the determination of this application and any future applications within the ACE compartment.

The Members agreed to endorse the findings of the ACE accompanying the application and that it be regarded as a material consideration in the determination of this application and any future applications within the ACE compartment.

There have been no objections from consultees or third parties and the proposal satisfied the requirements of relevant Development Plan policies. The proposal was recommended for approval subject to the conclusion of a Section 75 Legal Agreement to secure the provision and implementation of a woodland management plan and subject to the conditions and reasons detailed in the report of handling.

**Decision**

Agreed to grant planning permission subject to the following Section 75 Legal Agreement and subject to conditions and reasons detailed below which included an amendment to conditions 7 and 8 to ensure consultation takes place with Ward 2 Members prior to the discharge of these conditions:-

Section 75 Legal Agreement

To secure the provision and implementation of a woodland management

plan. The woodland management plan shall seek to ensure the long term retention of an adequate landscape screen to the development, and should, if possible, also secure biodiversity improvements through restructuring of the woodland to include native species within replacement planting proposals.

Conditions and Reasons

1. The proposed development shall be carried out in accordance with the details specified in the application form dated 18<sup>th</sup> November 2013; 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.*

2. The building hereby approved shall be used solely as a bonded warehouse store for whisky and other spirit and no other use including any other purpose in Class 6 and Class 4 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. Furthermore, the building hereby approved shall be used solely for the storage of whisky and other spirit distilled on the island of Islay. A detailed inventory of the contents of the building shall be kept and all reasonable opportunity for the inspection of this inventory shall be afforded, by prior arrangement, to any designated representative of the Council in pursuance of their duties in order to ensure compliance with the provisions of this planning condition.

*Reason: In order to ensure compliance with the 'special need' argument that underlies the justification for the development and to enable the Planning Authority to control any subsequent change of use which might otherwise benefit from deemed permission in order to protect the amenity of the locale.*

3. No development shall commence until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved in writing by the Planning Authority. The scheme shall comprise a planting plan and schedule which shall include details of:
  - i) Existing and proposed ground levels in relation to an identified fixed datum;
  - ii) Existing landscaping features and vegetation to be retained;
  - iii) Location design and materials of proposed walls, fences and gates;
  - iv) Proposed soft and hard landscaping works including the location, species and size of every tree/shrub to be planted;
  - v) A programme for the timing, method of implementation, completion and subsequent on-going maintenance.

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme unless otherwise approved in writing by the Planning Authority.

Any trees/shrubs which within a period of five years from the completion of the approved landscaping scheme fail to become established, die, become seriously diseased, or are removed or damaged shall be replaced in the following planting season with equivalent numbers, sizes and species as those originally required to be planted unless otherwise approved in writing by the Planning Authority.

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

4. No development shall commence until a scheme for the retention and safeguarding of trees during construction has been submitted to and approved by the Planning Authority. The scheme shall comprise:
  - i) Details of all trees to be removed and the location and canopy spread of trees to be retained as part of the development;
  - ii) A programme of measures for the protection of trees during construction works which shall include fencing at least one metre beyond the canopy spread of each tree in accordance with BS 5837:2012 "Trees in Relation to Construction".

Tree protection measures shall be implemented for the full duration of construction works in accordance with the duly approved scheme. No trees shall be lopped, topped or felled other than in accordance with the details of the approved scheme unless otherwise approved in writing by the Planning Authority.

*Reason: In order to retain trees as part of the development in the interests of safeguarding the visual amenity of the site and its surroundings.*

5. No development shall commence until full details of any external lighting to be used within the site has been submitted to and approved in writing by the Planning Authority. Such details shall include the location, type, angle of direction and wattage of each light which shall be so positioned and angled to prevent any glare or light spillage outwith the site boundary.

No external lighting shall be installed except in accordance with the duly approved scheme.

*Reason: In order to avoid light pollution in the interest of amenity.*

6. External storage within the planning unit shall only take place on land designated for such purpose and which has the prior written approval of the Planning Authority.

A request for the written approval of the Planning Authority shall include the extent and location of the proposed storage area(s), the types of materials to be stored, maximum stacking heights and details



of any means of enclosure required.

*Reason: In order to protect the amenity of the locale.*

7. No development shall commence until the developer has obtained written approval from the Planning Authority for a traffic management plan, following consultation with the Roads Authority and Ward 2 Members :
  - i) details of routing of all deliveries and construction traffic;
  - ii) details of all materials, plant, equipment, components and labour required during the construction and operational phases of the development hereby permitted

Such provisions in the duly approved Traffic Management Plan shall be fully implemented unless any subsequent variation thereof is agreed in writing with the Planning Authority.

*Reason: To minimise disruption arising as a result of traffic movements and safeguard road safety.*

8. No development shall commence until the developer has obtained written approval from the Planning Authority for a detailed Method Statement, following consultation with the Roads Authority and Ward 2 Members. This Method Statement shall include:
  - i) A carriageway strengthening design for the UC 24 Avonvogie Road between the junction of the UC 24 Avonvogie to Cluanach Road with the B8016 Port Ellen Road and the application site. The approved carriageway strengthening works to be fully completed prior to any other works commencing on site;
  - ii) The identification and repair of deteriorated sections of the UC 24 carriageway due to construction traffic involved in the development hereby permitted. Any damage to the public road directly attributable to such construction traffic to be made good by the applicant/developer to the satisfaction of the Planning Authority in consultation with the Roads Authority;
  - iii) Details of the provision and design of additional passing places for an articulated vehicle along the UC 24 Avonvogie Road between the junction of the UC 24 Avonvogie to Cluanach Road with the B8016 Port Ellen Road and the application site. The number and location of such passing places shall be agreed by the Planning Authority in consultation with the Roads Authority and the passing places subsequently agreed shall be fully provided before any other works commence on site;
  - iv) Details of a maintenance agreement for the highway improvement works specified above; the scope and duration of which shall be agreed by the Planning Authority in consultation with the Roads Authority. The maintenance agreement

subsequently approved shall commence within 14 days of the building hereby approved being first brought into use.

*Reason: In order to secure an appropriate standard of road capable of conveying traffic associated with this development, to minimise disruption arising as a result of traffic movements and to safeguard road safety.*

9. Notwithstanding the provisions of Condition 1, no development shall commence until full details of the layout and surfacing of a parking and turning area to accommodate two 'light goods vehicles' and one 'articulated vehicle' within the application site have been 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.*

10. Notwithstanding the provisions of Condition 1, the development shall incorporate a surface water drainage system which is consistent with the principles of Sustainable urban Drainage Systems (SuDS) compliant with the guidance set out in CIRIA's SuDS Manual 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.*

(Reference: Report by Head of Planning and Regulatory Services dated 1 May 2014, submitted)

Having previously declared a non financial interest in respect of the following item Councillor Kinniburgh left the room and took no part in the determination of this application.

Councillor Alex McNaughton Chaired the meeting at this point.

5. **MR LORNE THOMSON: CHANGE OF USE FROM PETROL FILLING STATION (SUI GENERIS) TO CAR SALES (SUI GENERIS) - EXTENSION AND ALTERATION OF EXISTING SHOP TO FORM SALES OFFICE, CUSTOMER WAITING AREA AND VALETING AND TYRE BAYS: 112 EAST CLYDE STREET, HELENSBURGH (REF: 14/00194/PP)**

The Head of Planning and Regulatory Services spoke to the terms of the report advising that planning permission was sought for the change of use from petrol filling station to car sales. It was also proposed to extend and alter the existing shop/store to form sales office, customer waiting area and valeting and tyre bays. Reference was made to a supplementary report which provided detailed of the consultee response on flooding and

a recommended condition in respect of flooding. Members were also advised of a late objection received by email from Mr Graham Kinder. A total of 38 letters and emails of objection were received from local residents in connection with this application, however, it was not considered that there would be any added value by having a pre determination hearing as the proposal accorded with policy and the key consultees had no objections. The proposed development was considered acceptable at this location and accorded with Policies STRAT DC 9 and STRAT DC 1 of the Structure Plan and Policies LP ENV 1, LP ENV 13a, LP ENV 19, LP BUS 1, LP BAD1, LP TRAN 4, LP TRAN 6 and Appendix A and Appendix C of the Argyll and Bute Local Plan and was recommended for approval subject to conditions and reasons detailed in supplementary planning report number 1.

### 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 27.1.14 and the approved drawing reference numbers: D001, D002, D003, D004 and D005 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. The approved use shall only operate between the following hours

Monday to Saturday 08.30hrs to 18.00hrs  
Sunday 10.00hrs to 17.00hrs

Unless otherwise agreed in writing with the Planning Authority

*Reason: In the interests of residential amenity.*

3. No development shall commence on site until authorisation has been given by Scottish Water for connection to the public water supply. Confirmation of authorisation to connect shall be provided to the Planning Authority for approval before commencement of development.

*Reason: To ensure that the development is adequately served by a public water supply.*

4. No development shall be commenced until details of the surface water drainage system to be incorporated into the development have been submitted to and approved in writing by the Planning Authority. Such measures shall show separate means for the disposal of foul and surface water, details and specifications of an appropriate grease/oil

interceptor and the provision of a Sustainable Urban Drainage System (SuDS). The scheme shall be prepared in accordance with the advice given in Planning Advice Note 61 (PAN 61) 'Planning and Sustainable Urban Drainage Systems' and the 'SuDS Design Manual' (CIRIA C697). The development shall be implemented in accordance with the duly approved surface water drainage system.

*Reason: To ensure that an acceptable scheme of surface water drainage is implemented and to prevent pollution.*

5. Notwithstanding the effect of Condition 1, no development shall commence until samples of materials to be used in the construction of hard standings have been submitted to and approved in writing by the Planning Authority. The development shall thereafter be completed using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.

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

6. Prior to the use hereby approved becoming operational, the customer parking shown on the docketted plans shall be fully implemented and available for use.

*Reason: In the interests of road safety.*

7. The car sales display area shall be limited to that shown on docketted plan D005.

*Reason: In the interests of road safety.*

8. The final floor level of the building as extended hereby approved shall be a minimum of 5.82 metres above ordnance datum (AOD).

*Reason: In order to prevent flooding.*

(Reference: Report by Head of Planning and Regulatory Services dated 1 May 2014 and supplementary report number 1 dated 19 May 2014, submitted)

Councillor Kinniburgh returned to the meeting and resumed the Chair.

## **6. UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING APPEAL DECISION**

A report advising of a recent appeal decision by the Scottish Government Directorate for Planning and Environmental Appeals relative to planning application reference 12/02150/PP was before Members for consideration. A supplementary report was also presented to Members which advised of a typographical error in the original report and to advise of further correspondence received following publication of the appeals update report.

Following a lengthy debate it was agreed to adjourn consideration of this

item in order to receive the detail of the advice obtained from the Council's legal advisers regarding the prospects of a successful legal challenge in respect of this decision.

**7. PROJECT INITIATION DOCUMENT - ROTHESAY WINDOWS PROJECT**

Consideration was given to a Project Initiation Document (PID) for the Rothesay Windows Project.

**Decision**

Endorsed the Project and approved the PID.

(Reference: Report by Head of Planning and Regulatory Services and Rothesay Windows Project PD version 2, submitted)

The Committee resolved in terms of Section 50(A)(4) of the Local Government (Scotland) Act 1973 to exclude the public for the following item of business on the grounds that it was likely to involve the disclosure of exempt information as defined in Paragraph 13 of Part 1 of Schedule 7A to the Local Government (Scotland) Act 1973.

**8. ENFORCEMENT REPORT UPDATE - 11/00107/ENOTH2, 13/00093/ENOTH3 AND 13/00384/ENOTH3**

Consideration was given to an update on Enforcement Case references 11/00107/ENOTH2, 13/00093/ENOTH3 and 13/00384/ENOTH3.

**Decision**

Noted the contents of the report.

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

The Chair ruled and the Committee agreed to adjourn the meeting at 1.05 pm in order to await information requested at item 6 above.

The Committee reconvened at 1.20 pm and resumed consideration of the Scottish Government Appeal decision in respect of planning application reference 12/02150/PP previously dealt with at item 6 above.

**UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING APPEAL DECISION**

**Motion**

To note the contents of the report and agree to delegate to the Head of Planning and Regulatory in consultation with the Chair and Vice Chair of the PPSL Committee to write to the Scottish Government Directorate for Planning and Environmental Appeals to express the Committee's disappointment and

concerns in respect of the decision taken by the Reporter to approve planning application reference 12/02159/PP.

Moved by Councillor George Freeman, seconded by Councillor David Kinniburgh

**Amendment**

To seek a Judicial Review based on the areas of challenge and potential flaws identified within the legal opinion received from the Council's legal advisers.

Moved by Councillor Robin Currie, seconded by Councillor Rory Colville

The Motion was carried by 7 votes to 3 and the Committee resolved accordingly.

**Decision**

Agreed to note the contents of the report and to delegate to the Head of Planning and Regulatory in consultation with the Chair and Vice Chair of the PPSL Committee to write to the Scottish Government Directorate for Planning and Environmental Appeals to express the Committee's disappointment and concerns in respect of the decision taken by the Reporter to approve planning application reference 12/02159/PP.

(Reference: Report by Head of Planning and Regulatory Services and supplementary report number 1 dated 19 May 2014, submitted)

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING  
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD  
on WEDNESDAY, 21 MAY 2014**

**Present:** Councillor David Kinniburgh (Chair)

Councillor Rory Colville	Councillor Donald MacMillan
Councillor Robin Currie	Councillor Alex McNaughton
Councillor George Freeman	Councillor James McQueen
Councillor Alistair MacDougall	Councillor Sandy Taylor
Councillor Robert G MacIntyre	Councillor Richard Trail

**Attending:** Patricia O'Neill, Central Governance Manager  
Graeme Forrester, Solicitor  
Mr Brodie, Applicant  
Sergeant Quinn, Police Scotland  
Constable Hamilton, Police Scotland

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were intimated from Councillors Gordon Blair, Mary-Jean Devon and Roderick McCuish.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF TAXI DRIVER'S LICENCE (N BRODIE, CAMPBELTOWN)**

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

**Applicant**

Mr Brodie referred to the objection made by Police Scotland and advised that the majority of his convictions related to offences committed during his younger years and through the consumption of alcohol. He referred to turning his life around over the last 3 years and confirmed that he had recently been employed at the Old Club House at Machrihanish and outlined the nature of his responsibilities to club Members and customers. He advised that he had brought with him a reference from the Club's HR Operations Manager which supported his application for a taxi driver's licence. He confirmed that he had done things in the past but had now moved on with his life and wished to prove to himself that he could do this job and not receive any more convictions. He stressed that he was a totally changed person. He also advised that he had been involved with the Kintyre Drugs and Alcohol Advisory Service.

### **Questions from Police**

Sergeant Quinn asked when Mr Brodie had turned his life around. Mr Brodie advised that it was when he found out his child was not his around April 2012.

### **Police**

Sergeant Quinn read out the contents of a letter from the Chief Constable which detailed a list of 16 convictions and the circumstances around each of these which occurred between 1997 and 2013. He confirmed that the Chief Constable objected to this application on the grounds that Mr Brodie was not a fit and proper person to be the holder of a licence by virtue of these convictions.

As Mr Brodie had no questions for the Police the Chair invited questions from Members of the Committee.

### **Members' Questions**

Councillor Currie asked Mr Brodie if he was correct to say that apart from three offences that had been admonished and some traffic offences, it had been 7 years since he had last committed an offence and Mr Brodie replied yes.

Councillor Currie then asked if he was correct to say that it was at that point that Mr Brodie turned his life around and was a now a different person. Mr Brodie replied definitely.

Councillor Currie asked Mr Brodie if he would agree that a lot of the offences happened when he was just a teenager and in his early twenties which was probably the case for a lot of young people. Mr Brodie replied yes.

Councillor Colville asked if the Committee could see a copy of the reference from the HR Operations Manager.

Mr Brodie passed the reference to Mr Forrester and he read out the contents of this which was dated 20 May 2014 from Andy Hagan. The reference related to Mr Brodie's employment as a night porter at the Old Club House, Machrihanish between 15 April 2012 and 17 October 2013.

Councillor MacMillan referred to the table of convictions and sought and received clarification from Sergeant Quinn that item number 15 related to an offence carried out on 1 October 2011 and disposed of at court on 19 January 2012.

Councillor Freeman also referred to the table of convictions and sought and received clarification from Sergeant Quinn that item 10 related to 7 different offences and item 9 related to the breach of two separate Community Service Orders.



Councillor Freeman asked Mr Brodie if he would agree that only one offence took place when he was 18 and the others were carried out throughout his twenties up until the age of 32. Mr Brodie confirmed this to be the case.

Councillor McQueen asked Sergeant Quinn if most of the offences involved drink. Sergeant Quinn advised that he could not say for sure but would suggest that due to the nature of them some of these were related to drink. He advised that some were for serious road traffic offences which did not involve drink.

Councillor McQueen asked Mr Brodie how long he had stopped drinking and Mr Brodie advised about 2 years and that he would never take alcohol again. He stated that 8, possibly 9, of the charges related to drink.

Councillor Colville sought and received clarification from Mr Brodie that he had benefitted from the Kintyre Drugs and Alcohol Advisory Service and that he had been teetotal now for 2 years.

Councillor MacDougall sought and received clarification from Mr Brodie that he had a taxi job that he could start imminently if he was granted a licence.

Councillor MacIntyre referred to the last 3 offences being admonished and asked Sergeant Quinn if there was a reason for that. Sergeant Quinn advised that this was a decision made by the Sheriff. He confirmed that admonished meant guilty but with no penalty imposed.

Councillor Kinniburgh referred to the table of convictions and sought and received clarification from Sergeant Quinn that the date of conviction for item 16 was 14 March 2013.

Councillor Kinniburgh sought and received clarification from Mr Brodie that he had not worked since he left his employment with the Old Club House in October 2013 and Mr Brodie explained why he left this employment.

Councillor Kinniburgh asked Mr Brodie if he could explain the circumstances around his admonishment in respect of conviction number 16. Mr Brodie advised that he could not answer that.

Councillor Kinniburgh referred to Mr Brodie stating that he had not been in any trouble for the last 2 years and advised that he had noted his last conviction was dated March 2013. Mr Brodie advised that this was correct but what he had been accused of did not happen and that it was his word against the word of two others.

Councillor Colville referred to Mr Brodie's voluntary work with the junior football association and asked if he had followed this up since. Mr Brodie advised that he worked with children aged 12 to 18 years on a voluntary basis during his recovery from taking alcohol. He advised that he was unable to continue with this as the rules for working with children had

changed and that his list of convictions would prevent him from having a PVG certificate.

Councillor MacDougall noted that Mr Brodie had listed 17 convictions on his application form and the Police had referred to 16 and sought clarification on this. Sergeant Quinn advised that Mr Brodie had included a fixed penalty notice on his application form that the Police did not have detail on.

## **Summing Up**

### Police

Sergeant Quinn advised that the Chief Constable's position was clear and that the important thing to remember was that admonishment was a sentence disposal and not a 'not guilty' verdict. He stated that the Applicant had a history of alcohol fuelled violence and disorder and a history of disrespect for road traffic regulations. He disputed that Mr Brodie was a changed character, advising that the conviction in March 2013 related to domestic abuse and it was clear that Mr Brodie had admitted responsibility for that. He stated that he had listened to Mr Brodie's submission in which he made numerous references to the circumstances around convictions not being true. He stated that the Chief Constable did not consider Mr Brodie to be a suitable person and that he had particular concerns regarding the domestic abuse and hate crimes. He referred to Mr Brodie's reference and advised that he believed this had limited value as there had been no opportunity to check the validity of it. He advised that it was just over a year ago since the domestic abuse offence. He concluded that Mr Brodie was not a fit and proper person to hold a taxi driver licence and asked that his application be refused.

### Applicant

Mr Brodie advised that the Police did not know who he was. He acknowledged that he had not been brilliant in the past but he had learnt from his mistakes and would like the chance to change and move on with his life and to prove to himself that he could do it.

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

## **Debate**

Councillor Currie advised that it was very clear that he was totally impressed by the attitude of the Applicant who wanted to make amends. He stated that he had met young people who have had a difficult time and been able to turn their lives around. He stressed that everyone deserved a second chance. He advised that if the licence was granted and Mr Brodie slipped up then this would be reported back to the Committee. He stated that Mr Brodie had a really positive attitude and that he should be given the chance of a brighter future.

Councillor Trail advised that he agreed with some of what Councillor

Currie said and that anyone who made a mistake deserved a second chance but maybe not a 17<sup>th</sup> chance. He advised that this was an exceptional record and long history of violent behaviour and that this Committee had a responsibility for the safety of the public. He advised that the Applicant needed to demonstrate a long period of good behaviour and that one year was not sufficient.

Councillor Colville advised that a number of years ago he gave someone a second chance. He stated that this person had no future and that he gave him a job and since then he had not looked back and was now settled down with a family of his own. He advised that this would not have happened if he had not given him this second chance. He stated that if the Committee agreed to grant this licence he would like to put a time limit of one year on it.

Councillor McQueen advised that he has been involved with children for years with many of school age coming from bad homes. He advised that people have got to want to change and if they want to they will.

Councillor Freeman referred to the Police recommendation that the Applicant was not a fit and proper person and advised that this was normally enough for him to turn an application down. However in this case he advised that he was in two minds. He stated that the Applicant appeared to have changed over the last 2 years. He advised that he would be minded to approve the grant of the licence for a period of one year and to see how the Applicant performed over that year and if any further incidents occurred within that year then the Committee could revoke the licence.

Mr Forrester advised the Committee that they would need to rely on the Police bringing forward to the Council notification of any further offences or any complaints. If this happened a suspension hearing would then be convened and consideration would be given as to whether or not to suspend a licence for the remainder of its term. He confirmed that this process would be followed whether the licence was granted for the usual three year term or for a shorter period.

Councillor Currie advised that this was a win win situation for everyone as the licence could be granted for 3 years and if any convictions came up a suspension hearing could be called and therefore, he stated, that it did not matter if the licence was granted for one year or 3 years. He went on to add that most of the offences that had occurred had occurred with people known to the Applicant and mainly because of one reason. He advised that he could relate to the Applicant when he said that when someone reported you and it was more than 2 against 1 then the Police charged you whether you were in the right or wrong. He stated that he took what the Applicant said to be true that he wanted to turn his life around.

Councillor Taylor advised that from the Police report there was evidence of a lack of regard for society norms. He stated that it was absolutely appropriate that someone deserved a chance but he felt that one year was not enough to prove that the Applicant had moved on. He advised that there needed to be more time from the end point and that maybe Mr

Brodie should come back in another 12 months and not just yet.

Councillor MacMillan advised that he had listened to all that had been said and stated that the Applicant's record was horrendous. However, he advised that he felt that Mr Brodie had given assurances that he had changed and that he would like to give him another chance and to grant the licence for one year.

Councillor Kinniburgh stated that Councillor Taylor had summed up exactly what he was going to say and agreed that one year was not long enough to prove that the Applicant had turned his life around. He also agreed that everyone deserved a second chance but not a 17<sup>th</sup> chance. He advised that he would like to see a good few years of good behaviour

### **Motion**

To agree to refuse the application for grant of a taxi driver licence as the Applicant was not a fit and proper person to hold a taxi driver licence.

Moved by Councillor David Kinniburgh, seconded by Councillor Richard Trail

### **Amendment**

To agree to grant a taxi driver licence to Mr Brodie for one year.

Moved by Councillor Rory Colville, seconded by Councillor George Freeman

Councillor Robin Currie then moved a second Amendment which failed to find a seconder.

The Amendment was carried by 7 votes to 4 and the Committee resolved accordingly.

### **Decision**

Agreed to grant a taxi driver licence to Mr Brodie for a period of one year, noting that Mr Brodie would be informed of this decision in writing within the next 7 days and that the licence would not be issued until after a period of 28 days to enable the Police to appeal this decision if they wished.

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

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING  
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD  
on WEDNESDAY, 21 MAY 2014**

**Present:** Councillor David Kinniburgh (Chair)

Councillor Rory Colville	Councillor Donald MacMillan
Councillor Robin Currie	Councillor Alex McNaughton
Councillor George Freeman	Councillor James McQueen
Councillor Alistair MacDougall	Councillor Sandy Taylor
Councillor Robert G MacIntyre	Councillor Richard Trail

**Attending:** Patricia O'Neill, Central Governance Manager  
Graeme Forrester, Solicitor  
Ms Scott, Applicant  
Sergeant Quinn, Police Scotland  
Constable Hamilton, Police Scotland

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were intimated from Councillors Gordon Blair, Mary-Jean Devon and Roderick McCuish.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR THE GRANT OF A MARKET OPERATOR'S LICENCE (CONTINENTAL MARKET LTD, DUNFERMLINE)**

The Chair welcomed everyone to the meeting and introductions were made. He then outlined the procedure that would be followed and invited the Applicant to speak in support of her application.

**Applicant**

Ms Scott advised that she was applying to hold a market in Rothesay as she believed a place like Rothesay was ideal for this kind of thing. She stated that she travelled around Scotland bringing something different to an area, attracting tourists and supporting local businesses. She advised that the Police objection was an objection to the previous person responsible for the day to day management of the markets. She confirmed that since March this year she had taken over the complete running of the market side of the business. She advised that the objection was not about her it was about the previous Manager. She confirmed that this was her sole business now and all that she wanted to do was to run the markets professionally. She stated that she had been faced with this objection 3 times now in this area and that she had no problems in other parts of Scotland.

### **Questions from Police**

Sergeant Quinn asked if Mr Yaich still had any connections to company. Ms Scott advised that the company had been split into two and that she operated the market side of the business and Mr Yaich arranged for stalls within shopping centres. She added that he had nothing to do with the market side of the business. When asked she stated that there stalls had been set up within Clyde Shopping Centre, Motherwell, Falkirk, Dundee, Aberdeen and Livingstone.

Sergeant Quinn stated that the Police had not been notified of the company working within Clyde Shopping Centre and sought clarification. Ms Scott advised that she was not sure how these applications were dealt with.

Sergeant Quinn sought and received confirmation that Ms Scott had applied for a market traders licence in Aberdeen. He asked if she was aware that an objection had been made by the Police in respect of the application to trade in Aberdeen. Ms Scott advised that she was not aware of any objection.

Sergeant Quinn asked what Mr Yaich did when she was at the markets. Ms Scott advised that he stayed at home. When asked she confirmed that he sometimes accompanied her to the markets and that she could not stop him from going to a market if he wished.

### **Police**

Sergeant Quinn read out the contents of the Chief Constable's letter of objection, acknowledging that it was out of date, however, he stressed that the Chief Constable objected to this application on the grounds that a person responsible for the management of the company was not a fit and proper person to derive benefit from the activity by virtue of incidents that had taken place at the market held in Oban on 22 and 23 June 2013 which resulted in Mr Yaich, the Manager of that market, being reported to the Procurator Fiscal for 4 contraventions of the Civic Government (Scotland) Act 1982 for continually failing to comply with the conditions attached to the Market Operators Licence issued to Continental Market Ltd. The matter was concluded with no further action taken. He also referred to the Market Operator's licence being suspended at a hearing held on 16 August 2013 and further licences issued revoked as a result of the incidents which occurred on 22 and 23 June 2013. He further referred to Mr Yaich being convicted at Cumbernauld JP Court on 5 April 2013 for contravention of Section 7(1) of the Civic Government (Scotland) Act 1982 which resulted in a fine. This was for an offence which occurred between 16 and 17 November 2012 in Cumbernauld. He stated that Mr Yaich was named as the person responsible for the day to day management of the business on the application form for a market in Oban submitted to the Council dated 7 January 2013. Police enquiry revealed that Ms Scott was the sole director of Continental Market Ltd, however a phone call to the company on receipt of an application received from West Dunbartonshire Council on 31 January 2014 was answered by Mr Yaich

who stated that he was the day to day manager of the company which was also confirmed by Ms Scott.

### **Questions from Applicant**

Ms Scott asked Sergeant Quinn if he had any objection to her personally and he replied no.

Ms Scott sought and received confirmation that an application to West Dunbartonshire Council which had been objected to by the Police had been granted.

Ms Scott asked why the Chief Constable objected to her running markets in this area but in no other area across Scotland. Sergeant Quinn advised that applications were considered by the Police on a case by case basis and that it was not the Chief Constable himself that read every application. He confirmed that this task was devolved to licensing sections in each area of the country.

### **Members' Questions**

Councillor McNaughton expressed concern regarding the dates proposed to run the market in Rothesay in August as this would clash with the Bute Highland Games and he sought clarification on this. Ms Scott advised that if the licence was granted she would be happy to change the date to a different time.

Councillor McNaughton asked Mr Forrester if this could be done. Mr Forrester advised that he was not sure a variation of licence would be the most appropriate way to deal with this as the Councillors had to consider the dates before them as these had been consulted on. He confirmed it was a matter for the Members to consider the granting of these dates and if the Applicant no longer wished these dates to be considered then the Members could consider the other dates applied for on their own.

Councillor Currie sought clarification on what Mr Forrester had advised. Mr Forrester confirmed that if the Applicant wished to amend the date this would require a new application for alternative dates. He confirmed that the current application could be considered with the removal of the August dates.

Councillor Currie sought and received clarification from Sergeant Quinn that the Police had no objection to Ms Scott. He then stated that he could not understand why an objection about someone else was being considered.

Councillor Kinniburgh advised that he understood from last month's hearing in respect of the application for a market trader's licence in Oban by the same Company, that Mr Yaich was still connected to the business and continued to still have a connection to the business.

Councillor Currie stated that the Applicant had received confirmation from the Police that they had no objection to her and advised that she was the

day to day Manager.

Councillor Trail asked Ms Scott how many people worked for her. She confirmed that it was only herself and that the traders at the markets were all self-employed.

Councillor Trail noted that Ms Scott applied for the licence and asked who took responsibility for the behaviour of the traders. Ms Scott confirmed that she was responsible and that she attended all the markets herself to check the stalls were set up correctly, that only permitted goods were being sold and that everything was labelled correctly.

Councillor Trail asked if it was only in Argyll Police had a problem with the markets and in Aberdeen. Ms Scott advised she was not aware of an objection in Aberdeen. She advised that West Dunbartonshire was covered by the same licensing section as Argyll and Bute and that an application was granted for that area.

Councillor Freeman sought and received clarification from Mr Forrester that all applications were normally displayed to the public in the Council area so that anyone could object if they wished and that all dates applied for were displayed and that was why it would not be possible to change the dates applied for at this stage.

Councillor Freeman referred to the Chief Constable's letter and sought and received clarification from Sergeant Quinn that the list of persons operating the stalls requested in January 2014 had still not been received.

Councillor Freeman sought and received clarification from Sergeant Quinn that the Police had no objection against Ms Scott but objected to the application as it was believed her partner would derive benefit and it was their contention that he was still involved in the management of the business.

Councillor Colville referred to the Company holding two licences within the North Lanarkshire Council area and asked why Mr Yaich had been convicted of operating a market in Cumbernauld without the appropriate licence from North Lanarkshire Council. Ms Scott explained that they held licences to hold markets in Cumbernauld and Motherwell on specific dates and that on that occasion there had been a mix up with the dates which resulted in a market being held in Cumbernauld on the wrong dates.

Councillor Currie asked Ms Scott if she had operated a market in Rothesay before and she confirmed that this would be the first time.

Councillor Currie asked Mr Forrester if the Committee were supposed to consider whether or not Ms Scott was a fit and proper person to hold a licence. Mr Forrester confirmed that this was a ground for refusal and read out the different grounds for refusal which applied.

Councillor Trail sought and received clarification from Ms Scott that she was the sole Director of the Company when the market was held in Oban



last year.

Councillor MacIntyre sought and received clarification that Ms Scott had advertised her proposed market in Rothesay.

Councillor Colville noted that Ms Scott intended utilising the Pier public toilets and asked if she had checked if they would be open till 7 pm and she replied no.

Councillor Kinniburgh asked Ms Scott if Mr Yaich was still connected with Continental Markets. Ms Scott advised that last year he took over the day to day onsite management of the markets as she had been in a full time job and was also attending University. She confirmed that in March this year she left her full time job and took over the complete running of the Company. She stated that to save money she allowed Mr Yaich to use the name of the Company to run stalls in shopping centres and that she hoped to be able to afford to split the Company in the future. She advised that the stalls at Clyde Shopping Centre had been the only side of the business that had produced a profit in the last 3 months. She confirmed that since last months hearing Mr Yaich had been totally cut off from the market side of the business. When asked she advised she was not sure how many bookings he had for over the summer in shopping centres booked under Continental Markets Ltd.

Councillor McNaughton asked which community services would have been made aware of the application to run a market in Rothesay. Mr Forrester confirmed that notification was issued to the Police, the Area Environmental Health Officer, Fire and Rescue and the Roads Authority and that no representations had been received other than the Police objection and confirmation from Fire and Rescue that they had received the notification.

Councillor Taylor referred to the issue in Oban and asked Ms Scott how she would exercise adequate management control to prevent this from happening again. Ms Scott advised that the Market Operation Company was there to assist the market holders not to jeopardise the Market Company. If traders turned up who were not on the list to trade they would be turned away and if they brought produce not on the list of items permitted to be sold they would not be allowed to sell them. She advised that she would make sure the market was run properly. She confirmed that if anyone refused to leave she would contact the Police.

Councillor Colville referred to the application to run the market for 5 days from 9 am to 7 pm and advised that he did not think this would be a good thing for Rothesay and suggested that 2 days from 10 am to 5 pm would be more acceptable. Mr Forrester confirmed that Members could apply a condition to the licence to limit opening hours and the number of days but as this could affect the running of the market and the viability of operating it, it would be appropriate to seek the views of the Applicant. He confirmed that any conditions applied would need to be reasonable and would need to be stated.

Councillor Kinniburgh asked Ms Scott if she dictated what the traders

could sell. Ms Scott advised that she issued a list of market days but did not instruct traders what they could sell. She advised that they applied to her to run a stall and provided a list of what they proposed to sell and she then told them what items from their list they would be permitted to sell.

Councillor Kinniburgh referred to the list of items intended to be sold as detailed in her application form and asked Ms Scott what etc meant. Ms Scott advised that she had over 50 items and could not type them all into the application form. She gave other examples of items such as jewellery.

Councillor Kinniburgh sought clarity on this from Mr Forrester and he advised Members that when considering whether or not to grant the application they could restrict the licence to a list of specific items.

## **Summing Up**

### Police

Sergeant Quinn confirmed that the Chief Constable's objection was to the Applicant which was the Company and not to Ms Scott. He stated that Mr Yaich was not a fit and proper person and that he was still involved. He advised that it had been confirmed that Mr Yaich still made bookings in shopping centres on behalf of the Company and that Ms Scott had no knowledge of the details of these bookings. He stated that Ms Scott repeatedly said "we" but was apparently the sole Director. He questioned whether she travelled all over Scotland to the markets.

### Applicant

Ms Scott advised that she said "we" because it sounded better. She confirmed that it was her Company and that she was running it. She stated that she had no criminal convictions. She confirmed that she would be onsite to deal with any issues and confirmed that the way in which the business now operated had changed.

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

## **Debate**

Councillor Freeman advised that there appeared to be a lot of confusion. He said that officers had made it clear what the grounds for refusal were in the Act and that these include if some person who was not a fit a proper person was going to derive benefit from the activity. He advised that he would move to refuse this application.

Councillor Currie advised that the discussion that had just taken place had nothing to do with the granting the application it was just if the person was a fit and proper person. He referred to the mistakes made in Oban last year and noted that the Applicant had changed the management as a result of these mistakes. He asked if this was going to be raised against the Company for all future applications. He advised that he would move to grant this application.

Councillor McNaughton advised that he was minded to refuse as he did not think the Guilford Square in Rothesay was the most appropriate place to hold the market as this was the main parking area in Rothesay right at the end of the main shopping area.

Councillor Colville advised that to hold a market in Rothesay for 5 days was overkill and that the licence should only be granted for 2 days. He stated that relations had to be rebuilt.

Councillor Trail advised that there was a lot of confusion and double speak. He stated that Ms Scott had advised that Mr Yaich was no longer involved in the business yet he was using the name of the business to get stalls into shopping centres. He referred to the incident which occurred in Oban the previous year. He advised that he did not believe Ms Scott to be a credible witness.

Councillor MacIntyre advised that he was surprised no objections had been received from Rothesay and that was why he had asked if the proposed market had been advertised. He stated that the objection was not against Ms Scott but against the Company.

Mr Forrester advised that the Police had referred to Mr Yaich deriving benefit from the activity. Mr Forrester advised that the grounds for refusal include if the applicant is not a natural person, any director of it, or partner in it, or any other person responsible for its management is not a fit and proper person to be the holder of the licence.

Councillor McQueen advised that the shopkeepers were struggling and that the application should be refused.

Councillor Taylor advised that the Committee needed to consider whether or not the applicant was a fit and proper person right now and that he supported Councillor Currie.

Councillor Kinniburgh agreed that the Committee should consider if a person responsible for the management of the applicant company is not a fit and proper person to be the holder of the licence and from the answers received from the applicant he could not be 100% certain that Mr Yaich had no involvement in the business.

### **Motion**

To agree to refuse the application for the grant of a Market Operator's Licence to Continental Market Ltd on the grounds that the activity to which it relates would be managed by or carried out for the benefit of a person, other than the applicant, who would be refused the grant or renewal of such a licence if he made the application himself.

Moved by Councillor George Freeman, seconded by Councillor David Kinniburgh

### **Amendment**

To agree to grant a Market Operator's Licence to Continental Market Limited

Moved by Councillor Robin Currie, seconded by Councillor Sandy Taylor

The Motion was carried by 6 votes to 3 and the Committee resolved accordingly.

**Decision**

Agreed to refuse the application for the grant of a Market Operator's Licence to Continental Market Ltd on the grounds that the activity to which it relates would be managed by or carried out for the benefit of a person, other than the applicant, who would be refused the grant or renewal of such a licence if he made the application himself.

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

Councillor Alistair MacDougall left the meeting during consideration of the foregoing application.

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING  
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD  
on WEDNESDAY, 21 MAY 2014**

**Present:** Councillor David Kinniburgh (Chair)

Councillor Rory Colville	Councillor Alex McNaughton
Councillor Robin Currie	Councillor James McQueen
Councillor George Freeman	Councillor Sandy Taylor
Councillor Robert G MacIntyre	Councillor Richard Trail
Councillor Donald MacMillan	

**Attending:** Patricia O'Neill, Central Governance Manager  
Graeme Forrester, Solicitor  
Ms Scott, Applicant  
Sergeant Quinn, Police Scotland  
Constable Hamilton, Police Scotland

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were intimated from Councillors Gordon Blair, Mary-Jean Devon, Roderick McCuish and Alistair MacDougall.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR THE GRANT OF TEMPORARY MARKET OPERATOR'S LICENCE (CONTINENTAL MARKET LTD, DUNFERMLINE)**

**Applicant**

Ms Scott confirmed that her earlier presentation to the Committee during the Civic Government Hearing held at 2.20 pm on 21 May 2014 in respect of Continental Market Ltd's application for a Market Operator's Licence in Rothesay was the same as for this hearing. She stressed again that the previous market manager had nothing to do with the market side of the business anymore and that he was involved in another part of the Company. She stated that if this application was refused it would mean the Committee were refusing her.

There were no questions from the Police.

**Police**

Sergeant Quinn confirmed that his earlier presentation to the Committee during the Civic Government Hearing held at 2.20 pm on 21 May 2014 in respect of Continental Market Ltd's application for a Market Operator's

Licence in Rothesay was the same as for this hearing. He stressed that the previous market manager was still a manager in the Company as he was taking bookings for stalls in shopping centres and for this reason could not be considered separate from the Company.

There were no questions from the Applicant.

There were no questions from the Members of the Committee.

## **Summing Up**

### Police

Sergeant Quinn advised that he had nothing further to add.

### Applicant

Ms Scott advised that she had nothing further to add.

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

## **Debate**

Councillor Freeman advised that as previously stated he would move that the application be refused.

Councillor Colville made reference to the opening times.

Councillor Currie asked was there not something that could be done to get both parties to come together to agree a way forward which would allow Continental Markets Ltd to run markets in Argyll. He stated that everyone should not be stuck in the past and that Ms Scott has confirmed that she is the sole Director of the Company. He asked was there not something that could be put down on paper that would satisfy the Chief Constable.

Councillor Kinniburgh advised that he still had concerns.

Councillor Taylor advised that this revolved around one person who has got managerial control of the business. He stated that it could not be agreed that this person was a fit and proper person to hold a licence in Dunoon when they were found not to be a fit and proper person to hold a licence in Rothesay.

Councillor McQueen advised that Dunoon lost 3 or 4 shops last year and stated that this application should be refused.

## **Motion**

To agree to refuse the application for the grant of a Market Operator's Licence to Continental Market Ltd on the grounds that the activity to which it relates would be managed by or carried out for the benefit of a person,

other than the applicant, who would be refused the grant or renewal of such a licence if he made the application himself.

Moved by Councillor George Freeman, seconded by Councillor David Kinniburgh

**Amendment**

To agree to grant a Market Operator's Licence to Continental Market Limited

Moved by Councillor Robin Currie, seconded by Councillor Sandy Taylor

The Motion was carried by 7 votes to 3 and the Committee resolved accordingly.

**Decision**

Agreed to refuse the application for the grant of a Market Operator's Licence to Continental Market Ltd on the grounds that the activity to which it relates would be managed by or carried out for the benefit of a person, other than the applicant, who would be refused the grant or renewal of such a licence if he made the application himself.

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

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING  
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD  
on WEDNESDAY, 21 MAY 2014**

**Present:** Councillor David Kinniburgh (Chair)

Councillor Rory Colville	Councillor Donald MacMillan
Councillor Robin Currie	Councillor James McQueen
Councillor George Freeman	Councillor Sandy Taylor
Councillor Robert G MacIntyre	Councillor Richard Trail

**Attending:** Patricia O'Neill, Central Governance Manager  
Graeme Forrester, Solicitor  
Mr Petrie, Applicant  
Sergeant Quinn, Police Scotland  
Constable Hamilton, Police Scotland

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were intimated from Councillors Gordon Blair, Mary-Jean Devon, Roderick McCuish, Alistair MacDougall and Alex McNaughton.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF TAXI DRIVER LICENCE (A PETRIE, OBAN)**

The Chair welcomed everyone to the meeting and introductions were made. Reference was made to a letter received from Police Scotland which requested that the Committee take into consideration an alternative to prosecution which was considered "spent" in terms of the Rehabilitation of Offenders Act 1974 and Sergeant Quinn confirmed that it was not their intention to present any notification of spent convictions.

The Chair then outlined the procedure that would be followed and invited the Applicant to speak in support of his application.

**Applicant**

Mr Petrie advised that when filling out his application form he omitted his previous convictions. He stated that this was a mistake on his part due to being dyslexic and not understanding the form. He advised that he thought he was to list any convictions he had on his driving licence and as he had none he left this part of the form blank. He stated that it was only when the Police visited his home to advise him that he had completed the form incorrectly and produced a list of convictions which he should have

disclosed that he realised his mistake. He advised that he filled out a fresh application form and handed this into Oban and that was the last he heard about it. He advised that he assumed that this new form had been sent down to Lochgilphead.

There were no questions from the Police.

### **Police**

Sergeant Quinn read out a letter advising of the Chief Constable's objection to the grant of a taxi driver licence to Mr Petrie on the grounds that he was not a fit and proper person to be the holder of a licence by virtue of convictions which Sergeant Quinn summarised the detail of to the Committee.

There were no questions from the Applicant.

### **Members' Questions**

Councillor Currie referred to Mr Petrie's convictions and asked Mr Petrie was he correct to say that the last serious incident occurred 13 years ago when he was 21 years old and Mr Petrie replied yes.

Councillor Freeman also referred to the list of convictions and asked Mr Petrie was he correct to say that apart from a conviction in 2013 other convictions had not occurred since 2005 and 2006, approximately 8 or 9 years ago, and Mr Petrie replied yes.

### **Summing Up**

#### Police

Sergeant Quinn referred to the number of convictions Mr Petrie had which included assault with sexual aggravation and advised that this was a concern as a taxi driver would come into contact with female passengers when they were at their most vulnerable, for example, when leaving pubs late and night. He stated that even although this took place when Mr Petrie was 21 years of age the Chief Constable did not consider him to be a fit and proper person to hold a taxi driver licence by virtue of his convictions and requested that this application be refused.

#### Applicant

Mr Petrie advised that he was now a married man with two children and has worked in restaurants and bars and been in charge of young girls in this type of employment. He referred to the incident which took place in 2002 and advised that he used to go out with the female referred to. He stated that it had been a stupid mistake which he still regretted and wished had never happened. He referred to working for G Force recently with no issues.

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

**Debate**

Councillor Currie advised that people should not be forever reminded of past mistakes and that this should not prevent them from getting on with their life. He stated that it had been a long time since the last major incident and that all the others were minor. He advised that he classed the Applicant to be a fit and proper person to hold a taxi driver licence.

Councillor Colville advised that he would be minded to grant a taxi driver licence for one year as he took on board what had been said about vulnerable people.

Councillor Freeman advised that he supported Councillor Colville's suggestion that a taxi driver licence be granted for one year.

**Motion**

To agree to grant a taxi driver licence for one year to Mr Petrie.

Moved by Councillor Rory Colville, seconded by Councillor George Freeman

**Amendment**

To agree to grant a taxi driver licence for 3 years to Mr Petrie.

Moved by Councillor Robin Currie, seconded by Councillor Richard Trail

The Amendment was carried by 5 votes to 4 and the Committee resolved accordingly.

**Decision**

Agreed to grant a taxi driver licence to Mr Petrie for a period of 3 years, noting that Mr Petrie would be informed of this decision in writing within the next 7 days and that the licence would not be issued until after a period of 28 days to enable the Police to appeal this decision if they wished.

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

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING  
COMMITTEE held in the PUBLIC HALL, ARDRISHAIG, ARGYLL  
on WEDNESDAY, 28 MAY 2014**

**Present:** Councillor David Kinniburgh (Chair)

Councillor Rory Colville	Councillor Alex McNaughton
Councillor Robin Currie	Councillor James McQueen
Councillor Donald MacMillan	Councillor Sandy Taylor
Councillor Roderick McCuish	Councillor Richard Trail

**Attending:** Charles Reppke, Head of Governance and Law  
Richard Kerr, Major Applications Team Leader  
Jean Gallaird, RWE, Applicant  
Jenny Gascoigne, RWE, Applicant  
Jamie McGrigor, MSP, for Applicant  
Iain MacAskill, Inveraray Community Council, Statutory Consultee  
Christine Metcalfe, Avich and Kilchrenan Community Council,  
Statutory Consultee  
Yvonne Boles, RSPB Scotland, Consultee  
Kelvin Nevison, Supporter  
John MacKay, Supporter  
Thomas Cairns, Supporter  
Sam MacDonald, Supporter  
Neil Martin, Supporter  
Martin O'Keefe (for Donald Wilson, Supporter)  
Catriona O'Keefe, Supporter  
Councillor Iain Angus MacDonald (for Councillor Duncan  
MacIntyre, Supporter)  
Mark Potter-Irwin, Objector  
Irene McClounnan, Objector  
Dr Liane Taylor, Objector  
Alan Mitchell, Objector

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were intimated from Councillors Mary-Jean Devon, George Freeman and Robert G MacIntyre.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

3. **RWE INNOGY UK LIMITED: ERECTION OF 15 WIND TURBINES OF UP TO 111M IN HEIGHT TO BLADE TIP, INCLUDING PERMANENT FOUNDATIONS, ASSOCIATED HARDSTANDING AND ELECTRICAL TRANSFORMER BUILDINGS; CONSTRUCTION OF APPROXIMATELY 12.5KM OF NEW TRACK AND WIDENING AND UPGRADING OF ACCESS TRACKS AND ROAD JUNCTION; ERECTION OF ELECTRICAL SUBSTATION AND CONTROL BUILDING AND TEMPORARY CONSTRUCTION COMPOUND; ERECTION OF ONE PERMANENT AND TWO TEMPORARY ANEMOMETRY MASTS UP TO 80M IN HEIGHT; AND ASSOCIATED ANCILLARY DEVELOPMENT: ARDCHONNEL WINDFARM, APPROX 6.5KM NORTH-WEST OF INVERARAY AND 1.5KM EAST OF LOCH AWE (REF: 13/02835/PP)**

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

### **PLANNING**

Richard Kerr presented the application on behalf of the Head of Planning and Regulatory Services. He advised that this was a major detailed application under the government's planning hierarchy for a 15 turbine wind farm on land at Ardchnonnel on the eastern side of Loch Awe, almost opposite the settlement of Dalavich. The proposed turbines would be 111m in height to the vertical blade tip and the site would be accessed from the A83 north of Auchindrain via an extension of an existing wind farm access route, which already served the operational An Suidhe wind farm, which lay to the south of the application site. With the aid of slides he highlighted the extent of the application site which was shown in red with the access track leading off to the A83 to the south. The An Suidhe wind farm could be seen to the south of the site in the open area enclosed by forestry. He also showed the site in the context of the adopted local plan. The site and its access lay within the white area, which denoted the land as being 'very sensitive countryside' for development management purposes. For the purposes of onshore turbines, he confirmed that the adopted local plan contained a map providing spatial guidance for the location of wind farms with a generating capacity in excess of 20 MW. The site lay within a 'potentially constrained area' as depicted in pink on this plan. He advised that this position was under review as part of the forthcoming Local Development Plan (LDP), which would, in time, replace the adopted 2009 local plan and which proposed extended areas of search on both sides of Loch Awe for turbines but only up to 80m in height. Given that the renewables policies of the proposed LDP were widely contested, he stated that they were due to be considered by the government Reporter who was to conduct the Examination of the plan. As there was no certainty as to whether they would survive as proposed, or could be modified or replaced by the Reporter, he confirmed that the draft plan could not be accorded material weight in the consideration of this application at this point in the plan-making process, and therefore the provisions of the adopted 2009 local plan must prevail in this case. He pointed out that Members would be aware that the local plan was augmented by guidance in the Council's 'Landscape Wind Energy Capacity Study' which identified the upland above Loch Awe as having

'Medium' sensitivity to large scale wind turbine development, with some residual potential to accept further wind farms without giving rise to unacceptable cumulative impact. However, he stated, that further capacity was not to be found uniformly across this landscape character type given that there was recognition that skylines formed by the hills on the edge of the 'Craggy Upland' would be more sensitive, due to their visibility from the more settled loch shores and valleys, and to cumulative impacts from the presence of multiple developments. He advised that the Study recommended that development should be sited so as to avoid land forming an immediate backdrop and setting to Loch Awe and its settled fringes and to Loch Avich. It also recommended that cumulative effects from multiple developments, particularly where they contrast in scale or layout, should be avoided given these could impact negatively on the perception of the wider landscape setting of Loch Awe as appreciated from the loch itself and from the road along West Lochaweside. With the aid of further presentation slides he showed the location of the site from the air with the operational An Suidhe wind farm to the south. He advised that the relationship of the site with Loch Awe and Loch Avich should be noted in the context of the various locations which Members had the opportunity to visit yesterday. He explained that the access to the site made its way up from the A83 through the area of forestry plantation and trailed off to the south as it reached open moorland to serve the existing An Suidhe turbines and would necessitate the construction of an additional spur to the north in order to serve the proposed turbine locations. He pointed out on a further slide that the site lay on the open ground in the centre of a photograph which had been taken from the West Lochaweside road north of Dalavich. It was situated toward the upper part of the light green area below the rocky crest along the skyline. The existing An Suidhe turbines lay along the skyline on the right hand side. These were 80m tall, rather than the 111m turbines currently proposed, and lay further away from this viewpoint. He stated that there would be a marked contrast in both height of the turbines and speed of rotation, with the lower turbines being furthest away in views available from West Lochaweside. He advised that upland moorland either side of Loch Awe was under pressure both from encroachment of forestry plantation as well the development of land for wind farms. Accordingly, residual undeveloped areas such as this application site have value as open areas free of forestry and turbines which help to sustain the foraging and breeding of upland birds. He stated that although the site was extensive, the proposed turbines have been positioned off the crest towards the western side of the site. He pointed out that the location of turbines towards the east of the site was abandoned in the early stages of the design process in order a) to avoid golden eagle interests along the ridge, and b) to avoid unwelcome visual influence being shed eastwards towards sensitive locations, such as the Inveraray Designed Landscape and the Loch Lomond and the Trossachs National Park. The consequence of this was that the proposal, in Planning's view, now shed significant and harmful influence over Loch Awe and the communities on the west side of the loch. He reported that the extent to which the proposal impinged upon the loch itself and its landscape setting was a primary consideration in Members' assessment of the acceptability of this proposal. He confirmed that the proposal had prompted 94 objections in all, principally from West Lochaweside along with an objection from the

Avich and Kilchrennan Community Council, which represented the community on that side of the loch. On the other hand, he reported that 58 expressions of support had been received from individuals plus support from the Inveraray and the Glenorchy & Innishail Community Councils. The representations were summarised in the original report to the April committee, plus a supplementary report issued subsequently. He then referred to further slides showing the layout of the proposed development, with the existing access route shown in purple at the bottom of the slide and the new lengths of access track depicted in black. In all some 12.5km of new access track would be required. He pointed out that the areas indicated in brown were potential borrow pit sites for the sourcing of construction aggregate on site and confirmed that if permission were to be granted for the wind farm these would become the subject of separate planning applications. On a further slide he pointed out that the eastern side of the site which had the higher elevation and the scattering of upland lochans was intended to remain free of development, for the ornithological and landscape reasons he already alluded to. He commented that whilst the overall site measured some thirteen hundred hectares, the temporary land take during construction would be 21 hectares, reducing to about half that once the site became operational. The site rose up from around 250m on its western side to reach a summit of over 500m on its eastern boundary. Levels along the length of the site fell gently from 430m to the south to 380m to the north. 75% of the site lay between 250m and 400m, within which the turbines were to be sited at levels between 300 and 350m above Ordnance datum. He referred to a slide which illustrated the type of turbine proposed, although the exact model would be the subject of a tendering process. It was a horizontal axis three bladed machine with a hub height of 80m and a blade tip height of 111m and stated that this should be contrasted with the smaller turbine model employed at the adjacent An Suidhe wind farm which had a tip height of 80m. Each wind turbine would have a generating capacity of 3MW, providing a total maximum installed capacity of 45MW. Each turbine would have an associated external transformer located in a 6m by 4m housing at the base of the turbine tower. A permanent meteorological mast 80m in height would replace the two temporary masts currently on site for the purposes of wind data collection. This would be located immediately adjacent to the southern end of the turbine array. A further slide showed the proposed substation and control building in plan form, with the external electrical equipment contained within a fenced compound to the rear of the control building and its associated parking area. Both the control building and this associated temporary construction compound would be located close to the entrance of the site at the southernmost end of the proposed turbine array. He pointed out the existing access point serving the operational An Suidhe windfarm, which would become the joint access point for both wind farms. It was located on the A83 trunk road on the Inveraray side of Auchindrain and would only require minor alteration to handle larger turbine components than those delivered in connection with the construction of An Suidhe. He confirmed that Transport Scotland in its capacity as Trunk Roads Authority had no objection to the use and improvement of this access point, subject to recommended conditions. He showed the existing access up to An Suidhe, which was largely through conifer plantation. Some limited tree removal and trimming was required to facilitate delivery



of larger components, and he confirmed that Forestry Commission Scotland had no objection to this subject to recommended conditions. He also showed the extent of the improvement works required at the junction and the extent of available visibility in either direction. He then presented a number of photos intended to give Members an impression of the application site and its immediate surroundings given that they had not had opportunity to visit the site itself. For the benefit of members of the public, he point out that Councillors had the opportunity yesterday to visit locations around Loch Avich and both sides of Loch Awe, so that the photomontages of representative viewpoints produced by the Applicants could be appreciated at first hand. He then commented on each of these photomontages in turn. Highlighting the site in the context of designations he confirmed that the site did not lie within or immediately adjacent to any national landscape or nature conservation designations. Referring to a slide showing the habitats across the site which were dominated by the purples of blanket bog and acidic grassland, he confirmed that Scottish Natural Heritage did not raise particular issues of concern related to peat disturbance, loss of habitat or impacts upon protected species. Referring to slides showing the extent of recorded golden eagle activity across the site, which was focussed on the rocky ridge to the east but which included flights over the turbine area, he advised that SNH had expressed concerns about the manner in which development would degrade the existing habitat for wild birds, and the RSPB had objected on the basis that the Applicant's Environmental Statement, in their opinion, underestimated the impacts on golden eagles. Given that recorded activity was towards the periphery of three established eagle ranges, he confirmed that both SNH and the RSPB considered the area of value for juvenile eagles looking to establish territory. This was in the context of reducing availability of unoccupied open moorland due to a squeeze as a result of both afforestation and wind farm development. He reported that SNH had recently commented on the Applicant's response to its consultation and would like it to be known that it disputed the Applicant's contention that the area was relatively unimportant to eagles, as their calculations appeared to be based on flights at collision risk height within 500m of a turbine location, rather than all flights across the site. Accordingly, he advised that the actual level of activity and the estimate of collision risk were under-represented by the Applicants in SNH's view. He went on to show a slide depicting recorded flight activity for other bird species, which did not raise particular concerns in this case. Overall, he indicated that whist SNH had clear concerns and adopted a cautious stance in response to the value the site may have for juvenile eagles, or for the establishment of new territories, it had not formally objected on ornithological grounds, although the RSPB had. He advised that Planning's overall conclusion was that the magnitude of the risk presented by this development to birds of conservation importance was palpable, but not sufficiently certain as to amount to a significant environmental effect which would warrant the application being refused on ornithological grounds. In terms of historic environment assets, he advised that these were not found within the site, being confined to the margins of the loch. He stated that the proposal would have influence over the settings of some of these sites but the anticipated effects have not prompted objection from either Historic Scotland or the West of Scotland Archaeology Service. He stated that the principal determining factor in

this case was the acceptability of the proposal in terms of its visual effects, its influence on landscape character, and the extent to which it would give rise to inappropriate cumulative impacts as a result of the influence of multiple wind farms on Loch Awe and its landscape setting. He then went on to speak in detail to plans showing the extent of the visibility of the proposed turbines. He advised that visibility of the whole development in combination with An Suidhe wind farm was achievable from sections of the coast road between Inverliever and Inverinan, in particular from around the settlement of Dalavich, and from the gateway approach to Loch Awe via the minor road past Loch Avich. He stated that it was necessary for Members to consider whether the magnitude of those short range effects were such as to render the development unacceptable in landscape and visual terms, or whether the effect on this area was an acceptable price to pay for avoiding a wider visual envelope. He referred to 19 representative viewpoints agreed between the Applicants, Planning and SNH. He referred to Scottish Natural Heritage not objecting to the proposal as it did not significantly affect any national landscape designations and advised that it was their practice to limit themselves to advice to the Council in these circumstances. He stated that the absence of an objection ought not to be construed as an indication that SNH was in any way content with the application. He advised that their consultation response concluded that: this proposal would have significant adverse visual impacts when viewed from settlements and the minor road on the west of Loch Awe and parts of the minor road around Loch Avich; that it would have significant adverse visual impacts on National Cycle Route NCN78 and water and land-based recreational users in the western and south-western area of Loch Awe and parts of Loch Avich and their surroundings; that it would impact on the skylines and landscape setting of Loch Awe. It would have a significant adverse impact on the character of Rocky Mosaic landscape character type (LCT) and would introduce wind farm development in to the south of Loch Awe, one of the only remaining areas of Rocky Mosaic LCT in the Loch Awe basin which was free from theoretical wind farm visibility; and it was not in keeping with the Guidance on Development advice in the 'Argyll and Bute Landscape Wind Energy Capacity Study' (March 2012) (LWECS), nor Scottish Planning Policy. He stated that it was therefore SNH's position that in landscape terms the application ought not to be supported by the Council. With the exception of the RSPB and the Avich and Kilchrenan Community Council, he confirmed that none of the other consultees had objected to the application. In addition to the additional representations detailed in Supplementary Report No 1 including the support expressed by Mike Mackenzie MSP, he advised of further late representations. He confirmed that an additional objection had been received from Dr M Brookes of Clachan Seil and that expressions of support were received from Shona Wallace, Education Development Officer at Stirling Council and Tom Cairns of Regional Energy Ltd and from Innes Miller of Caithness. He stated that Councillor Duncan Macintyre had also expressed his support for the proposal on the following summarised grounds:

1. Development of renewables has not proven to be a constraint on the expansion of the business or tourism sectors even where wind turbine development has taken place in designated landscapes.

2. A secure and affordable energy supply is required to support a developed economy. If government targets on emissions are to be met there must be increased acceptance of onshore wind.
3. The Council's priorities in supporting economic development and arresting population decline require investment in rural communities.
4. The site lies in a Broad Area of Search in the forthcoming Local Development Plan and there does not appear to have been widespread objection and the proposal is supported by two community councils.

In terms of Planning's own conclusions on the merits of the proposal, he advised that overall there was a desire by the Council to support the development of renewables in line with its Renewable Energy Action Plan. However, the nature of Argyll was such that, in particular, landscape and ornithological considerations often came into play, and as more developments were consented, cumulative impact considerations assumed more importance. The drive towards increased generating capacity was leading to larger turbines which were more difficult to assimilate into the scenic landscapes of Argyll, particularly where their height was such that it had a diminishing effect on the apparent scale of the receiving landscape. Whilst the visual envelope of this proposal was relatively contained in visual terms, he stated that the area which was impacted upon was affected to a significant degree, due to the relatively close quarter views, the open views over water and the combination with the existing An Suidhe turbines. He advised that the primary issue in this case was therefore the extent to which the immediate landscape setting of Loch Awe could satisfactorily accommodate further wind turbines, along with An Suidhe, Carraig Ghael, Beinn Ghlas and Blargour Farm all being operational, A'Chruach being consented but not yet built further south, and with additional undetermined applications under consideration for Musdale and Glen Lonan to the north. He confirmed that Planning's conclusion was that the proposal did not share the locational advantages of the consented wind farm at An Suidhe, which appeared more in scale with its landscape setting than the larger turbines, which were also proposed to be sited closer to the loch. Also, in isolation, the existing development did not suffer from juxtaposition with another wind farm development of markedly different proportions and rotational speed. This proposal viewed in combination with the existing turbines would not, in Planning's opinion, secure a cohesive development in scale with its landscape setting, and accordingly, it would undermine landscape character to the detriment of the wider landscape setting of Loch Awe. Additionally, the proposal would exert a major adverse visual influence over relatively short distances over the loch below, the western lochside, and on the gateway approach to Loch Awe as the road dropped down from Loch Avich. This area encompassed loch-side communities, recreational assets such as cycle routes, walking areas, and waters used for angling and boating, and holiday accommodation, where sensitive receptors, including those with a focus on landscape assets and scenery, could be expected to be concentrated. Accordingly, he advised that whilst the overall visual influence of the site was reasonably contained, the relatively close range landscape, visual and cumulative effects which

it would exert over the adjacent loch, and the landscape setting of the loch would detract markedly from the composition of elements which contribute to the scenic quality of the area. He stated that the Applicant's own Environmental Statement acknowledged that there would indeed be major visual impacts on locations to the west of the site. It was not considered that the contribution which the development could make to help arrest the effects of climate change was of such magnitude that it could offset the locally harmful consequences of the proposal and accordingly the application was recommended for refusal for the reasons given in the main report. These reasons were founded on the shortcomings of the proposal in landscape, visual and cumulative impact terms and the consequent conflict with adopted development plan policy, government advice and the guidance given in the Council's Landscape Wind Energy Capacity Study.

## **APPLICANT**

Jean Gallaird gave a presentation on behalf of the Applicant. She advised that RWE recognised the site as an excellent location for a wind farm on account of high wind speeds, the absence of any statutory designations, the distance from residential properties and the opportunity to utilise existing infrastructure. She stated that the Planning Department recognised the potential of the wider area and it was subsequently identified as a Broad Area of Search for Turbines in the proposed Local Development Plan. She referred to the design of the wind farm and advised that there were six design iterations and the final layout was considered to be the best because it was unlikely to cause concern for the LLTNP, had no visibility from the main tourist routes of the A83 and the A816, had no visibility from Inveraray, Oban or Lochgilphead, and visibility would largely be confined to the local area around Loch Awe and would be very limited beyond that. She highlighted that the concentration of viewpoints on the west side of Loch Awe had resulted in a prediction of significant impacts at the village of Dalavich and a cycle route, however no significant impacts were anticipated upon any Areas of Panoramic Quality (APQ's), The Loch Lomond and Trossachs National Park (LLTNP), or National Scenic Areas (NSA's). She confirmed that consultation with the three community councils of Inveraray, Avich & Kilchrennan and Glenorchy & Innishail began in January 2013 and that this included notification of Pre-Application Consultation, public exhibitions (including notification in local press) in Inveraray, Dalavich and Portsonachan, newsletters, and attendance at scheduled Community Council meetings. She stated that whilst they appreciated that there have been objections, they considered that these should be considered in balance with the number of local letters of support and advised that they were pleased that both of the community councils for the area in which the scheme (and its transport route) were located had chosen to support the application. She added that the application had received overwhelming support from a range of local businesses including a hotelier and boat operator. She advised that no consultees had objected and that the only objection was from the RSPB who were not a statutory consultee. She stated that SNH were the statutory consultee for ornithology interests and that they did not object to the proposal on these grounds. She referred to the list of supporters and objectors in the report

of handling and noted the amount of local support. She highlighted that their other schemes have potential to benefit the area too and advised of an estimated £46.7m of total direct investment in Argyll comprising:- £20m spend during operations and maintenance phase; £17.6m in business rates; up to £5.6m in community benefit; £3.5m during construction; and an estimated 22 job years during the construction phase, and 7 (FTE) during the operation phase. She referred to spend in respect of the NOVAR II wind farm at Ross-shire and advised that the New Economics Foundation (NEF) Consulting, in using the local multiplier approach found that for every £1 that RWE invested in civil and electrical contracts, 52p was subsequently re-spent in the local economy and considering Scotland as a whole, each £1 of investment that was shown to have resulted in a total of 71p of additional spending. She confirmed that RWE were committed to ensuring that the benefits of investment were felt locally and to this end were holding a supply chain event on the 11th June. She asked the Committee to carefully consider the merits of approving Ardchnonnel in the context of: there being a clear distinction between SNH raising concerns and SNH objecting. SNH have not objected to this development on the grounds of landscape and visual impacts because none of national significance are predicted (SNH guidance – Identifying natural heritage issues of national interest in development proposals); most of the objections relating to visual impact having cited an expected knock on effect on tourism. To put this in context, of the 200 things to do in Argyll and the Isles (listed on Visit Scotland website), 10 are within 10Km of Ardchnonnel (9 being in Inveraray which has very limited visibility); and the proposed Local Development Plan being of limited weight but not providing a constraint to the principle of development on the site. She then advised that Jamie McGrigor of Ardchnonnel Farm would now like to say a few words.

Jamie McGrigor advised that he was speaking solely as a Loch Aweside hill farmer. He stated that he has been working on the farm since 1964 and wished to continue. He commented that he was proud of the fact that his family gave employment to others on the farm and still did. He advised that hill farming was not easy and that farmers were encouraged to look at diversification and he referred to a number of diversification schemes he had undertaken including politics. He stated that agricultural ground was hard won and once lost to forestry etc could never be got back. He advised that so much of Loch Aweside was under afforestation. He confirmed that Ardchnonnel Farm had been a main focal point for most of his life. He stated that the opportunity for RWE to erect turbines on the farm would be a form of diversification which would help to keep the land as an open space. He advised that Ardchnonnel Farm was in immediate proximity to An Suidhe wind farm and stated that it did not detract from the beauty of the place and that the noise was very slight. He stated that the turbines blended in well with the heathery hills. He referred to being the Chair of Loch Awe Improvement Association and advised that he has always wanted to improve people's lives. He stated that the investment return on the community benefit would be five times greater than that of Carraig Ghael. He referred to comments about the possible collapse of tourism and stated that hundreds of visitors to Argyll took in walks up to turbines. He advised that perception was the key and that turbines were part of the scenery and that tourism continued to go on. In conclusion he

advised that he could see the income from the turbines securing the sustainability of the farm for many generations. He stated that he did not know of any farmer that did not believe that climate change was happening and advised that renewable energy did something to combat that.

## **CONSULTEES**

### Inveraray Community Council

Iain MacAskill advised that he was speaking on behalf of the Inveraray Community Council. He confirmed that they had taken part in the consultation process and that the proposal was accepted throughout the Community Council area. He referred to RWE's attendance at Community Council meetings where they explained their proposal in detail and answered any questions that came up. He advised that the Community Council set up an online survey which was published through social media sites. He confirmed that there were 580 views of the survey and that 90% of the people that had responded approved of the proposal. He stated that over half of those who responded stayed in the Community Council area. He advised that all of the information given to the Community Council was made available to the wider community and he expected that if permission was granted that consultation would continue with RWE in respect of their transport management plan to ensure minimal disruption to the community. He stated that taking account of disruption this would be greatly overpowered by the long term economic benefits and he recommended support of the application. He advised of much needed regeneration work required in Inveraray which this proposal would assist. He referred to the additional jobs that would be created along with work for local contractors. He advised that he believed these benefits outweighed any negative impact the proposal would have. He referred to not only the construction industry but local hotels and guest houses benefitting from this proposal.

### Avich and Kilchrenan Community Council

Christine Metcalfe, on behalf of Avich and Kilchrenan Community Council, read out the following presentation:-

The Council Planning Officers have identified sound reasons for rejection of this application. To provide support for that recommendation I should like to address a few key issues.

It is worth remembering the sheer scale of what is proposed here. The application is for 15 turbines, each up to 111m high. The existing turbines at An Suidhe, clearly visible in many views, are only 80m to blade tip. There is also the ancillary infrastructure of 12km of new tracks and 5 borrow pits which have yet to be the infrastructure of 12km of new tracks and 5 borrow pits which have yet to be the subject of a planning application. This proposal will have major impacts on its own and major cumulative impacts. It appears that no alternative sites were considered. The ES recognises the extent of the significant landscape and visual impacts, although, despite the conjunction with An Suidhe, it claims no

significant cumulative impacts. That is not accepted. The local communities are also very concerned about noise impacts, an aspect that is considered to be under assessed in the ES. The applicants have also lodged a 65 page Planning Statement. That covers just about everything and anything almost to disguise the conclusions that should flow from the significant adverse effects recognised in paragraph 5.3 – the Conclusion. That conclusion should be that the development is contrary to the Development Plan, on account of significant adverse effects, and the application should be rejected. The Community Council submitted a detailed objection to this application, you will all be aware of the detail in that objection, and there is no need to repeat that detail in this presentation.

The Council Planning Officers have produced an excellent report on this application. They have recommended refusal and this Hearing is the related pre-determination Hearing. The absolute prime point in my presentation today is to strongly support that report and its recommendation. The very strong advice of SNH – really an objection bar the artificial control imposed on the SNH staff over the use of the word object – is summarised for Members. It is a stark assessment of the significant adverse effects of this proposal. The objection of the RSPB is set out. The RSPB do not often object to wind farms and, so, when they do, great weight should be given to what they say. The community council objection is summarised and the representations, for and against, are fully and fairly set out in considerable detail. The subsequent assessment and summary of the determining issues correctly identifies that the LVIA and cumulative LVIA and ornithology are key (even if a final, definitive conclusion is not reached on ornithology impacts despite the position of both SNH and the RSPB. The Appendix A “Planning and Land Use Assessment” is comprehensive and detailed, with all of this contributing to the recommendation to refuse planning permission. The report concludes that the proposal is not consistent with the Development Plan and that planning permission should be refused due to adverse landscape, visual and cumulative impact on the landscape setting of Loch Awe which cannot be overcome by the imposition of planning conditions or by way of legal agreement. Two comprehensive reasons for refusal are then set out. The community council would strongly endorse that recommendation and the two reasons for refusal.

N.B. Whilst on the subject of development plans, a relevant recently received notification from the Council, confirmed that Scottish Ministers have been made aware that a representation made in April 2013 concerning the Argyll & Bute LDP has not been resolved. A paragraph included in the response to the consultation related to Public Health: and I quote. “The UK government is signatory to the Rio Declaration which requires the Precautionary Principle to be invoked where there is uncertainty about the safety and wellbeing of humankind, animals and plant life. Compliance with this legal duty would mean the prohibition of wind turbines near to people’s dwellings and the introduction of a wide buffer zone until such times as the scientific evidence confirms that there is no risk to human health. Under present Broad Areas of Search, and within current and proposed plans, the Community of Dalavich and others, are expected to endure the unavoidable sight and sound of turbines, as any consented within the Wind Farm Policy map Broad Areas of Search

will be nearer than those already only too visible. This raises the problems of property blight, negative tourism effects and most importantly, the increasingly documented and reported adverse health effects to near neighbours from wind turbines.”

Recent and very unfortunate decisions have reinforced the need for the Council to be rigorous and consistent in the application of its policies on wind farms and then to be extremely robust in defending those decisions. The proposed Freisdail wind farm was comprehensively rejected by the Council, the developers appealed, and a Reporter from the DPEA overturned the Council decision and granted planning permission notwithstanding the clear breaches of policy and guidance. He did so without hearing any oral evidence whatsoever. His decision letter is very weak indeed and there is no detailed analysis of the effects from viewpoints. In the face of such adversity (the first such appeal decision to be lost), a perverse decision that is contrary to what the Council has been trying to achieve for over a decade, the Council must maintain its clear policy approach to wind farms and reject this Ardchnonnal proposal.

It is not easy to wrestle with the competing demands of national renewable energy electricity generation targets and protecting people, the environment and habitats from the encroachment of wind turbines or other developments onto sites where they are clearly unsuitable. As reported in the media, and confirmed by Karen Bradley MP, figures from the Department of Energy and Climate Change prove that enough renewable energy projects have already been granted planning permission to meet Britain's 2020 green targets and a new analysis shows all 1,000 projects still in the planning system are surplus to requirements. That being so, it provides an assurance to decision makers that there is no longer a need to grant further applications for wind turbines on unsuitable sites or in areas where the landscape has already reached capacity. Rejecting applications of this kind, which are contrary to the provisions of planning policy, actually demonstrates compliance with National Climate Change, Energy and Planning Policy. That such a valid rejection will impress affected residents and those tracking the need for a guillotine to be employed, is obvious. It has also been confirmed that about £35m has been awarded since the start of the financial year to the owners of 21 renewables projects — all of them in Scotland — because Britain's power network could not cope with the energy they produced. These compensation payments, paid for by the public through their electricity bills, will continue to increase as more wind farms are built. A 2009 report by Frontier Economics for the regulator Ofgem estimated the cost of this scheme would reach £2bn by 2020. This is entirely relevant for consideration during this Hearing as the wider economic and environmental effects of renewable energy proposals are rarely ever set out in the supporting documents for such applications. The Application should be refused in accordance with the recommendation. In terms of the economic impact of the wind farm many claims are made. However, there is little evidence of any significant local, permanent wind farm employment in Argyll and Bute and, at a national level, Ministers cannot provide any independent detail in terms of companies, locations or job numbers to substantiate their claims for the numbers working in renewables in Scotland. One activist has recently had confirmation that



future job creation announcements are counted as jobs!

This is a poor application on an unsuitable site. The application ES, for all that we have criticised it in the past, recognises that there will be significant adverse effects, and we consider that there will also be adverse cumulative effects. These significant adverse environmental effects are not capable of being mitigated away. Given that conclusion then the application is contrary to national and local planning policy and guidance and should be refused planning permission. The community council strongly endorses the recommendation of refusal that has been put in front of you. Finally, it is also worth noting this month's rejection by Scottish Ministers of a planning appeal for the Rowantree wind farm application near Fountainhall. The decision notice stated: "Scottish Ministers accept the Reporter's findings and agree with the reasoned conclusions with regard to impact on amenity due to noise and by the close visual relationship with nearby turbines impacting landscape." It would be almost impossible to find a more identical description of effects from the Ardchnell proposal which would be inflicted upon areas of Loch Awe and affected communities.

### RSPB

Yvonne Boles advised that she was the RSPB Conservation Officer for the Forth and Lomond Area and that her colleague Andy Robinson, the Conservation Officer for Argyll and Bute who provided the response to this application, was unfortunately unable to attend today. She stated that while she would not be able to address detailed questions on this case she would like to take this opportunity to provide a brief statement of their position on this application, emphasise their main concerns and respond to issues raised in the Committee Report. She stated that RSPB Scotland objected to this proposal on the basis of an incomplete assessment of cumulative impact on golden eagle which was an Annex 1 species (as listed in the EC Bird Directive) and advised that further assessment and consideration of mitigation measures was required. She commented that the proposal was located in an upland area where eagle territories were confined by neighbouring territories and pre-existing land uses (namely forestry and wind farms). This meant that the potential for impacts on this species, through displacement, affecting range viability, was a serious issue. Given other wind farms within this area, cumulative impacts were a concern and required serious consideration and full assessment. She stated that they were therefore relieved to see that this application was recommended for refusal but were concerned that the potential impacts on golden eagle, one of the most iconic species of wildlife present in Argyll, have not been properly assessed or given appropriate weight in the council's assessment. She stated that RSPB Scotland's principle objection to this application related to the lack of assessment of cumulative habitat loss, and effects on range viability for golden eagle in this part of Argyll. There were numerous other wind farms, existing and planned, which, together with forestry developments, meant that the potential for cumulative and in-combination impacts on golden eagle through displacement was a very serious concern and needed to be addressed. She advised that they have previously requested that Argyll and Bute Council, as the decision maker, undertake a cumulative assessment prior to any further wind farm applications being

determined for this area. This, she stated, was urgent and was not being addressed elsewhere. She reported that RSPB Scotland had an outstanding objection to the Council's Proposed Local Development Plan because the Wind Farm Policy Map did not adequately address cumulative pressures on golden eagle. She stressed that this was an obvious and serious omission and called into question the council's compliance with the Habitats Regulations. She added that no cumulative assessment of habitat loss had been undertaken, so the council could not adequately assess likely impact on golden eagle. She stressed that they therefore considered that the Council have not fully complied with their duties in relation to this Annex 1 species. She reported that the Habitat Regulations were reviewed in 2012 and new duties were introduced in relation to wild bird habitat which have implications for Local Authorities, including their functions in determining planning applications. In short, the amendments included the objective of preserving, maintaining and re-establishing habitat for wild birds in Scotland and a requirement that a competent authority must use all reasonable endeavours to avoid pollution or deterioration of habitats of wild bird in Scotland. She stated that these various requirements sat alongside measures being taken within the network of protected sites (Special Protection Areas or SPAs). In addition, she said that the Council also had a general duty to further the conservation of biodiversity through the Nature Conservation (Scotland) Act 2004 and it was not clear from the Committee report how this duty had been applied. She commented that the Planning Officer's Committee Report stated that the Applicant had provided a response to our objection. The report states that "The RSPB in different parts of its response suggests that under-estimated collision risks and displacement are of importance, whereas in practice both cannot be true". She confirmed that they have not seen this response from the Applicant or had an opportunity to respond but wished to emphasise that this statement from the application was misleading. She advised that while an individual bird can obviously not be displaced after having been killed by colliding with a turbine, it was certainly possible that an individual could be subject to both displacement effects and to risk of collision if displacement from the wind farm was not 100%. She stated that the cumulative collision risk figure for golden eagle was revised upwards from 7 to 8 to 15 to 16 over 25 years following submission of the application. This followed a query from SNH regarding the methodology used by consultants. She stated that they were only made aware of this increased figure having been copied into SNH's response of 18th March. As far as they were aware, this new assessment was not issued for consultation so no interested parties, other than SNH, have had an opportunity to comment. She stated that this information would presumably be a material consideration in the determination of this application and they considered that it should have been treated as Supplementary Environmental Information as defined under the EIA Regulations. She advised that Argyll and Bute Council should review the decision not to consult on this information before any decision is made on this application, as requested in their letter of 20th March. She commented that she hoped that these points and their overall position on the application would help the Council and the Committee and she urged the Council to undertake a cumulative capacity assessment for golden eagle across the area of Argyll and Bute before further wind farm applications were determined. She advised that this would assist greatly

in ensuring that wind energy development in Argyll was delivered in a way that was well planned and sustainable. In summary, she confirmed that RSPB Scotland objected to this proposal on the basis of an incomplete assessment of cumulative impact on golden eagle which was an Annex 1 species.

## **SUPPORTERS**

### Kelvin Nevison

Kelvin Nevison advised that he lived at Ardchnonnel Cottage directly opposite Dalavich with his wife and has done so for the last 12 years. He stated that he had no problems with any of the existing (completed) wind farm projects or any that may have pipeline status and, in fact, after a while, they hardly noticed the existing ones. He advised that their house would be the closest to the proposed Ardchnonnel wind farm site and by now they were well used to the scope of works involved and the sound of the hydraulic pecker. From their point of view, the benefit far-outstripped the short term works programme. He stated that the intended site access route, once completed, would provide additional facilities for visitors including those with disabilities given the relative low gradients. He advised that the enhanced views from An Suidhe wind farm access roads were quite special. He advised that the Community Benefit awards at 10% of the contract sum were clearly the most generous on offer when compared with similar organisations and so far, many local organisations were attracting benefits and indeed, new administrative skills were being learned to secure a successful completion of application documents. He stated that particularly worthy of note, was the participation of Glenorchy and Innishail Community Council, in which the site was located. He said that it has been an unexpected surprise that a local company has been able to expand their organisations staff numbers due to increased workloads and stated all credit to Euan Anderson for his attention to a good business opportunity. Finally, he asked where would this project be without the skills and commitment of the RWE Innogy's commercial department and expressed many thanks for a job well-done. He stated that the decision was now one clearly for the elected officials.

### John MacKay

John MacKay advised that as someone who was born in Glen Aray, and has lived all his life within this area he would like to speak in support of this planning application. He stated that his wife and he moved to Lochaweside where they lived for 42 years and for 35 of these years until his retirement he worked on Ardchnonnel Farm for Sir James McGrigor. He advised that their elder son continued an association with Ardchnonnel and that the farm and its surroundings have been a huge part of his life and of his family for many years. He advised of particular points he would like to make. He confirmed that he had read various objections to this scheme which claimed it would have a negative impact on the area's tourism industry. He stated that tourism came in many shapes and forms and in his view the proposal could in fact benefit tourism. He advised that over the years the farm hill track has been a popular walk and new tracks would open up wider areas for walking visitors. He added that it would

make it much easier for visitors to access the many kinds of wildlife and flora and for the many locals who enjoy fishing the Hill Lochs. He said he was certain that the existing wind farm at An Suidhe had done nothing to limit animal and birdlife – in fact it had definitely enhanced numbers of red grouse, golden plovers and meadow pipits. He said that he sincerely believed the turbines themselves would become part of the landscape and possibly a tourist attraction in their own right. He advised that as someone who has spent more time on Ardchnonell Hill than anyone, he read the RSPB's response with interest. He stated that the RSPB mentioned the possibility of eagles nesting on the site but the areas mentioned were simply not suitable. He commented that in the last 40 years he had seen absolutely no evidence of any eagles nesting or even any attempt to nest on the site. He advised that there was no viable golden eagle nesting sites on the hill. He stated that Ardchnonell had adapted to meet the change in agriculture over the last 40 years – of which there have been many. He said that farming practises needed to keep developing and expanding and that this development would make it possible to continue to reinvest in improvements and in new ventures for future generations of families to continue to live and work on this farm and for locals and the many visitors to enjoy. He stated that the alternative was that Ardchnonell could become another farm which was given over to forestry and the existing rich habitat would be blanketed by trees and lost forever. In conclusion, he stated, that over the years he has spoken to many people visiting Mid Argyll and when in conversation has sought their views about the area. He advised that almost all people spoke about the natural beauty, the lochs and glens and on a bad day a few complained about the midges, the rain, fish farms, timber extraction, wind farms, fuel costs and cost of living. He said that he pointed out to them that this was how we were, it was what we were, and it was Scotland at work.

### Thomas Cairns

Thomas Cairns confirmed that he had submitted a letter of support for this proposal. He advised of first working in Loch Awe in 1992. He noted a key concern for objectors was the visual impact and stated that most of the time you could not see anything because of the mist and that Loch Awe was misty a lot of the time. He stated that this was a local problem and not a national problem and given that the Loch Awe area already had wind farms it would be better to concentrate them here rather than have them taken up by other rural areas.

### Sam MacDonald

Sam MacDonald advised that he was here today to support the planning application to erect 15 wind turbines in Ardchnonell. He said it gave him great pleasure to speak on behalf of this proposal because he had been a strong advocate for wind power generation since the early 90's and should declare an interest since he was responsible for the construction of the Beinn Ghlas wind farm at Taynuilt in 1999 in partnership with National Wind Power. He stated that wind farming was suggested to him by the environmental consultant Dr Simon Lawrence who knew of his disappointment at not being given planning permission to plant forestry on Barguilean Farm. He indicated that was in March 1993, some 21 years

ago. Today he advised that their 14 Turbines were a visible and familiar landmark in the district and the children of Taynuilt primary school tagged them as "The Angels on the Hill". He stated that their planning application took over six years of careful, methodical and exhaustive investigation and research. Beinn Ghlas was finally commissioned in May 1999 and has won many plaudits for the care that was taken with the North Lorn environment. He believed they were told that Beinn Ghlas set a standard for other wind farms in Scotland to follow. He commented that nothing much had changed locally since the wind farm was built. He advised that to the amazement of the owners of local hotels tourism didn't collapse, birds didn't fall out of the sky or collide with the turbine blades, fears about dreadful noise and headline grabbing tabloid banners such as "My Wind Farm Hell" proved unfounded, and astonishingly increased in value even when in sight of the turbines. He confirmed that jobs were created following the construction of Beinn Ghlas and advised that young William Dawson from Taynuilt became a turbine service engineer, went on to establish his own company and then employed more than 40 workers installing and servicing turbines all over Scotland, the UK and Europe. He stated that today Dawson Energy has become one of the global names in operational support services for the wind energy sector. The shock and horror of it all for those doomsayers who cast doubt on what he was initiating all those years ago. Love them or loath them, he stated that these majestic machines far from simply industrialising the landscape had actually added another set of manmade features to the modest range of hills in the North Lorn area. He confirmed that he was proud of what they had achieved, excited and encouraged by other wind farm development on neighbouring farms. He commented that he was surprised and disappointed that this project at Ardchnonnel may be turned down on the grounds of its visual impact. He confirmed that Taynuilt's community supported the Beinn Ghlas proposal from the outset and remained so. Modest as it was, he said that the £8,000 contributed each year to the local community council has produced more than £100,000 of local investment in support of a range of projects for schools and sports facilities since the wind farm was built. With a repower of Beinn Ghlas scheduled for 2018 with only 12 turbines the contribution to Taynuilt and Lochavich Community Council would have been an additional £35,000 a year but this contribution will now be split by Argyll and Bute Council in their wisdom and shared with other community councils diluting what he had hoped would be increased resources to his own village. In addition he advised that a sum of £20,000 would be given annually as an endowment to secure the continued maintenance and development of his brother Angus's Memorial Garden at Barguilean until 2048 and confirmed that several thousand visitors were now welcomed every year to this beautiful location. He confirmed that they took many visitors up the 2.5 kilometres road to see the Beinn Ghlas turbines. Some of them are vehemently disapproving of wind farming. So they park the car under a turbine, turn off the engine, wind down the windows and wait for comments. He stated that it was always the same: "But we thought the turbines were reported to be noisy...and all we can hear is the wind". He confirmed that he was supporting this proposal at Ardchnonnel because it clearly met all the planning criteria and because he did not want his great grandchildren to curse his generation for not trying hard enough to address the degradation of our planet. He advised that during one week

in February this year mighty industrialised Germany was utilising 30% of its energy supply sourced exclusively from renewables. He stated please stop biting your finger nails so nervously over landscape issues; approve Ardchonnell Wind Farm quickly, and keep the majestic angels waving their arms on the hills.

Neil Martin

Neil Martin advised that he was representing George McNaughton and Sons, a local civil engineering contractor involved in renewables over the last 12 years which had been particularly helpful to the business during the economic downturn. He advised that in 1992 the business employed 29 members of staff and that this had risen to 48 employees with 12 – 15 working directly in renewable projects. He stated that 26% of the business' turnover was due to the renewable energy sector. He referred to other wind farm sites the business had been involved with and stated that this application would help the Argyll economy by keeping people in work and creating new jobs.

Martin O'Keefe

Martin O'Keefe read out a letter of support from Donald Wilson, proprietor of Loch Awe Boats. Mr Wilson stated that the proposed wind farm would bring much needed investment to the area. Reference was made to tourism not being impacted upon by wind farms. He advised that visitors to the area had stated that they did not object to this proposal and that the development would not prevent them from returning to the area. He commented that wind farms were a familiar and accepted part of the background and that it was believed that the local economy would benefit during construction by way of employment and local spend. Reference was made to community benefit totalling £225,000 per year which would be shared across the 3 Community Council areas which would generate growth in local businesses. He advised that this benefit was five times greater than what was available from other wind farms in the area. It was noted that an existing access track would be used and comment was made that the construction of extra hill roads would assist the management of the hill farm. Reference was also made to Planning Advice Note 73.

Catriona O'Keefe

Catriona O'Keefe advised that she was born and bred in the area and ran a self-catering business on the west side of Loch Awe. She stated that when Carraig Ghael was finalised in February 2013 her first season of guests that year were asked for their views on it. On the basis of comments made she believed consent of this wind farm would not affect her business in the future.

Councillor Iain Angus MacDonald

Councillor MacDonald advised that he had been asked to speak in support of this application on behalf of Councillor Duncan MacIntyre. He referred to the fact that some people loved wind farms and others loathed

them. He advised that whatever the decision made today one party would leave feeling justice had not been done and that there was no middle ground. He stated that the PPSL Members were being asked to test two versions of reality, one being the Applicant and Supporters' version and the other being the Objectors' version and that it would be up to them to decide which version of reality was most plausible. He referred to SNH not making an objection and that their response could only be treated as an advice note. He stated that he believed the economic benefits arising from the proposal would cancel out any adverse impact by a long shot. He referred to community benefit totalling £225,000 per annum and rates to the Council of £9,000 per annum. He advised that empowering communities and embracing new technologies should be allowed to happen. He added that wind farms had a limited lifespan and that to refuse this application would result in a loss of confidence by inward investors to Argyll and Bute if we were seen as being over cautious and risk adverse. He asked the Committee to take this risk and approve the application and let the community go free.

## **OBJECTORS**

### Mark Potter Irwin

Mark Potter Irwin advised that he has lived in Argyll for 43 years and has had family and work associations with West Loch Awe for all that time and that he moved to Dalavich from Craignish two years ago. He stated that he was not, in principle, against renewable energy but was strongly opposed to Ardchnonnell as being one of too many wind farms proposed in the Loch Awe area and the most outrageously positioned of them all. By way of introduction he advised that he needed to explain about the situation their community found itself in. He stated that for almost a year and a half the communities of Dalavich, Inverinan and the Loch Awe Cabin site have had this ill thought out project hanging over their heads. He added that the anxiety and stress caused by the level of the forces ranged against them in the shape of RWE, one of the biggest power producers of Europe, a Conservative MSP, who should have known better, and the residents of Inveraray and East Loch Awe most of whom have shown no understanding of their plight and appeared to only have financial gain as their objective. He stated that the final insult came in the shape of a letter of support from Mr Mike MacKenzie MSP that was, he advised, nothing more than a political attack on Argyll and Bute Council and displayed total ignorance of the community's concerns and the distress they felt. The wellbeing, financial security and visual amenity of the only concentrated community on the West of Loch Awe seemed to have been sidelined and dismissed. He said that he hoped that by making their submissions of objection these wrongs could be heard and maybe addressed. He advised that fortunately they had received words of support for their situation from Mr Michael Russell MSP which he read out because, he believed, they were relevant. He reported that Mr Russell, at the Dalavich Improvement Group AGM 31/05/13, stated his willingness to appeal on behalf of Dalavich to the appropriate Minister. He also stated that he would be prepared to approach Argyll and Bute Council and said that the 'application constituted unacceptable cumulative impact' and that we should 'involve our Community Council in order to

oppose the development'. Since then, he advised that Mr Russell has been kept fully informed of events and the support received by Avich & Kilchrenan Community Council. He referred to an email response from Mr Russell to the community's request for support and advice. Mr Russell advised that it was vital the Council was contacted urgently to advise that the community was opposed and to ask them about the procedure for formal objection. He then advised that the objectors should then get a village petition based on valid objections and should also contact SNH and SEPA, particularly about landscape issues but also about any errors or omissions in their considerations as statutory consultees. He also stated in his email that if the local Community Council was also prepared to oppose that would be important and that the local press should know what the community was against. He also read out a final email response from Mr Russell regarding the results of an initial planning meeting at Kilmory. Mr Russell stated that he agreed that the community should still make its view known at every opportunity so that Councillors did follow through on the recommendation. He advised that it was substantial progress - well done. He also stated that it proved that not all wind farms were done deals, which was a message that needed to be wider known in Argyll adding that there was too much speculative application by companies which upset communities particularly in cases where, in reality, the likelihood of getting permission was less than 50/50.

He then read out the following objection which had been submitted by from Mark Hamilton and, which he stated, was echoed by many of the community:-

"I consider the impact of the development, when seen from the cabin park and surrounding area, would be unacceptable due to the siting and scale of the turbines position supported by the following:- In assessing the An Suidhe application (01/01318/DET), both SNH and the Inquiry Reporter noted a "significant" visual impact on the area around Dalavich with SNH describing the impact as "unacceptable". The Council's report of handling, whilst recognising the significant impact, concluded that the landscape had the capacity for "one windfarm of this scale", thereby recording that a larger or more prominent development would likely have been considered unacceptable. The visual impact of the proposed development alone is significantly greater than the existing turbines at An Suidhe; the visible size (the perceived height in the landscape due to foreshortening) when viewed from Dalavich would be around 3 times that of the existing turbines. Further, due to greater proximity and being viewed partially against a backdrop of land (not solely sky) the turbines would have greater visual contrast with the surrounding landscape, thereby increasing their visibility still further. The cumulative impact of the two phases of development (the sites being adjacent, the new application is effectively for an extension) would far exceed the capacity noted in the Council's previous assessment of the area and result in disjointed ribbon development. More recently the Council issued guidance on the development of wind farms (Argyll and Bute Landscape Wind Energy Capacity Study March 2012). It does state that turbines should be: placed well into the interior of the Craggy Upland plateau... The scale and placing of turbines does not respond to the nearby settlement and developing tourist amenities in Dalavich. The substantive risk is this



development will ruin the vital tourist trade in this area”.

He asked the Committee to refuse the application.

Irene McClounnan

Irene McClounnan advised that she was speaking on behalf of cabin owners and local businesses in Dalavich who objected to the proposed development due to the significant, detrimental visual impact which would unacceptably reduce the amenity of the landscape within and around the cabin site and village; concerns over visual flicker and noise transmission on the wellbeing of the site users and villagers; the impact on opportunities to see birds of prey in the area, and the consequential economic impact of these issues on both cabin owners and the local communities. The first point she addressed was the Visual Impact Assessment. She advised that they considered that the visual impact of the development, when seen from the cabin park and surrounding area would be unacceptable due to the siting and scale of the turbines and that the cumulative impact of the proposed and existing arrays would be turbines of different scales and rotation speeds causing an inharmonious and encroachment arrangement. She asked the Committee to note that their position was supported by Scottish National Heritage and the Council's own report of handling which described the proposals as contrary to policy. She stated that the Applicant's submission recognised the significant visual impact when seen from Dalavich but stated that this had been mitigated by trying to arrange the turbines evenly within the group and reducing their size from 125m to 111m; a 12% reduction from a high starting point but still more than 40% taller than the turbines installed at An Suidhe which Dalavich had to look at everyday. She confirmed that the objectors did not accept that such mitigation made their proposition to place large scale turbines in the proposed location in front of Dalavich acceptable. The next point she made on behalf of cabin owners and small businesses was that they were concerned about the potential of the development to impact the wellbeing of tourists using their businesses. She stressed that owners were concerned by recent research on the impact of flicker from turbines on people with photosensitive epilepsy. She commented that the turbines were intended to be sited to the east of Dalavich, with blades breaking the horizon thereby interrupting direct sunlight around sunrise for much of the year, an effect which would be doubled by the reflective nature of the loch which was normally calm around sunrise. She said that they understood that this may cause a significant risk to owners, guests, local residents and others using the area for recreation - such as anglers on the shoreline who were affected by this condition. Further, she advised that the area around Dalavich was remarkably quiet and sound transference so high that you could often hear people talking across the still loch. She stated that audio impact would reduce the amenity of a landscape where people come to escape noise and to relax. In addition, she advised that the timber construction of the cabins did not provide as much accentuation as a masonry construction and therefore the peace of cabins was particularly vulnerable to external noise levels. She pointed out that the turbines at An Suidhe could sometimes be heard in the village and along the shore and commented that larger turbines installed closer and in direct line of sight

to open areas of shore and landscape must be more audible. She advised that they understood that residents living a comparable distance from Carraig Ghael array were experiencing significant disturbances to sleep etc. which they report was due to low frequency noise. She stressed that they were concerned that with much of the space between Dalavich and the proposed site being water (rather than land which dissipated noise) the audio impact from this array would be worse. The third point she made was about the Wildlife. She stated that birds of prey, such as ospreys, white tailed and golden eagles were often seen hunting along the loch and the landscape near the site which, she said, was an extraordinary sight for visitors. She added that the loss of additional open landscape opposite Dalavich must run the risk of impacting hunting ranges and that deterring them from settling and hunting in the locality would diminish the experience of the area, and the overall amenity of the landscape and locality. The final point she made was regarding Sustainable Economic Development. She stated that Dalavich consisted of over 120 properties; both permanent residences and holiday homes with the two communities being mutually dependant to support local facilities, such as the village shop, and local employment in managing the site, grounds, and guest rentals etc. She advised that around half the cabin owners, a number of which were resident in Argyll, relied on rental income either full or in part for their livelihood. She added that after a number of years of neglect, the cabin site has, over recent years seen investment with new cabins built and improvements made to others. She also advised that the site has been designated as a Potential Development Area and additional cabins have recently been consented. She stated that new people have established small businesses based on increasing numbers, such as the boat hire which reopened last year. However, she stressed that the economy of Dalavich remained fragile with many amenities (like the community centre) relying on volunteers to remain open. The main attraction for both owners and visitors was the landscape of the loch and the local countryside, and the peace and quiet afforded by the area's remoteness from main roads and other such infrastructure. She reported that the loch, shore, open areas and local scenic walks were well used amenities for residents, holidaymakers, angler's, etc with the prime views being across the loch directly towards the proposed site. She stressed that they were concerned that the reduction in amenity described previously would impact people's decisions to visit and to invest in the area, and a number of regular visitors have confirmed this would likely be the case, even being moved to object to the application. She stated that reducing the amenity of the landscape and cabin would undermine recent developments in buildings, amenities and services, and would therefore jeopardise the sustainable economic development of this fragile community and the wider population who relied on it. She advised that the community of Dalavich owned and managed the village Community Centre and the land along the shore where the boat hire business was run from. She stated that 4 years ago the Community Centre was nearly closing and through a lot of hard work from community volunteers was now in a viable position. She reported that their village had over 3,500 visitors each year and their restaurant within the Community Centre has been open for the last 3 years and has built up a good reputation providing 4 sustainable jobs for local people allowing them to stay in their own community. She stated that personally

as a business owner who caretaked and cleaned cabins for a living and employed 7 locals, she was concerned about the impact this wind farm would have on her and other local businesses. She commented that the Applicant had stated that permanent employment would be created after construction was completed. However, she advised that their very recent experience of the Carraig Ghael wind farm which was completed over a year ago was that currently there were no permanent jobs for local people. She stated that consideration had to be given to the fragile economic position of Dalavich and the detrimental effect this wind farm would have on the sustainability of their community and the 16 local jobs that could be impacted by this with the reduction of visitors to the area. She asked the Councillors to reject this application on the basis of detrimental impact to the amenity of the area, the wellbeing of the site users, and consequential impact on sustainable economic development.

Dr Liane Taylor

Dr Liane Taylor advised that she has lived in the village since 2007. She stated that the World Health Organisation's definition of health included all aspects of wellbeing. She stressed that everyone had a right to rest, repose and enjoy their environment. She stated that people were faced with a reduction in their quality of life and being trapped in a situation beyond their control with little prospect of improvement. In order to assess this indirect effect of the Ardchnonnel wind farm proposals on the health of the villagers of Dalavich, she reported that she had written a health questionnaire which was circulated to all the residents and that there were 37 respondents within 4 days. She confirmed that the questions were: 1. Have the proposals affected your wellbeing? 67 percent said yes; 2. Do you think the proposals are making you more anxious and or depressed? 67 percent said yes; and 3. Do you think that the proposed wind farm at Ardchnonnel could harm the psychological and physical health of the village? 75 percent said yes. She stated that significant detriment to the wellbeing of Dalavich residents had already occurred in the consultation process. She advised that the direct harm on health from wind farms came from noise, shadow, flicker and electromagnetic radiation and reported that a Wind Farm Syndrome was identified as far back as 1985. She reported that current data stated that it was essential that wind farms and human habitation were separated by 2 km and preferably 3km and advised that the shore to shore distance across the loch from Dalavich to Ardchnonnel was 1 km and that houses were 3 km from the proposed site. She referred to ETSU GUIDELINES (the assessment and rating of noise from wind farms) which were published in 1996. She advised that they referred to turbines of 50 metres and not the 111 metres proposed now. Background noise assessed at 38 db did not apply to a quiet rural setting but an industrial one. High wind speeds over 6 m/second were known to elevate turbine noise above 43 db. Wind speeds locally often exceeded this and could reach over 35.5 m/second. She stated that audible sound would be amplified by Ardchnonnel's location on the Loch. She said this was because cooler air near the surface of the lake was denser and bent the sound waves, funnelling them and amplifying them. She stated that this refraction caused additional sound. The different turbine elevations also produced an infrasound, equivalent to the noise of a domestic refrigerator.

She advised that the ETSU Guidelines were not only out of date but irrelevant to the Ardchnonnel project with respect to Dalavich Village. She stated that unnatural noise present day and night would be alien to the community's peaceful environment and impossible to desensitise from. She added that noise disrupted sleep and caused insomnia and that sleep deprivation affected daytime mood and functioning. She also said that long term sleep deprivation could lead to chronic stress and lowered immunity which in turn has been shown to increase the risk of cancer and chronic infection. She also reported that an increase in heart disease and suicides has been reported from close habitation to wind turbines around the world and that tinnitus deafness and migraines were also risks from chronic noise. She stated that in winter when the sun was low, light pulsed due to the blades rotating. She also said that the flicker hazard was of profound concern in light-induced epilepsy. She stated that if wind farms were a new drug, they would be withdrawn from the market till their side effects could be thoroughly investigated and their safety established. She asked the Councillors to object to the proposal.

Alan Mitchell

Alan Mitchell advised that he wished to voice his concerns principally about two of the decisions made in the recommendation for refusal report and that these related to the Historic Environment and Bats. He advised that he would first preface what he was going to say by saying three truths about the proposed wind farm at Ardchnonnel. He stated that Loch Awe was a very beautiful location. Referring to policy STRAT DC 7 he stated that Loch Awe was rich in its natural environment and historic environment. He also stated that there was no imperative to construct a wind farm at Ardchnonnel and that all the benefits that are claimed about having a 15 turbine wind farm would accrue elsewhere. He advised that he felt the setting for the Historic monuments had been very much underplayed and he wished to take issue with the impact assertions made by RWE. He referred to Ardchnonnel Castle, sometimes known as Innis Chonnel Castle. He advised that this was a Scheduled Monument, a ruined 13th Century castle standing on the island of Innis Chonnel just off the east shore of Loch Awe and opposite the village of Dalavich. He advised that Historic Scotland has stated that this monument represents one of the most important castles in Argyll and was central to our understanding of medieval Gaelic lordship. He advised that RWE has stated that although the castle was visible from the loch's western shore, views from this area were substantially less relevant to the castle's cultural significance, as the castle was much less visible and formed a substantially less striking feature in the landscape. Where it was visible it was generally seen as an inconspicuous feature in the wider landscape. He advised that he could not agree more. He then stated that RWE went on to say that at this distance it was also impossible to discern any structural detail and that these views did not therefore contribute to the appreciation of either its function or its aesthetic value. He explained that part of the reason for this was that the walls were covered in ivy and there was untended growth alongside the castle. He stated that with this vegetation cleared, which he advised should be on a scheduled monument, the castle would stand out properly. He quoted RWE as saying "Furthermore, with the loch and the forested hills beyond, the

castle forms an attractive highland scene giving it a distinct sense of peace that contributes to its aesthetic and associated value". He advised that once you have visited this castle and take in its form and features and state of preservation you could then more fully appreciate what fantastic building it was and how it sat well in its backdrop. He stressed that Ardchnonell Castle was of great importance historically and locally and he read out advertising leaflets for the Boat Hire business at Dalavich Jetty and Ardchnonell House, both of which commented on the scenic beauty of the area, the magnificent views overlooking Loch Awe and all the outdoor activities that could be enjoyed. He reported that it had been described and recognised how the Castle currently sat in the landscape and stated that with 15 turbines of 111m to blade tip height the dominance that those turbines would impose on the landscape would totally detract from the historic landscape that Ardchnonell Castle comfortably sat. He quoted from a Scottish Government document regarding Built and Cultural Heritage. He also quoted Argyll and Bute Structure Plan policy STRAT DC 9 regarding Historic Environment and Development Control. He stated that his material objection was that Ardchnonell wind farm would clearly affect the setting of the scheduled monuments that lay within the very broad area of visible impact it would create. He advised that it could be seen that the proposal was not consistent from the point of view of impact upon historic environment assets, with the provisions of policies STRAT RE1: Wind Farm/Wind Turbine Development and STRAT DC 9: Historic Environment and Control of the Argyll and Bute Structure Plan (2002) and LP ENV 16: Development Impact on Scheduled Ancient Monuments.

Mr Mitchell then went on to address his concerns regarding bats. He advised that bats were protected and appeared on the list in the Scottish Biodiversity Plan. He stated that LUC on behalf of RWE noted what they described as low levels of activity and could find no roosts. He advised that there were 168 recorded passes during the study period and that these passes were above all 16 anabat (bat activity recorder) locations so it was clear that the bats were foraging across a wide area within the proposed wind farm boundary. He said that bats were noted to fly up to 14km from their roosts. He confirmed that the Bat Conservation Trust (BCT) supported the development of sustainable energy but, in line with the Eurobats resolutions, stressed that it was imperative that the possible harmful effects on bats and other wildlife (both direct and indirect) were taken into account before deciding on the siting of wind turbines, large and small. He stated that bat and wind turbine research was ongoing however, the BCT in its Scoping and Method Development Report section 2.25 said that so date there was insufficient information on the migratory behaviour and flight behaviour of bats at height and around turbines to make a full assessment of which species may be most at risk from wind turbines. He said that Betts (2006) made an initial estimate of collision risk, not considering migratory behaviour and the 6 species found most at risk included both the soprano and common pipistrelles that were found foraging on site. He stated that LUC's report did not draw conclusions about weather patterns and bat behaviour, only best guesses. He advised that it did not make reference to the range of flight heights of bats nor to research on the attractiveness to insects to the heat from the turbine nacelle. He stated that LUC did not give likely death estimates for

bats, unlike the Ornithology report which gave estimated of between 2 to 4 killings of the most protected birds. He stated that LUC concluded that bat activity was low and they did not discuss whether or not this might be because there was a limited population and by inference a fragile bat community. He referred to the response by RWE to the concerns raised by SNH. He stated that bats did not reproduce easily and therefore could not make up the numbers being killed. He said that LUC in RWE appendix 8.43 section considered Kames River and plantation edge over 500m away not a constraint to the assessment but failed to say the same about other locations in the survey area. He advised that BCT and Natural England recommended a buffer zone of only 50m as best minimum practice. He referred to RWE not accepting the recommendation of 50m buffer zone. He advised that bats were present whether there was a roost nearby or not and it was his interpretation that because there was no evidence of nearby roots that it was okay to risk foraging bats. He stressed that bats did not reproduce easily. He advised that the Habitats Regulation said "it is an offence to recklessly disturb in a way that would affect their local distribution or abundance, or affect their ability to survive, breed or rear young". He stated that there was no caveat to this that if there were only a few bats this did not apply. He said that he found LUC's report flawed, lacking breadth of study, omitting or failing to recognise findings from other studies on bats and wind turbines. He stated that RWE showed disregard for accepted 50m spacing as standard procedure and a disregard for the need to protect the bats at the proposed Ardchnonnel site. He asked that the application be refused because there remained a lack of clear scientific report on bats. He asked that if the application was accepted and because there was a population of bats at the site, that the licence that SNH requested be endorsed.

The Chair ruled and the Committee agreed to adjourn the meeting at 12.50 pm for lunch.

The meeting reconvened at 1.35 pm.

### **MEMBERS' QUESTIONS**

Councillor Colville sought clarification from Planning on the areas of search in the new Local Development Plan and the maximum height proposed in these areas for wind turbines. Mr Kerr advised that in the new Local Development Plan there were suggested areas of search but at this stage they could not be given any significant weight because they were being contested by the wind farm industry, individuals and consultees. He stated that it was the intention to widen the area of search from that contained in the existing Plan but there was no guarantee at this stage that they would prevail. He confirmed that intended enlarged area of search would be for turbines with a tip height proposed over 80m and not up to 80m as he had mistakenly mentioned in his earlier presentation.

Councillor Colville referred to page 37 of the Agenda pack and the text under the heading "Applicant's response to SNH's stated position in respect of landscape and visual effects". He referred specifically to the statement "The requirement to take account of turbulence means that the

turbines cannot be sited closer to An Suidhe”, and asked the Applicants if this was because of the turbulence created by the existing wind turbines or expected turbulence from the proposed new turbines. They replied that it would probably be due to both and stated that landform also contributed to turbulence.

Councillor Colville referred to the height of the proposed turbines and asked the Applicants why they could not be reduced to 80m, the same size as the An Suidhe wind turbines. They replied that this was due to technical and financial reasons. They stated that a lot of turbine suppliers had withdrawn smaller turbines from the market and that they also hoped to maximise the generating potential of the site. They confirmed that the height of the proposed turbines was originally 125m but this had been reduced. They added that the Ardchnonnel site was lower than the An Suidhe site.

Councillor Colville asked the Applicant if in a perfect world where ownership of Scotland was by the public would they have still chosen this site and they replied yes. They stated that this was an ideal site due to the high wind speeds, no statutory landscape designations, no impact on nearby statutory landscape designations and good access.

Councillor McNaughton referred to the height of the proposed turbines and asked Planning how much lower the Ardchnonnel site was than the An Suidhe site. Mr Kerr confirmed that the highest ground level at the Ardchnonnel site was 500m with the turbines sited between 300 and 350m. Referring to slides and in consultation with the applicants he reckoned the ground level of the An Suidhe turbines to be of the order of 100m higher.

Councillor McNaughton commented that the proposed turbines appeared quite a bit higher on the photomontages. Mr Kerr advised that the An Suidhe turbines were set a lot further back from Dalavich than the Ardchnonnel turbines so the effect of horizontal and vertical differences contributed to the final appearance from particular viewpoints.

Councillor McCuish referred to section G of the report of handling regarding planning’s assessment of the ornithological impact and asked the RSPB if they agreed with a number of conclusions reached by the Planners. Ms Boles advised that she could not give an answer as she did not know the detail of this particular application. She stated that RSPB’s objection was due to the lack of assessment carried out on the cumulative impact on Golden Eagles. She confirmed that in February a white tailed eagle had been killed by a turbine.

Councillor McCuish asked the Applicant why the turbines had to be so big. They replied that from their point of view they were relatively small. They stated that big blades were more effective.

Councillor McCuish asked if they could have got away with a smaller turbine. They replied they did not know if anyone could have supplied a smaller turbine and that they could not say for sure if this would have been economically viable. They advised that they had tried to balance the environmental impact with the scheme viability and economic viability.

They stated that turbine heights were now going up to 150m and that the proposed turbines had been reduced from 125m to 111m. They stated again that the site was not within a designated landscape area and did not impact on any designated landscape areas.

Councillor Trail referred to the statement made that 7 FTE jobs would be created during the 25 year lifespan of the wind farm and asked if this related to RWE jobs or was an accumulation of the net worth of the local economy. The Applicant confirmed that the amount of FTE jobs would actually be higher at 22. They advised that considering the capacity of Argyll to fill these jobs they expected that 7 would specifically be within RWE and that other jobs could be within haulage firms, turbine manufacturers etc.

Councillor Trail stated that the report of handling seemed quite relaxed about the levels of noise from the turbines and commented that he had heard someone say they could hear the An Suidhe turbines at Dalavich and asked Planning if they knew if this would be possible. Mr Kerr advised that in his experience you could not under normal circumstances hear turbines from that distance. He advised that he could support the view that you really needed to be standing fairly close to them to be able to hear them. He referred to the direct drive An Suidhe turbines without gearboxes which had limited mechanical noise just aerodynamic noise from the swish of the blades. He stated that the industry standard for better or worse was a national standard supported by the Scottish Government for the assessment of wind farm noise and confirmed that this development satisfied this standard which was a position that had to be accepted. He referred to noise propagated across water often being audible at a greater distance than otherwise and mentioned the issue of low frequency noise. Nonetheless he stated that the noise aspects of this scheme met established industry standards.

Councillor Currie asked the Applicant if they would agree with him that they had not presented a very good case today. He stated that they seemed to concentrate on public opinion and community benefit. He advised that he would have expected them to have presented their case in planning terms with reference made to the planning policies in respect of visual impact and landscape impact. The Applicants confirmed that they could see why he would have reached that conclusion. They referred to the planning report and reasons for refusal and advised that they could not have known what concerns people would have raised on the day. The added that they had noted what had been said by objectors and would be addressing this in their summing up. They stated that there would be no impact on landscape designations and that the nearest property was over 3km away from the site.

Councillor Kinniburgh noted that Inveraray Community supported the application and would put up with any disruption to road traffic during the construction phase. He also noted that Glenorchy and Innishail Community Council supported the application and that Avich and Kilchrenan Community Council objected on visual impact grounds. He asked if the residents of Inveraray would have been supportive if they had been able to see the turbines.



As Mr MacAskill was no longer present to answer this question the Applicant replied that it was difficult to say if a community impacted on visually was more or less impacted than a community impacted by transport. She confirmed that both communities would be impacted on but Inveraray Community Council supported the proposal. She stated that temporary traffic lights would be a very apparent impact but in the case of turbines on a hill you may see them locally but they would not be that apparent in day to day life.

Councillor McCuish referred to the broad areas of search not yet adopted and asked Planning what weight and been placed on these when reaching their decision. Mr Kerr advised that the status of the Local Development Plan was an important issue. At the moment, he advised that the decision should be dependent on the provisions of the adopted 2009 Local Plan which had very limited preferred areas of search which this site did not fit into. He advised that the proposed Local Development Plan was seeking to widen out areas of search but that these were contested. He advised that areas of search were something to prompt developers to look at areas or disregard areas and did not mean they would necessarily find a suitable site within these areas. He stated that the Landscape Capacity Study was a much finer grained document which looked at areas in more detail and guided you towards what you could be expected to be acceptable in landscape terms and what would be unlikely to be acceptable. He advised that if the Local Development Plan Spatial Plan was approved this would not mean that any individual site would be okay as the Landscape Capacity Study would still need to be taken account of.

Councillor McCuish asked if this application was refused could Planning be faced with this application again if the policy situation changed. Mr Kerr advised that if it was refused today it could it come back in the same form if the outcome of the Local Development Plan changed the policy position. However, in terms of Ardchnnel, capacity identified within the Craggy Upland Landscape Character type was in the interior and not the edge of the area.

Councillor McCuish asked if this advice had been provided to the Applicants at the pre application stage and Mr Kerr replied yes. He referred to the current Spatial Plan where the majority of the plan was potential constrained areas with only two small areas of search.

Councillor McCuish referred to the visual impact and commented that there was already significant visual impact with An Suidhe and other nearby wind farms. He asked Planning how they had measured this cumulative impact. Mr Kerr stated that as An Suidhe was already there so this was not a pristine landscape. He advised that this was a double edged sword as you could argue that the landscape had been disfigured already. He stated that you could take the view that it created an opportunity to put another one next to it, or take the contrary view that there was only limited capacity on Loch Awe and cumulative impact would be a disincentive to accepting another wind farm so close to it, which was the approach Planning had taken.

Councillor Colville referred to the following response from SNH – “This development will have significant impacts on a nationally important LBAP and UKBAP priority and Annex 1 habitat”. He asked what an Annex 1 habitat was and how important it was. Mr Kerr replied that this was the highest European designation for habitat protection. He stated that SNH had felt that the Applicant’s Environmental Statement had underplayed the significance of deep peat and the ecological value of it. The Applicant explained that the disturbance of peat released greenhouse gases which had been acknowledged in the Environmental Statement. They advised that once the wind farm was operational they anticipated the pay back would be less than two years.

## **SUM UP**

It was noted that a number of Supporters had already left the meeting.

## **Planning**

Richard Kerr confirmed that the Council had a positive stance towards Renewable Energy projects established by its Renewable Energy Action Plan. He stated that this was evidenced by the number of wind farms already consented in Argyll which have been determined to be suitable in terms of scale, location and relationship with previously consented turbines. He advised that the Council’s approach to the consideration of onshore commercial scale wind farms was established by development plan policy, which included spatial guidance to identify more and less preferable areas, and a criteria based approach to the assessment of proposals, established by policy LP REN 1, along with published guidance in the form of the Landscape Wind Energy Capacity Study jointly commissioned by the Council and SNH. He stated that this study did not carry the same weight as policy, but was a detailed, credible and valuable tool which provided both prospective developers and the planning authority with advice as to the capability of particular landscape types to absorb different scales of turbine development. As part of the drive to meet the government’s renewable energy targets, he advised that the Council hoped to be able to extend its identified broad areas of search as part of the forthcoming Local Development Plan, and it was possible that these may include additional areas around Loch Awe. However, he stated that its overall proposals have been contested by both members of the public, consultation bodies and the wind farm industry, so they could not be accorded material weight in the determination of this application at this point in the plan-making process, as it would be for the local plan Reporter at the Examination into the plan to determine the final content of its renewables policy. Accordingly, he confirmed that it was necessary to determine the application in accordance with the 2009 adopted local plan, taking into account other material considerations, including the guidance expressed in the Capacity Study, published government advice, consultee responses and views expressed by the public, all of which have been rehearsed today. He confirmed that in this case there were no technical impediments to the proposal in terms of issues such as access, noise, aviation or telecommunications. Ornithological concerns have been raised by Scottish Natural Heritage and an objection has been received

from the RSPB. He advised that these were principally founded around the value the site has for juvenile eagles prospecting to establish new territories. The spread of afforestation and the loss of other open land to wind farm development meant that open ground for use by upland birds for foraging and breeding was a diminishing asset, and ornithological interests therefore were precautionary in the positions. However, he advised that in this case whilst the implications for eagles and other upland birds were palpable, they were not such that they would legitimately warrant refusal of this application on ornithological grounds. He advised that the determining factor in this case was therefore the extent to which the development was acceptable in terms of its implications for landscape character, its effect on the visual amenity of Loch Awe and its surroundings, and the cumulative impact the development has with other consented development. He stated that SNH had provided advice in its consultation response on all of these issues. It had not objected as it would only do so where national designations were prejudiced, and had therefore confined its response as to one of advice to the Council in reaching its own decision. SNH had however concluded that the proposal was unacceptable in terms of its location, its scale, its relationship with the adjacent but smaller scaled An Suidhe wind farm and its cumulative impact upon the landscape setting of Loch Awe. In reaching its decision it had regard to the Landscape Capacity Study, which recognised that there remained some capacity on the uplands above Loch Awe to accommodate further turbines, but that this was not found uniformly across the area. It guarded against development on those areas which would exert influence over more settled loch shores and valleys. In particular it recommended that development should be sited to avoid land forming an immediate backdrop to Loch Awe and Loch Avich. He stated that this development did precisely that. It cast an unwelcome short range influence over Loch Awe and over West Lochaweside as a result of its location on the landscape containing and defining the loch in views from the west, both as a result of its scale, its turbine height, and its juxtaposition with the smaller turbines at An Suidhe. He advised that whilst the visual envelope of the development was relatively contained, with the principal influence being exerted on locations to the west of the loch, from those locations where it would be experienced it would exert major adverse effects in terms of its landscape and visual implications, as the applicant's own Environmental Statement acknowledge. He stated that this was too high a price to pay at the expense of the landscape setting of Loch Awe and to the detriment of the loch side communities and visitors who would experience the development. He advised that Loch Awe was an important freshwater loch valued for its recreational potential, its tranquillity and the relative absence of development. Its surroundings lent themselves to the exploitation of the available wind resource, but developments have to be sited and be proportioned so as not to overwhelm the loch and its landscape setting, and have to be distributed so that they did not lead to the sprawl of turbines along lengthy skylines, or lead to the encirclement of the loch, or give the impression that the surroundings of the loch were characterised by wind turbine development. He confirmed that it was Planning's, in line with the guidance provided by the Capacity Study and the advice given by SNH that this development was unacceptable in terms of its landscape, visual and cumulative effects,

and he commended to Members the reasons for refusal set out in the report before them. Finally he stated that he would like to take the opportunity to remind Members that whilst economic benefit associated with the construction and operation of the site did constitute material considerations for them to weigh in the balance in reaching a decision, the availability of community benefit in terms of financial payments by the developer over the life of the wind farm did not amount to a valid material planning consideration, and accordingly they should not regard this as an influencing factor in reaching their decision on this matter.

### **Applicant**

Jean Gallaird referred to Mr Kerr indicating that within the potential areas of search the proposed maximum height of turbines would be 80m. She stated that the height proposed was between 50m and 79m and that maybe over 80m would be acceptable. She referred to the question raised about whether or not they would come back with their application following adoption of the new Local Development Plan if this application was refused today. She stated that this was never a tactic they envisaged as they thought the proposed Local Development Plan would have been adopted by now. She referred to Scottish Planning Policy which stated that the ideal area of search should be 2km away from settlements. She confirmed that the Ardchnonnel site was 3km from the settlement of Dalavich. She stated that the Environmental Health Officer had no objection to the development. She advised that she had noted the RSPB's concerns about cumulative impact and advised on what SNH had said about that. She stated that it was standard procedure to be asked to produce a Habitat Management Plan as a planning condition which, she advised, they would be happy to comply with if this proposal was granted. She added that she had noted that ornithological interests would not warrant refusal. She stated that development of this site would assist the Scottish Government in reaching their target of energy produced by 100% renewables by 2020. She concluded by saying that the Ardchnonnel site was windy and was not a designated landscape or an ecologically significant designation and that there had been no objection on that basis from SNH. She confirmed that the site would be more than 1.6km from the nearest property and 3km from the settlement of Dalavich where the wind farm would be visible.

### **Consultees**

#### Avich and Kilchrenan Community Council

Christine Metcalfe advised that this was a poor application on an unsuitable site. She said that the application Environmental Statement, for all that they have criticised it in the past, recognised that there would be significant adverse effects, and stated that they considered that there would also be adverse cumulative effects and that these significant adverse environmental effects would not be capable of being mitigated away. Given that conclusion, she stated that the application was contrary to national and local planning policy and guidance and should be refused planning permission. She confirmed that the Community Council strongly endorsed the recommendation of refusal. Finally, she said that it was

also worth noting this month's rejection by Scottish Ministers of a planning appeal for the Rowantree wind farm application near Fountainhall. The decision notice stated: "Scottish Ministers accept the Reporter's findings and agree with the reasoned conclusions with regard to impact on amenity due to noise and by the close visual relationship with nearby turbines impacting landscape." She advised that it would be almost impossible to find a more identical description of effects from the Ardchnonnal proposal which would be inflicted upon areas of Loch Awe and affected communities. She referred to comments about local businesses choosing to invest in renewables and stated that for every job created others were lost. She advised that she had listened to a lot of predictions for the future and stated that as far as Beinn Ghlas was concerned this had been diminutive in scale to everything that had followed.

### RSPB

Yvonne Boles confirmed that RSPB's principle objection to this application related to the lack of assessment of cumulative habitat loss, and effects on range viability for golden eagle in this part of Argyll and that in combination impacts on golden eagle through displacement was a very serious concern which needed to be addressed. She advised that the Planning Officer's report stated that the Applicant had provided a response to the RSPB objection and confirmed that they had not seen this response from the Applicant or had an opportunity to respond. She referred to the cumulative collusion risk figure having already increased and stated that they had not seen how this new figure had been assessed and that they had not been able to draw the same conclusions as SNH. She stressed that RSPB Scotland objected to this proposal on the basis of an incomplete assessment of cumulative impact on golden eagle which was an Annex 1 species and an iconic part of Argyll's wildlife. As the Supporters present had nothing further to add the Chair invited the Objectors to sum up.

### **Objectors**

#### Mark Potter-Irwin

Mr Irwin advised that regardless of proposed changes to the Local Development Plan he thought the Craggy Upland Landscape Character type (LCT) would still apply and that development should be sited within the interior of this LCT and not on the edge of it. He referred to the sound being dismissed and stated that this was quite important and said that that ETSU standard did not apply to all situations. He stated that he knew for a fact that turbine noise could be heard on a calm day on Loch Awe.

#### Dr Liane Taylor

Dr Taylor advised that the views of the Dalavich community should not be discounted.

#### Alan Mitchell

Mr Mitchell referred to the conclusions of the survey by the boat hirer and advised that he assumed the people were referring to the Carraig Ghael wind farm which had smaller turbines and was set further away. He advised that the proposed turbines would be 1/3 higher again on the skyline. He stated that it would affect tourism and advised that he did not believe people when they said that wind farms did not affect tourism. He referred to this development being a block of concrete. He referred to the wildlife and the eagles. He quoted Structure Plan Policy DC7 and stated that this proposal would result in a significant adverse effect on local communities, the natural environment, the landscape character and visual amenity, and the historic environment.

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

### **DEBATE**

Councillor Trail stated that he had found this a hard hearing as the findings were very evenly balanced. He advised that he was normally fairly tolerant of engineered structures such as pylons and turbines in the environment as he was able to block them out. He referred to the issue of jobs and the local economy and stated that Argyll was nothing without jobs and job opportunities for young people. He said that overall Scotland was engaged in trying to reach its renewable energy targets. However, he advised that against that was the local settlement of Dalavich looking across the water at turbines which would be right up there and in their face as they would be much larger than An Suidhe. He stated that he was minded to refuse this application due to the fact that the proposed turbines would be spaced out across the horizon.

Councillor Colville advised that living in Kintyre he was conscious of the economic benefits of wind farms and stated that some of the original wind farms in Kintyre were only generating 600 – 800kw and not even 1mw. He stated that the generating capacity of this proposed wind farm would be the equivalent of 50 turbines at Cour wind farm. He stated that he recognised the need for renewables and wind energy but had to take account of the Planning recommendation and the site visit undertaken. He advised that the turbines would have an effect visually. He stated that he was sympathetic to the Applicant but considered the turbines to be too big. He referred to where everyone would be in 5 years time through technology changes and advised that consideration had to be given regarding the landscape and habitat loss.

Councillor Taylor stated that this was a difficult decision and that he had been swayed during the course of the hearing. He advised that visual impact was important and that for him wind farms were not unattractive however they were best as a discreet development and not an ever present feature in the community. He stated that he was concerned about the impact and was minded to support the Officer recommendation but may be swayed yet by his other colleagues.

Councillor Currie advised that in terms of what the Planning Committee could do and could not do, they had to take account of planning policy. He stated that this application was contrary to policy and that it would take

a lawyer to come up with a competent motion. He advised that in his mind this was not a difficult decision to make as the proposal was contrary to so many planning policies. He stated that Councillor Macdonald was completely wrong when he said you either loved or loathed wind farms and this was not the case. He stated that you could have them but only in certain areas. He stated that it was all down to planning policy and that he was not the person to come up with a competent motion to approve.

Councillor McNaughton and advised that this was a real dilemma for him. He stated that he would like to support this but felt it was impossible for him to come up with a competent motion to say otherwise. He advised that it was not possible to take financial benefit into consideration. He stated that cumulative visual impact was very serious and that he would reserve judgement.

Councillor MacMillan advised that he felt the same as Councillor McNaughton. He stated that the application was totally against planning policy and there would be problem finding a competent motion.

Councillor McQueen confirmed that he supported the planning recommendation to refuse the application.

Councillor McCuish advised that he was disappointed with where this Committee decision was going. He stated that SNH had advised there was capacity on Loch Awe. He referred to the new areas of search being looked at. He referred to protecting the community and stated that if we did not start to diversify there would be no community left to protect. He stated that he fully understood both sides of the argument. He referred to comment about a block of concrete and stated that the biggest block of concrete in Argyll was the successful Cruachan Dam.

Councillor Kinniburgh referred to the comment made that you either loved or loathed wind farms and advised that he neither loved nor loathed them. He believed they had a place but they needed to be in the right place. He stated that he did not see a divided community here. He referred to Inveraray Community Council and Glenorchy and Innishail Community Council supporting it and Avich and Kilchrenan Community Council objecting to it and that he could see why this had happened. He advised that he was disappointed that the Applicant had told the Committee everything that was good about the turbines and given all the reasons for accepting them but had not told the Committee anything about how the visual impact could be accepted. He advised that he supported the planning recommendation and moved that the application be refused. He asked if anyone would second him. Councillor McQueen confirmed that he would second Councillor Kinniburgh's motion. As there were no amendments this became the decision of the Committee.

## **DECISION**

Unanimously agreed to refuse planning permission for the following reasons:-

1. The application site is located on the west facing side of an upland

plateau separating Loch Awe from Upper Loch Fyne, approximately 1.3km north-west of the operational but lesser scaled windfarm at An Suidhe. A west facing site has been selected in order to limit the extent of visual influence being shed in an easterly towards sensitive locations such as Inveraray, the A83 corridor, the western side of Cowal and elevated vantage points within the National Park, and to avoid development taking place close to summits and lochans of nature conservation value. The site lies within a 'Potentially Constrained Area' for windfarm development established by the adopted 'Argyll and Bute Local Plan' (2009) which establishes a spatial strategy for wind farm development with a capacity in excess of 20MW. The renewables policy and accompanying wind farm policy map within the 'Argyll and Bute Proposed Local Development Plan' (2013) is the subject of objection which has yet to be considered by Reporter in the Examination of the emergent plan and cannot therefore be afforded any significant weight at this point in the plan-making process. The Council has adopted guidance in the location of wind farms in the form of the 'Argyll & Bute Landscape Wind Energy Capacity Study' (LWECS) (Scottish Natural Heritage/Argyll & Bute Council 2012). For the purposes of this study the proposal is located within the 'Craggy Upland' LCT, but in view of its west facing location it exerts a significant influence over the adjacent smaller scale and settled 'Rocky Mosaic' LCT along the margins of Loch Awe. The proposal does not share the locational advantages of the consented wind farm at An Suidhe, which appears more in scale with its landscape setting than the larger turbines which are proposed to be sited closer to the loch. Also, in isolation, the existing development does not suffer from juxtaposition with another wind farm development of markedly different proportions and rotational speed. This proposal viewed in combination with the existing turbines would not secure a cohesive development in scale with its landscape setting, and accordingly it would undermine landscape character to the detriment of the wider landscape setting of Loch Awe. The location and scale of the proposal and its cumulative impact with existing wind turbine development fails to satisfy Policies STRAT SI 1: Sustainable Development; STRAT DC 6: Development in Very Sensitive Countryside; STRAT DC 8: Landscape & Development Control; Policy STRAT RE 1: Wind Farm/Wind Turbine Development of the 'Argyll & Bute Structure Plan' (2002) and Policy LP REN 1: Commercial Wind Farm and Wind Turbine Development of the 'Argyll & Bute Local Plan' (2009). It fails to accord with Scottish Planning Policy which requires that the scale and design of a wind farm should reflect the scale and character of the landscape. It also fails to satisfy guidance published by Scottish Natural Heritage concerning the siting of wind farms in the landscape, and the Council's LWECS guidance, which recommends that large scale turbines be located in the interior of the 'Craggy Upland' LCT specifically to avoid inappropriate intrusion upon the landscape setting of Loch Awe. All other material considerations have been taken into account, including the contribution which the development would make to renewable energy production and the expressions of support received from third parties, but these are not of such weight as to overcome the identified adverse impacts, which cannot be overcome by the imposition of planning conditions or by



way of legal agreement.

2. Visibility of wind turbine development is already widespread across areas within 10km of the site with turbines at An Suidhe and Blarghour to the east of Loch Awe and Carraig Ghael and Beinn Ghlas to the west. The proposed wind farm will be seen in conjunction with either Carraig Ghael or An Suidhe over much of the southern part of Loch Awe and from upland areas around the site and on the opposite side of the loch. The proposal would exert a continual presence on the eastern skyline above the loch, both when viewed along the length of the loch, and in closer quarter views across the loch. Dependent on the viewpoint, it may overlap with appear to sit adjacent to, and contrast with the lesser scale of, An Suidhe windfarm. This would entail a large scale change with a bigger proportion of the skyline becoming occupied by turbines. The new wind farm would be larger in scale and closer to Loch Awe than An Suidhe. The proposal would introduce the influence of turbines into additional areas not affected hitherto, including south-west Loch Awe, Loch Avich and the south facing slopes of the Craggy Upland LCT to the north and north-west, which are currently free from the influence of wind turbines. It will impinge on views from the water along the length of the loch, and on those views which are available from lochside roads and locations of recreational value, where the presence of the windfarm, the skylining of turbines and the movement of the rotors will intrude on the perception of the wider landscape setting of the loch to the detriment of visual amenity. The proposal will exert a major adverse visual influence over relatively short distances over the loch below, the western lochside, and on the gateway approach to Loch Awe as the road drops down from Loch Avich. This area encompasses loch-side communities, recreational assets such as cycle routes, walking areas, and waters used for angling and boating, and holiday accommodation, where sensitive receptors, including those with a focus on landscape assets and scenery, can be expected to be concentrated. Accordingly, whilst the overall visual influence of the site is reasonably contained, the relatively close range landscape, visual and cumulative effects which it would exert over the adjacent loch, and the landscape setting of the loch would detract markedly from the composition of elements which contribute to the scenic quality of the area. The Environmental Assessment acknowledges a range of 'major' visual impacts to the west of the application site including the settlements of Dalavich and Inverinan, the east Lochaweside road, the eastern end of the Kilmelford to Dalavich road via Loch Avich, recreational assets to the west of Loch Awe (such as NCR 76 and the picnic site at Kilmaha) and upon water-based loch users on the central and southern sections of the loch. This area is recognised as being sensitive to inappropriate influence by large scale development in the Council's 'Landscape Wind Energy Capacity Study' not only because of the inherent qualities of its small scale landscape and its relationship with the loch, but also because it provides the settling for settlement, transport routes, historic, recreational and tourism assets. The location and scale of the proposal and its cumulative impact with existing wind turbine development fails to satisfy Policies STRAT SI 1: Sustainable

Development; STRAT DC 6: Development in Very Sensitive Countryside; STRAT DC 8: Landscape & Development Control; Policy STRAT RE 1: Wind Farm/Wind Turbine Development of the 'Argyll & Bute Structure Plan' (2002) and Policy LP REN 1: Commercial Wind Farm and Wind Turbine Development of the 'Argyll & Bute Local Plan' (2009). It also fails to accord with landscape and other guidance published by the Council and Scottish Natural Heritage concerning the siting of windfarms. All other material considerations have been taken into account, including the contribution which the development would make to renewable energy production and the expressions of support received from third parties, but these are not of such weight as to overcome the identified adverse impacts, which cannot be overcome by the imposition of planning conditions or by way of legal agreement.

(Reference: Report by Head of Planning and Regulatory Services dated 4 April 2014 and supplementary planning report number 1 dated 14 May 2014, submitted)

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

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**PROPOSALS FOR AN 'APPROVED TRADER SCHEME' IN ARGYLL AND BUTE**

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**1.0 EXECUTIVE SUMMARY****1.1 Purpose**

The Audit Scotland report 'Protecting Consumers' identified significant threats to the delivery of trading standards and to a lesser extent food safety, in Scotland, and made a number of recommendations for action. These form the basis of our Council's Protecting Consumers Action Plan which includes a range of national and local priorities.

One suggested area for development was an 'approved trader scheme' to recognise good businesses operating with good consumer protection standards, and provide a means by which the consumer can make an informed choice as to who they trade with. Such schemes can also be useful as part of a range of different measures to target rogue traders, and protecting vulnerable consumers.

- 1.2** In the absence of a national 'approved trader scheme', an options appraisal of various 'approved trader' schemes has been considered and evaluated. It is recommended that Argyll and Bute Council join the 'Buy With Confidence scheme'. Initial indications are that there is general support for a scheme by the local businesses who have been engaged in the option appraisal.

**1.3 Financial Implications**

**1.3.1** There will be initial "start-up costs" to the Council in implementing the scheme, but the design is for it to be self-financing and we will utilise an established website, which will be customised to Argyll and Bute Council requirements. Membership fees are to be set at levels that businesses believe to be attractive, and will cover the local authorities' annual membership fees.

**1.3.2** Operational resources required for vetting applications will be borne by the Council's existing Trading Standards budgets and we have projected initial start-up costs to be £2,000, which will include promotion of the scheme to businesses and the consumer.

**1.4 Recommendations**

Members are asked to:-

- (i) Determine whether or not they wish to support the introduction of an 'approved trader scheme' in Argyll and Bute.
- (ii) Support the recommendation that the Council adopts the 'Buy With Confidence' scheme as opposed to the Construction Licensing Executive (CLE) scheme, as the former affords the opportunity for the Council to vet businesses, together with the recommendations in 5.4

**PROPOSALS FOR AN 'APPROVED TRADER SCHEME' IN ARGYLL AND BUTE**

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**2.0 INTRODUCTION**

- 2.1 On 17<sup>th</sup> April 2013, Members agreed the Councils Protecting Consumers Action Plan, which addressed the Audit Scotland report. Included in the Action Plan was the requirement to consider an 'approved trader scheme' for Argyll and Bute Council.
- 2.2 The purpose of an 'approved trader scheme' is to recognise and promote reputable and responsible businesses, assist consumers in making an informed choice when selecting a business, and to support our existing strategies to combat rogue traders. The principles meet the Single Outcome Agreement which seeks to promote a sustainable economy, and also to protect the vulnerable in our communities.
- 2.3 The scheme would be voluntary, and at this time, there is no indication from Trading Standards Scotland or the Scottish Government, that there is to be a national scheme. There is currently a mixed picture in Scotland, with one authority having their own approved trader scheme; four using 'Buy With Confidence'; three using 'Trusted Trader'; one using the Construction Licensing Executive scheme (CLE) and one recommending the CLE. Other local authorities are currently evaluating the options.
- 2.4 Our options appraisal identified that businesses in the construction sector would welcome an 'approved trader scheme' providing the costs were set at a reasonable level and that the scheme was suitably promoted. They also recognised the benefits that such a scheme could bring in terms of increasing business and supporting the consumer.

**3.0 RECOMMENDATIONS**

- 3.1 Members are asked to:-
- (a) Determine whether or not they wish to support the introduction of an 'approved trader scheme' in Argyll and Bute.
  - (b) Support the recommendation that the Council adopts the 'Buy With Confidence' scheme as opposed to the Construction Licensing Executive (CLE) scheme, as the former affords the opportunity for the Council to vet businesses, together with the recommendations in 5.4

**4.0 DETAIL**

- 4.1 Many businesses provide quality services which meet consumer needs in terms of workmanship, consumer rights and reliability. Others do not, and in some cases, they provide little recourse for the customer where they are dissatisfied at the work undertaken, or the costs are in excess to the figure originally agreed.

Trading Standards continue to receive such complaints and are frequently called upon to deal with problems resulting from rogue traders operating within Argyll and Bute. To combat such practices, we work with other parties, including police, other local authorities and Trading Standards Scotland.

An example of poor business practice with resultant significant detriment to an Argyll and Bute resident is as follows:

*"We were recently contacted by an elderly woman. The woman and her husband had been 'cold called' by unknown men offering to re-lay her driveway. The cost would be £800 and work would be covered by a 25 year guarantee.*

*When the work was 'completed' the price had been inflated to over £1,000.*

*The consumer paid the fee in cash and asked for the guarantee certificate.*

*The 'owner' of the business advised that his handshake was good enough, there was no certificate.*

*On closer examination, the work was of poor quality, incomplete and not as agreed.*

*The consumer was financially out of pocket, had not been advised of her cancellation entitlements, had been intimidated through the conduct of the workmen and did not know who she had contracted with in order to attempt to obtain redress.*

*In addition, she felt she had been foolish and found it very hard to deal with what she felt was her mistake, when in fact she had been a victim of criminal activity.*

*The episode had a negative impact on the consumer's mental as well as financial wellbeing"*

**4.2** An approved trader scheme is intended to provide the consumer with assurances that the trading practices of a business meet consumer protection requirements, and that there are appropriate safeguards in place to protect them. It also recognises good business and provides a means, depending on the scheme, for trading standards to vet the business, and remove them from the scheme, where serious non-compliances with the scheme's aims are established.

**4.3** In assessing the options relating to a scheme, we engaged with the following stakeholders:

(a) Local authorities, who already operated schemes, advised of the benefits of promoting and recognising good business practice, adding that a formal scheme helps consumers make an informed choice and affords proper protection, and through raising awareness of the scheme, can reduce opportunities for rogue traders operating in the area.

(b) Consumers believe that the scheme will signpost them to businesses where they can be assured that their rights are protected in the event that they need them. Ultimately, the choice on who to select, is a matter for the consumer, and the existence of an approved trader scheme will be 'weighed up' against other factors, including the cost for the works; timescale; reputation and recommendations (word of mouth) from others.

(c) Businesses - We targeted the construction sector and the survey identified that 85% saw the benefits in joining a scheme, and the level of interest reduced depending on cost (ie £100 = 64%, £100-£200 = 17% and £200 + = 7%)

#### **4.4 Option Appraisal**

We considered a range of options for the scheme, which included the existing schemes in place (see 2.3), or the development of our own scheme. This allowed us to therefore focus on two options – the 'Buy With Confidence' scheme or the CLE Scheme. A brief explanation of the schemes are as follows:

#### **4.4.1 Buy With Confidence**

The BWC scheme was developed by a Trading Standards authority in 1999 and has been adopted by other local authorities since. The scheme provides consumers with a list of local businesses which have given their commitment to trading fairly. Every business listed has undergone a series of detailed checks (by local Trading Standards staff) before being approved as a member of the scheme. Members are also required to undergo Disclosure Scotland checks. The scheme is able to accommodate any trade or profession type, ranging from builders and roofers to cleaning companies and accountants.

#### **4.4.2 CLE**

The CLE is an umbrella body for five trade organisations within the construction sector. The members are already embedded in trade association (e.g. SNIPEF for plumbers, SBF for builders) and are subject to vetting, codes of practice and complaints procedures. Its stated objective is to raise the standard of workmanship within the construction sector thus providing consumers with trades people that they can rely upon and trust. Scheme members are not required to undergo Disclosure checks.

**4.5** Our detailed assessments identified the Buy with Confidence scheme as our preferred option and the full appraisal is detailed in appendix 1. The main reasons for identifying this were:

- (i) The scheme provides a means to vet companies, and for the Council to remove poor businesses from the voluntary scheme.
- (ii) It is the most widely used scheme in both Scotland and across the whole UK, and there are materials available for use in planning for, and implementing the scheme.
- (iii) It offers consumers a greater level of protection than the CLE scheme, especially with regard to the Disclosure Scotland vetting
- (iv) CLE only covers 5 trades within the construction sector – Buy With Confidence can accommodate any trade or profession
- (v) Member traders in other authorities have been extremely positive about the costs & benefits of being a scheme member. One trader in South Lanarkshire reported an increase in business of £30,000 in one year and attributed this increase to scheme membership.

**4.6** We intend to set fees for joining the proposed scheme at £95 per year to reflect feedback from our business surveys. We currently have 6 businesses who have indicated their willingness to join the scheme, with a further 3 considering the matter. The level of uptake may appear low, but following discussions with other local authority who have introduced schemes, this compares well with others (e.g. South Lanarkshire had 12 members at start-up, increasing to 37 after 3 years).

**4.7** Should the scheme be approved, we plan a phased implementation, targeting the construction sector initially in year 1, and thereafter, to extend it depending on membership and resources.

The financial implications of such a scheme are as follows:

	<b>Initial Costs</b>	<b>Recurring</b>
<b>Business</b>	£95 application fee plus £25 for disclosure of each staff member	Renewal fee of £30 annually (note 1)
<b>Local Authority</b>	Membership fee £480.00 Initial start-up costs £2000	Promoting and extending the scheme £500

Notes

1. This excludes the cost for business where they have new employees who will need to have disclosure (£25 per employee)

2. Our operational costs in vetting applicants and responding to any complaints are excluded, as these will be borne by the existing trading standards resources. It is anticipated that the vetting process will take 3 hours per business.

#### 4.8 The other alternatives are for Members

- (i) not to introduce a scheme, and to await a national scheme (which may never be introduced!), or
- (ii) To promote the CLE scheme. This passes responsibility to the trade associations (e.g. SELECT- electrical engineers etc.) and relies on self-regulation.

### 5.0 CONCLUSIONS

5.1 The introduction of an approved trader scheme protects consumers and supports reputable businesses. The proposed scheme will also support the Council's Single Outcome Agreement.

5.2 If the 'Buy with Confidence' scheme is approved, the Council will be able to assess and vet applications to join the voluntary scheme. It does not guarantee the quality of work, but merely endorses that the business comply with consumer protection legislation. Businesses will be allowed to promote their services on this basis only, and must continue to comply with legislation to remain members.

5.3 The decisions for Members in considering this paper are:

- (i) Do you believe it is necessary to implement a scheme in Argyll and Bute, or do you wish to wait for a national scheme which may be introduced at some future date?
- (ii) If you support a scheme, do you want to implement a tried and tested scheme, which has back-office support, is reasonably priced and provides the Council with the ability to intervene and influence membership, OR do you want a scheme which is low cost, self-regulating and one which the Council signposts to (i.e. Construction Licensing Executive)

5.4 My recommendation is that the Council, in protecting consumers and promoting a healthy business environment, should adopt the 'Buy with Confidence' scheme, to be implemented on a phased approach, targeted initially at the construction sector, with an annual review.

### 6.0 IMPLICATIONS

- 6.1 Policy** The Council would endorse a scheme and vet the consumer protection arrangements of volunteer businesses. The scheme will recognise businesses with appropriate standards in place to protect consumers.
- 6.2 Financial** There will be ongoing costs at £2,000 in year 1 and recurring costs of £500, which will be offset by income from businesses wishing to join the scheme. This will be borne by the existing trading standards budget.
- 6.3 Legal** The Council would vet businesses using existing legislative powers, and will not endorse individual businesses.
- 6.4 HR** None.
- 6.5 Equalities** The scheme is restricted to specific sectors initially but we will extend following the review period.
- 6.6 Risk** The risks to the Council are:
- (i) That there is no uptake on the scheme. We have tried to engage with businesses and understand that there is significant interest.
  - (ii) That we implement a scheme, which is superseded by a national scheme in the future. We cannot control this, but we may be able to influence any subsequent decisions.
- 6.7 Customer Service** This would help in developing the 'informed consumer' and promote reputable businesses.

**Executive Director of Development & Infrastructure Services**  
**Policy Lead Councillor Kinniburgh**  
3<sup>rd</sup> June 2014

**For further information contact:**

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**APPENDICES**

Appendix 1 – Options Appraisal of Schemes



AM/LC/7064 May 2014

**Appendix 1 Option Appraisal**

	<b>CLE (Construction Licensing Executive)</b>	<b>Buying With Confidence</b>
Provide residents with confidence to select a vetted business		✓
Method for legitimate business to promote itself	✓ (Trade association required)	✓
Support local economy	✓	✓
Helps remove rogue traders	✓	✓
Cost <£100 / year		Set by Council
Vetted scheme		1 Applicants vetted, inc. criminal checks Trading Standards auditing
Ongoing annual costs		Set by Council
Resources required from Council – Publicity	✓	✓
Resource implications to Trading Standards	None. Would be signposting to CLE site.	Implications to audit businesses applying to be in scheme (3 – 4 hours each)
Ongoing costs	None	1. Attracting new business 2. Intervention in disputes 3. Marketing
Intervention/ Enforcement	Trade Association	1 Trading Standards can mediate in disputes.  2 Potential to revoke membership of scheme if the traders conduct is deemed unacceptable
Disadvantages of scheme	1 Scheme dependent upon trade associations  2 No input from Council  3 Primarily a scheme we cannot influence or control  4 The scheme is aimed at 5 specific trade areas and therefore lacks potential for expansion	1. Resource allocates to Trading Standards
Benefits of scheme	1 Would meet outcomes and Council would have scheme in place with low maintenance input for Council	1 Implements a scheme where we can influence, enforce, standards  2 Tried and tested scheme  3 Flexibility. The scheme is able to embrace most trade areas and is such has the potential for growth in future years.  4 Potential influence on Government thinking (if a national scheme is adopted, there will be pressure to adopt the most popular scheme already in place)

Risks of scheme	<ol style="list-style-type: none"><li>1 Many businesses are not members of trade associations due to high cost</li><li>2 National scheme may be introduced in next 5 years</li></ol>	<ol style="list-style-type: none"><li>1. May not get uptake from business Resource impact to Trading Standards</li><li>2. National scheme may be introduced in next 5 years</li></ol>
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**DEVELOPMENT AND INFRASTRUCTURE SERVICES****PLANNING PROTECTIVE SERVICES AND LICENSING COMMITTEE**18<sup>th</sup> June 2014

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**STRACHUR HOUSING ALLOCATION MASTERPLAN REPORT 14/01330/MPLAN**

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**1. SUMMARY**

Strachur is designated in the adopted Local Plan as having two Housing Allocation Areas (ref: H-AL 2/14 at Creggans and H-AL 2/15 at Mid Letters). Under this designation, a masterplan is required as part of the determination of any application for all or part of the site.

Members will consider separately two applications – one for the erection of a dwellinghouse on land to the south east of Heather Cottage (reference: 13/01625/PP) and the other for the formation of the access road, the installation of the private sewerage system and the installation of the surface water drainage (all to serve a seven plot housing development) (reference 14/00557/PP). A masterplan for the Housing Allocation H-AL 2/15 has been submitted and is considered below.

**2. RECOMMENDATION**

Whilst the masterplan might require some fine tuning in some locations, it is considered that there is sufficient detail to assess the proposed development in principle. As such it is recommended that the masterplan be approved and endorsed as a material consideration in the assessment of the current planning applications (references: 13/01365/PP and 14/00557/PP).

**3. ASSESSMENT**

The Housing Allocation H-AL 2/15 is referred to as 'Mid Letters' in the Argyll and Bute Local Plan 2009 and the Argyll and Bute Proposed Local Development Plan. In the former document, the figure of 30 units is mentioned whilst in the Proposed LDP, 50 units are recommended.

Housing Allocations are areas identified by the Council for specific development purposes which can expect to be commenced or delivered within the plan period without having to overcome significant obstacles to the development.

It is standard practice to require a masterplan when considering the development of such designated areas. Masterplans help the Council assess at an early stage in the development process, the interrelationships of layout, design, access, existing transport infrastructure and sustainable modes of travel, landscape and ecology, open space provision and integration of a proposed development with existing communities.

The Scottish Government most commonly refers to Masterplans as being, '*a plan that describes and maps an overall development concept, including present and future land use, urban design and landscaping, built form, infrastructure, circulation and service provision. It is based upon an understanding of place and it is intended to provide a structured approach to creating a clear and consistent framework for development*' (PAN 83). The Scottish Government endorses the use of masterplanning in general, but considers that it is especially useful for large sites and in areas/sites which are going to

undergo substantial change, have multiple uses, or are sensitive in environmental or landscape terms.

At the meeting of the PPSL Committee on 23 November 2011, Members considered and agreed a policy paper on masterplans. This stated, *inter alia*, that:

*“Proposals for development of PDAs should be accompanied by a Masterplan which demonstrates how the proposed development will relate to the wider area and any parts of the PDA which do not form part of the application site, and that the publicity and consultation arrangements for the masterplan and planning application run concurrently for a minimum period of 21 days.”*

Given the current planning applications submitted by Mr and Mrs Hall and Archd Fergusson Ltd, which are being considered separately by Members, a masterplan has been required for prior consideration as part of the determination of these applications. This has now been submitted, has been the subject of consultation and publicity, and is assessed below.

#### **4. CONSULTATIONS**

None of the consultees that have made comment in respect of applications 13/01365/PP and 14/00557/PP have expressed any views upon the masterplan.

#### **5. PUBLICITY**

The Masterplan has been advertised (first version expiry date 11.04.2014 and second version expiry date 13.06.2014).

#### **6. REPRESENTATIONS**

No representations have been received at the time of writing.

#### **7. ASSESSMENT**

**List of all Development Plan Policy considerations taken into account in assessment of the masterplan.**

‘Argyll and Bute Structure Plan’ (2002)

Policy STRAT SI 1 – Sustainable Development.  
Policy STRAT DC1 – Development within Settlements  
Policy STRAT DC 7 – Nature Conservation and Development Control  
Policy STRAT DC8 – Landscape and Development Control

‘Argyll and Bute Local Plan’ (2009)

Policy LP ENV 1 – Development Impact on the General Environment  
Policy LP ENV 10 – Development Impact on Areas of Panoramic Quality  
Policy LP ENV 19 – Development Setting, Layout and Design  
Policy LP HOU 1 – General Housing Development  
Policy LP HOU 2 – Provision of Housing to meet Local Needs including Affordable Housing.  
Policy LP HOU 4 – Housing Green-Space  
Policy LP SERV 1 – Private Sewage Treatment Plants and Wastewater  
Policy LP SERV 3 – Drainage Impact Assessments  
Policy LP TRAN 4 – New and Existing Public Roads and Private Access Regimes  
Policy LP TRAN 6 – Vehicle Parking Provision

**A. Development Plan Context**

The masterplan site lies within the 'settlement' boundary of Strachur and within an area of Panoramic quality. It is designated as housing allocation H-AL 2/15, which advocates the development of a housing related scheme. In the adopted Local Plan, a density of 30 units is recommended whilst in the Proposed Local Development Plan, 50 units are recommended. In 2009, there was a recommendation of 25% affordable housing; however, the LDP indicates no affordable housing element within Cowal for a period of two years from the adoption of the plan.

**B. Settlement Strategy**

The masterplan site identifies two points of access from the A886 Strachur-Colintraive road. The first access would serve seven plots in a two-tier design to the south west of the dwellings known as Heather Cottage and Kikut. The second access would serve seventeen dwellings shown in a three-tier layout and encroaching further up the hillside.

Under Policy STRAT DC 1 – Development within the Settlements, in small towns and villages such as Strachur, encouragement is given to development serving a wide community of interest, including 'medium scale' development on appropriate infill, rounding-off and redevelopment sites. Medium scale development is defined in the Local Plan as development of between 6 and 30 dwellings. In exceptional cases, 'large scale' development may be supported if it helps to counter population decline in the area, would help to deliver affordable housing, or else meet a particular local housing need. Large scale development is defined in the Local Plan as development exceeding 30 dwelling units.

Under Policy LP HOU 1 there is a general presumption against 'large scale' housing development in small towns and villages. Exceptions apply where there is a deliberate attempt to counter population decline, to develop affordable housing, or else meet a particular housing need. There is, therefore, a general presumption in favour of this development in terms of the 'Argyll & Bute Local Plan'.

**C. Land Ownership/Location, Nature and Design of Proposed Development**

One of the crucial issues surrounding the masterplan is that the allocation site is in three land ownerships. The north east part of the site is owned by Archd Fergusson Ltd who are a long-established house building company based in Strachur; the south east part of the site is owned by the MacLennan family and is presently crofting land; and the south western half of the site is owned by the Mackie family.

It is understood that Archd Fergusson Ltd are presently marketing their seven plots with a firm interest in one of the sites (subject of application 13/01625/PP). Given that the land is owned by a house builder, there is likelihood that these seven plots might be developed within the next five years.

There is less clarity regarding the future development of remaining land within the allocation as the Crofter's Commission would have to de-croft the land owned by the MacLennan family and the Mackie family would have to commit themselves to developing their land. Neither of these scenarios is imminent; however, the details of the masterplan clearly demonstrate that the development of Fergusson's seven plots will not prejudice the future delivery of housing within the remaining allocation.

The relationship of the site to the hillside, the main A886 road and Loch Fyne is similar to that of the existing housing developments at Baycroft and Mid Letters, both of which have been successfully developed in the past. Both these developments comprise an eclectic mixture of various house types and sizes, some repeated and some standalone. Given the prominence of the proposed sites and taking into account the demand for housing of a

certain prestige, it is expected that developers (whether individual or corporate) will design houses that reflect the prominence and prestige of the site.

In the case of a housing allocation area, it is useful for some design parameters to be set down at the outset with the objective of achieving an overall development that has some cohesiveness and unifying features. In this regard, the current masterplan espouses the following;

- The encouragement of a consistent skyline throughout the development where dwellings of 1  $\frac{3}{4}$  or two storeys will be preferred;
- The establishment of general building lines which will be set to offer a spacious introduction to the front of the dwellings from the roadway and a height restriction of one metre placed on shrub planting to the front gardens;
- The use of slate (or slate substitute) roofs with a preference for dormer projections;
- The use of white or off-white roughcast or smooth render with the inclusion of masonry blockwork or timber cladding where appropriate;
- Through the Deeds of Condition, control over the subsequent painting of external walls (only white or off-white); no free-standing trampolines within front gardens; no solar panels on front roof slopes; and keeping front boundary fencing to 600 mm or less.

As a final point, it should be recognised that a form of masterplan was submitted in 2009 at the time of considering an application for seven houses within Archd Fergusson's land (ref: 08/01508/DET). This masterplan was not produced with as much detail as the current one and it should be stressed that we now have a superior masterplan which takes into account ground conditions and topography in a more realistic fashion.

### **D. Natural Environment**

Policy STRAT DC 7 of the Structure Plan states that development which impacts on wildlife sites or other nature conservation interests, including sites, habitats or species at risk will be assessed on its acceptability balanced with social and economic considerations. It also notes that enhancements to nature conservation issues are encouraged. There are no protected sites on the site.

### **E. Landscape Character**

The acceptability of the current proposal will be fully dependent on the successful integration of the development in its landscape context through structured tree and other planting. This would be carried out to maximise boundary privacy between neighbours whilst minimising any detrimental effect on the outlook from houses. A combination of low level/medium sized evergreen bushes interspersed with carefully positioned native trees is identified on the masterplan and this is considered to be acceptable.

### **F. Affordable Housing**

The allocation specifies that 25% of the proposed residential units should be affordable. Within Bute and Cowal, the issue of affordable housing is currently the subject of debate during the production of the Local Development Plan and the draft LDP indicates that affordable housing within the two PDAs will not be necessary for the two years after its adoption. On this basis, the masterplan does not specifically identify the provision of affordable housing.

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

As detailed above, there will be two access roads. The first will serve the seven plots owned by Archd Fergusson Ltd and significant work has already been carried out on this road. The text associated with the masterplan indicates that, during preliminary works, it became evident that the presence of extensive rock within the site would necessitate the re-appraisal of the original house layouts approved in 2009. On this basis, a new road specification was prepared to meet the demands of the site and to render the project financially and practically viable.

The road is 5 metres wide for the first 35 metres back from the public road and is then approximately 3.5 metres wide thereafter. It has a 2-metre wide service strip; a passing place; and a turning place at its end. It is understood that part of the road do not meet the gradients necessary for adoption.

Policy LP TRAN 4 of the Argyll and Bute Local Plan 2009 states that developments of up to five dwellings can be served by a private access but that development serving more than five units should be to an adoptable standard. In this particular instance, principally due to ground conditions, the road is not of a standard that would normally merit adoption. However, in the interests of compliance with LP TRAN 4, a relaxation of standards can be justified for the adoption of this particular stretch of road.

The second access has been designed to meet the broad requirements of the Area Roads Manager's specification for access roads serving more than five houses and constructed to an adoptable standard. However, it should be stressed that the layout may need adjustment depending upon the extent of any underlying rock strata having regard to the circumstances discovered with the access described in the preceding paragraph.

As presented on the layout plan of the masterplan, the proposed roadway tends to give the impression of dominating the site. However, it should be noted that this will not be the 'on the ground' situation where the natural gradients (working with the bends) together with intelligent roadside planting should minimise the potential road domination.

**H. Connection to Proposed Potential Development Area**

In the Proposed Local Development Plan, a new Potential Development Area (ref: 1004) is proposed on land to the south west of the allocated site. Whilst there are objections to the PDA which will be considered by the Reporter, the current masterplan identifies the provision of vehicular access from the allocated site to the PDA. This exhibits that there is potential for the PDA to be accessed successfully since taking access from the existing non-adopted road at Letters Way would not be ideal.

**J. Conclusion**

Housing Allocations are defined in the adopted Local Plan as areas identified by the Council for specific development purposes which can expect to be commenced or delivered within the plan period without having to overcome significant obstacles to the development.

The masterplan, whilst indicative, gives all interested parties and statutory consultees sufficient detail to assess the future development of the site. Assessed against Development Plan Policy and other material considerations the components of the residential scheme are considered to be compatible with H-AL 2/15. As such, it is considered fit for purpose. It is recommended that it be approved and endorsed as a material consideration in the assessment of the current planning applications (references 13/01625/PP and 14/00557/PP).

**IMPLICATIONS**

Policy: None  
Financial: None  
Personnel: None  
Equal opportunities: None

**Author of Report:** Steven Gove 01369 708603

**Date:** 29<sup>th</sup> May 2014

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





**Committee Plan Relative to master Plan 14/01330/MPLAN - H/AL 2/15**



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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:** 13/01625/PP

**Planning Hierarchy:** Local

**Applicant:** Mr and Mrs Hall

**Proposal:** Erection of Dwellinghouse

**Site Address:** Plot 7, Land to the South East of Heather Cottage, Strachur

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#### **DECISION ROUTE**

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

---

**(A) THE APPLICATION**

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

§ Erection of dwellinghouse

**(ii) Other specified operations**

- Connection to public water main and private sewerage system
  - Connection to existing road
- 

**(B) RECOMMENDATION:**

It is recommended that Planning Permission be granted subject to the conditions, reasons and informative notes contained at the end of this report.

---

**(C) HISTORY:**

Outline planning permission 15196 granted September 1972 for residential development at this location with subsequent reserved matters approval for 12 dwellings in June 1976 which is understood to remain extant following commencement of development.

Planning permission 165/82 was granted September 1982 and represented amendment of the scheme of development approved in 1976.

Planning permission 05/01434/DET for the erection of seven dwellinghouses and installation of private sewerage system was approved on 8 December 2005.

Planning application 07/01966/DET for erection of 12 dwellinghouses, formation of vehicular access and installation of private sewage system was withdrawn on 3 September 2008.

Planning Permission 08/01508/DET granted on 15 April 2009 for the erection of seven dwellinghouses, formation of vehicular access and installation of private sewerage system. Whilst the road has been formed and the private sewerage system installed, not all of the suspensive conditions were discharged. On this basis, it is considered that a lawful start has not been made on this permission and, therefore, it lapsed in April 2014.

An application for Planning Permission (14/00557/PP) submitted in February 2014 for the formation of the access road, the installation of the private sewerage system and the installation of the surface water drainage (all to serve a seven plot housing development) and the incorporation of a masterplan. Reports on this application and the masterplan are also before Members for consideration at this Committee.

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**(D) CONSULTATIONS:**

**Scottish Water** (letter dated 10 August 2013) No objections.

**Area Environmental Health Manager** (Memo dated 27 August 2013) No objections.

**Area Roads Manager** (response dated 29 August 2013) No objections subject to conditions.

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**(E) PUBLICITY:**

Advertised under Regulation 20 (closing date 6<sup>th</sup> September 2013).

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**(F) REPRESENTATIONS:**

No representations have been received.

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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**

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**(H) PLANNING OBLIGATIONS**

- (i) **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 Settlement'* supports the principle of up to *'medium scale'* development with the settlement of Strachur on appropriate infill, rounding-off and redevelopment sites.

**Argyll and Bute Local Plan 2009**

Policy LP ENV 10 seeks to resist development within... Areas of Panoramic Quality which would have a significant adverse impact on the character of the landscape. The highest standards of location, siting, landscaping, boundary treatment, materials and detailing will be required within such designated areas.

Policy LP ENV 19 *'Development Setting, Layout & Design'* sets out the requirements in respect of development setting, layout and design.

Policy LP HOU 1 *'General Housing Development'* provides a presumption in favour of housing developments within the defined settlement zones.

Policy LP TRAN 4 – *'New and Existing, Public Roads and Private Access Regimes'* sets out the requirements for development in respect of new and existing public roads and private access regimes.

**(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.**

Planning History  
Argyll and Bute Council Proposed Local Development Plan

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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): N**

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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**

**A. Settlement Strategy**

In the Argyll & Bute Local Plan 2009, the site falls within housing land allocation H-AL 2/15. The proposed dwellinghouse is located within one of the plots identified in application 14/00557/PP and within the associated masterplan.

**The proposal is, therefore, considered to be consistent in principle with Policies STRAT DC 1 of the Structure Plan and LP HOU 1 of the Local Plan.**

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

The application site lies immediately to the south east of the access road that has been constructed and extends to 0.18 hectares. In the main it is rough grass and scrub trees. It rises by over 4m from front to rear.

The proposal is for a single L-shaped dwelling with two levels of accommodation, comprising a lounge, kitchen/dining room, family room, study, bathroom and four bedrooms. The external wall finish would be a mix of textured masonry blockwork on the lower part of the dwelling and acrylic render on the upper part. The predominantly hipped roof would be fibre cement slate.

The seven dwellinghouses that were approved in 2009 were two storeys in height with an upper half of vertical larch cladding and a lower half of smooth render. To accommodate the gradient of the site, some of these houses would have been accessed by a gangway to the upper floor. The fenestration had a variety of sizes, methods of opening and patterns. At the time, it was stated that the *“simple dwelling forms and proposed materials are characteristic of the surrounding area”*.

Indeed, there is a very eclectic mix of dwellinghouses within Strachur as a whole. There is a wide variety of dwellinghouse designs both along the A886 Shore Road fronting the proposed site and in Baycroft to the northeast. The proposed dwellinghouse in this instance reflects many of the facets of residences in this part of Strachur. On this basis, the proposal reflects the advice contained within Sustainable Design Guidance Number 1: Small Scale Housing Development which advocates that *“new houses should be designed to suit their landscaped setting and other adjacent building groups”* (Page 38).

A condition is recommended regarding the positioning of landscaping to screen the proposed underbuilding, which should assist in assimilating the proposal into the site.

**On the basis of the foregoing, it is considered that the proposal is consistent with Policies LP ENV 10 and LP ENV 19 along with Appendix A of the Argyll & Bute Local Plan 2009; together with the Council’s Sustainable Design Guidance.**

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

The access to the plot has largely been constructed and is the subject of the current application 14/00557/PP. This access has not been constructed strictly to adoptable standard (principally due to gradient issues); however, in the interests of compliance with policy LP TRAN 4, a relaxation of standards can be justified for the adoption of this particular stretch of road. This issue is addressed in greater detail in the report concerning application 14/00557/PP.

A condition is recommended that requires completion of the access prior to the occupation of the dwellinghouse at least to a condition appropriate to serve this single dwellinghouse.

**The proposal can be considered acceptable in terms of Policy LP TRAN 4 of the Argyll & Bute Local Plan 2009.**

**D. Infrastructure**

It is proposed to connect into the public water main and Scottish Water has confirmed there are no capacity or network issues.

It is further proposed to connect into a private, non-adopted, foul drainage system discharging to coastal waters which was approved under the original permission 08/01508/DET and is the subject of the current application 14/00557/PP.

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

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**(R) Reasons why Planning Permission in Principle should be granted**

The proposal is consistent with policies STRAT DC 1 of the Argyll and Bute Structure Plan 2002 and LP ENV 10, LP ENV 19, LP HOU 1 and LP TRAN 4 of the Argyll and Bute Local Plan 2009 and with all other material considerations. The carrying out of the development permitted, subject to the conditions imposed, would accord with those policies and, in the opinion of the Planning Authority, there are no circumstances which otherwise would justify the refusal of permission.

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**(S) Reasoned justification for a departure from 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: Steven Gove**

**Date: 11 June 2014**

**Reviewing Officer: David Eaglesham**

**Date: 11 June 2014**

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

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 13/01625/PP**

1. The development shall be implemented in accordance with the approved drawings: Drawing No. HBS 01; Drawing No. HBS 02A; Drawing No. HBS 1.01; Drawing No. HBS 1.02; and Drawing No. HBS 1.03 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.

2. Unless otherwise agreed in writing with the Planning Authority, the access onto the existing internal access shall be formed with visibility splays of 20 metres in both directions measured from a point 2.0 metres back from the edge of the carriageway at the centre point of the access. No walls, hedges, fences or other obstructions shall be allowed over a height of 1.0 metres above the level of the carriageway within these visibility splays.

Reason: In the interests of road safety.

3. Prior to the occupation of the dwellinghouse, the access to the site from the A886 road shall be constructed in accordance with the Road Layout and Road Details and Specification submitted with planning application 14/00557/PP unless otherwise agreed in writing with the Planning Authority.

Reason: In order to ensure that the dwellinghouse is served by an access that is commensurate with the scale of development.

4. Prior to the commencement of the development, full details of the landscaping to take place within the plot shall be submitted to and approved in writing by the Planning Authority. The scheme shall comprise a planting plan and schedule which shall include details of the location and species to be used together with a programme for the timing, method of implementation, completion and subsequent on-going maintenance. Particular attention should be paid in the plan to planting to the north of the dwellinghouse with a view to screening the underbuilding.

All of the landscaping works shall be carried out in accordance with the approved scheme unless otherwise approved in writing by the Planning Authority.

Any trees/shrubs which within a period of five years from the completion of the approved landscaping scheme fail to become established, die, become seriously diseased, or are removed or damaged shall be replaced in the following planting season with equivalent numbers, sizes and species as those originally required to be planted unless otherwise approved in writing by the Planning Authority.

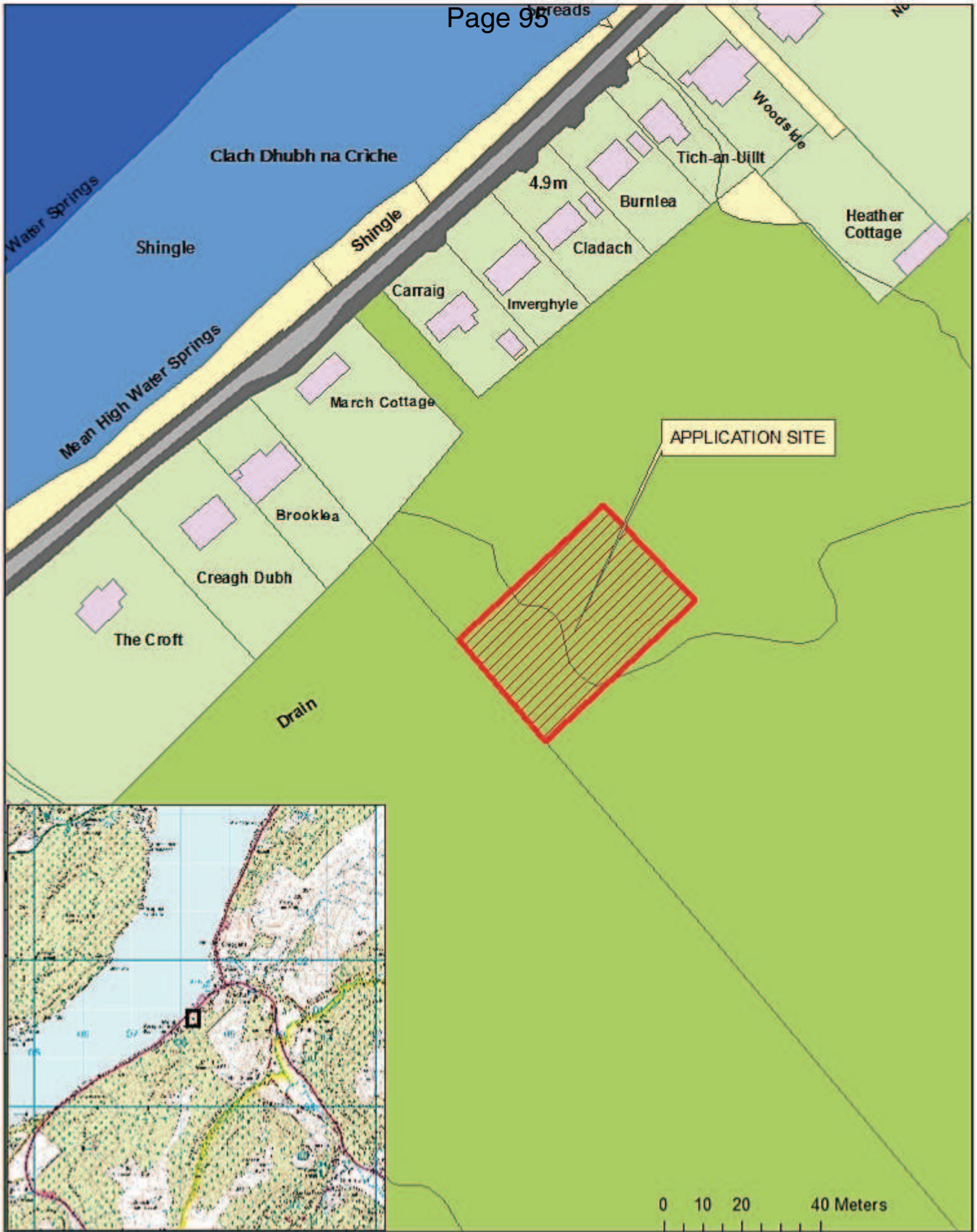
Reason: To assist the integration of the proposal with its surroundings in the interest of visual amenity.



**NOTE TO APPLICANT**

3. 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).]
4. In order to comply with Section 27A(1) of the Town & 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.
5. In order to comply with Section 27B(1) of the Town & 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 complete.
6. The Area Roads Manger has advised that a Road Opening Permit may be required for services and that surface water drainage will be required to prevent water running onto the public road.

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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:** 14/00557/PP

**Planning Hierarchy:** Local

**Applicant:** Archd Fergusson Ltd

**Proposal:** Formation of access, installation of private sewerage system and installation of surface water drainage (all to serve a seven plot housing development) and submission of a Housing Allocation master plan

**Site Address:** Land to the South West of Heather Cottage and Kikut, Strachur

---

#### **DECISION ROUTE**

(i) Local Government (Scotland) Act 1973

---

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

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

- Construction of new access
- Installation of private sewerage system
- Installation of surface water drainage system

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

- § Identification of seven housing plots
- 

#### **(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, reasons and informative notes given at the end of this report.

---

#### **(C) HISTORY:**

Outline planning permission 15196 granted September 1972 for residential development at this location with subsequent reserved matters approval for 12 dwellings in June 1976 which is understood to remain extant following commencement of development.

Planning permission 165/82 was granted September 1982 and represented amendment of the scheme of development approved in 1976.

Planning permission 05/01434/DET for the erection of seven dwellinghouses and installation of private sewerage system was approved on 8 December 2005.

Planning application 07/01966/DET for erection of 12 dwellinghouses, formation of vehicular access and installation of private sewage system was withdrawn on 3 September 2008.

Planning Permission 08/01508/DET granted on 15 April 2009 for the erection of seven dwellinghouses, formation of vehicular access and installation of private sewerage system. Whilst the road has been formed to a significant degree and the private sewerage system installed, not all of the suspensive conditions were discharged. On this basis, it is considered that a lawful start has not been made on this permission and, therefore, it lapsed in April 2014.

An application for Planning Permission (13/01625/PP) for the erection of a dwellinghouse on one of the seven identified plots is currently being processed. A report on this application is currently before Members of consideration.

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**(D) CONSULTATIONS:**

**SEPA** (letter dated 7<sup>th</sup> April 2014): No objection but recommends an informative note regarding proximity to watercourse.

**Area Roads Manager** (report dated 1<sup>st</sup> May 2014): No objections.

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**(E) PUBLICITY:**

Neighbour Notification (closing date 7<sup>th</sup> April 2014) and Regulation 20/Masterplan Advertisement (closing date 11<sup>th</sup> April 2014).

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**(F) REPRESENTATIONS:**

No representations received.

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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**

- (i) 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 Settlement'* supports the principle of up to *'medium scale'* development with the settlement of Strachur on appropriate infill, rounding-off and redevelopment sites.

**Argyll and Bute Local Plan 2009**

Policy LP ENV 10 seeks to resist development within... Areas of Panoramic Quality which would have a significant adverse impact on the character of the landscape. The highest standards of location, siting, landscaping, boundary treatment, materials and detailing will be required within such designated areas.

Policy LP ENV 19 *'Development Setting, Layout & Design'* sets out the requirements in respect of development setting, layout and design.

Policy LP HOU 1 *'General Housing Development'* provides a presumption in favour of housing developments within the defined settlement zones.

Policy LP HOU 2 *'Provision of Housing to Meet Local Needs Including Affordable Housing Provision'*

Policy LP TRAN 4 – *'New and Existing, Public Roads and Private Access Regimes'* sets out the requirements for development in respect of new and existing public roads and private access regimes.

(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.**

Housing Allocation Masterplan  
Planning History  
Argyll & Bute Council Proposed Local Development Plan

---

(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**

---

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

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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 (ref: 08/01508/DET) was granted in April 2009 for the erection of seven dwellinghouses within the site. This identified the creation of a row of six houses behind the gardens of the existing domestic properties along the A886 with a further house sitting a little higher up the hillside behind Heather Cottage.

Works commenced on the site without the full discharge of suspensive conditions and the applicant advised that they were altering the layout of the seven plots. The current application seeks to formalise the works that have taken place whilst explaining the revised layout (which is an improvement on the previous scheme).

The application is also accompanied by a masterplan for Housing Allocation H-AL 2/15. Importantly, it is considered that the submitted masterplan demonstrates how the remainder of the housing allocation site could be developed in the future in a satisfactory manner and that the current application for the infrastructure associated with seven dwellings would not prejudice the overall vision for the site.

---

**(Q) Is the proposal fully 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 proposal accords with policies STRAT DC 1 of the Argyll and Bute Structure Plan 2002 and policies LP ENV 10, LP ENV 19, LP HOU 1, LP HOU 2, LP BAD 1 and LP TRAN 4 of the Argyll and Bute Local Plan (2009) and the proposal raises no other material consideration which would justify refusal of permission.

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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: Steven Gove**

**Date: 11 June 2014**

**Reviewing Officer: David Eaglesham**

**Date: 11 June 2014**

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



**CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 14/00557/PP**

1. The development shall be implemented in accordance with the approved drawings – Location Plan (scale 1:2500); Block plan Indicating Road Layout and Plot Locations; Block Plan Indicating Foul Water Disposal; Road Layout; Block Plan Indicating Surface Water Disposal; and Road Details and Specification 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.

2. Prior to the occupation of the first residential unit, visibility splays measuring 75 metres in both directions from a 2.4 metre setback shall be maintained at the junction with the A886 clear of all obstructions over 1 metre in height at all times.

Reason: In the interests of road safety

3. The proposed vehicle access to each dwelling shall have visibility splays of 20 metres x 2 metres in each direction formed from the centre line of each access. Prior to the occupation of each dwelling, these visibility splays shall be cleared of all obstructions over one metre in height above the level of the adjoining carriageway and thereafter shall be maintained clear of all obstructions over one metre in height.

Reason: In the interests of road safety.

4. Unless otherwise agreed in writing with the Planning Authority, the access serving the site shall be a Road over which the public has a right of access in terms of the Roads (Scotland) Act 1984 which shall be constructed in consultation with the Council's Roads Engineers.

Reason: In the interests of road safety to ensure the provision of a road commensurate to the scale of development.

5. No dwellinghouse served by the proposed access shall be occupied until the access has been fully constructed between the plot and the A886, unless otherwise agreed in writing with the Planning Authority.

Reason: In order to ensure that any dwellinghouse is served by an access that is commensurate with the scale of development.

6. Unless otherwise agreed in writing with the Planning Authority, the sewage treatment plant shall not be brought into use until maintenance schedules for the plant and odour control measures have been submitted to and approved in writing by the Planning Authority, in consultation with Public Protection Services. None of the dwellings shall be occupied until the construction of the sewage treatment plant has been completed and is fully operational in accordance with the approved details.

Reason: In the interests of public health and amenity.

**NOTES TO APPLICANT**

3. In order to comply with Section 27B(1) of the Town & 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 complete.
4. The Area Roads Manager has recommended the following:
  - A system of surface water drainage should be provided to prevent water running onto the A886 road;
  - A channel must be formed at the uppermost passing place to direct water into the adjacent gully;
  - A system of surface water drainage shall be provided to prevent the flow of surface water from each plot onto the access road;
  - An inspection regime shall be formulated relating to the inlet grille of the 900 mm diameter culvert within Plot 7. Such a regime shall ensure that the grille does not become blocked with debris, etc.
  - The developer shall supply a street name plate and a grit bin shall be placed at locations to be agreed with the Area Roads Manager;
  - A Road Opening Permit will be required for any works on or adjacent to the A886 carriageway.
  - Road Construction Consent shall be discussed at the earliest stage with the Area Roads Manager.
5. SEPA has recommended that, given a watercourse runs through Plots 3 and 4, the future developers of those plots should be aware that a buffer strip will be required between the watercourse and any development. In relation to Plot 4, they have highlighted that, although culverting for access may be acceptable, SEPA is opposed to culverting for land gain. This issue would need to be a consideration for any future application for Planning Permission.

## **ANNEX A – RELATIVE TO APPLICATION NUMBER 14/00557/PP**

### **PLANNING LAND USE AND POLICY ASSESSMENT**

#### **A Settlement Strategy**

Within the Argyll & Bute Local Plan 2009, the site falls within the defined Strachur 'Settlement Zone' and the site forms part of Housing Allocation H-AL 2/15 (Mid Letters, Strachur – 30 units).

At the Planning, Protective Services and Licensing Committee in November 2011, Members decided to introduce a protocol for dealing with applications proposing the development of part(s) of a Potential Development Area or Housing Allocation. This has resulted in a masterplan being produced for the whole of Housing Allocation H-AL 2/15 which has been advertised for public consultation purposes. At the time of writing, no representations have been submitted to either the current proposal or the wider Housing Allocation.

In terms of the Housing Allocation, it is considered that the submitted masterplan demonstrates how the site could be developed in the future in a satisfactory manner and that the current application for the infrastructure associated with seven dwellings would not interfere negatively with the overall vision for the site.

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

The application site extends to 1.5 hectares and occupies land between steeper wooded slopes above the site and the rear gardens of domestic properties along the A886 which contain many trees, making views into the site difficult to obtain from the roadside. The site itself rises from approx. 8m at the A886 to 27m at its eastern corner.

Planning Permission (ref: 08/01508/DET) was granted in April 2009 for the erection of seven dwellinghouses within the site. This identified the creation of a row of six houses behind the gardens of the existing domestic properties along the A886 with a further house sitting a little higher up the hillside behind Heather Cottage.

Works commenced on the site in 2012 relating to the formation of the access road and the installation of the private sewerage system. Whilst these works were generally in accordance with the approved plan, there were some suspensive conditions attached to the permission that were not fully discharged prior to the development commencing. In discussing with the applicant at the time, it became clear that the layout they wished to pursue did not accord with the approved plans. In addition, they had decided that, rather than building all seven dwellinghouses themselves, they would market the plots.

In the circumstances of the premature commencement of works and the change to the layout, it was agreed that the current application would be submitted to formalise the works that had taken place along with identifying the new plot layout. Although the plot layouts do not constitute development and, consequently, do not form part of the application site, they are clearly indicated on the submitted plans.

It is considered that the proposed layout would actually be an improvement on the linear nature of the previous approval and details such as final location, design and landscaping will be determined when the application for each plot is submitted. Bearing in mind that the site is not prominent and the proposal represents a modest extension of the existing settlement of a similar character to other recent nearby development, any impact on the much wider Area of Panoramic Quality is considered minimal.

The applicant's agent has provided an indicative masterplan for the wider Allocation and this is discussed in detail in a separate report to Members. Importantly, this masterplan demonstrates that the approval of this planning application will not compromise the future development of the remaining housing allocation.

**On the basis of the foregoing, it is considered that the proposal is consistent with Policies LP ENV 10, LP ENV 19 and LP HOU 1 along with Appendix A of the Argyll & Bute Local Plan 2009.**

### **C Road Network and Parking**

The vehicular access to the site has largely been formed with the major omission being the final surfacing. At the time of the previous application in 2009, the road was approved in relation to the provision of seven dwellings without a condition ensuring that the road would be to adoptable standard. However, an informative note stated that the Area Roads Manager had recommended that Construction Consent would be required.

The text associated with the masterplan indicates that, during preliminary works, it became evident that the presence of extensive rock within the site would necessitate the re-appraisal of the original house layouts approved in 2009. On this basis, a new road specification was prepared to meet the demands of the site and to render the project financially and practically viable.

The road is 5 metres wide for the first 35 metres back from the public road and is then approximately 3.5 metres wide thereafter. It has a 2-metre wide service strip; a passing place; and a turning place at its end. It is understood that part of the road do not meet the gradients necessary for adoption.

Policy LP TRAN 4 of the Argyll and Bute Local Plan 2009 states that developments of up to five dwellings can be served by a private access but that development serving more than five units should be to an adoptable standard. In this particular instance, principally due to ground conditions, the road is not of a standard that would normally merit adoption. However, in the interests of compliance with LP TRAN 4, a relaxation of standards can be justified for the adoption of this particular stretch of road.

**On the basis of the above and the justification for the adoption of the access road, it is considered that the development can be viewed favourably in terms of Policy LP TRAN 4 of the Argyll and Bute Local Plan 2009.**

### **D Infrastructure**

The private sewerage system (which has already been installed although is not in use) is the same as that approved in 2009. SEPA has confirmed that there is no objection on foul drainage grounds and that there is a current licence (ref: CAR/S/1111553) for the system under the Water Environment (Controlled Activities) Regulations (CAR) 2011 (as amended).

At the time of the previous permission, there was a condition requiring details of maintenance schedules for the plant and odour control measures to be submitted to and approved prior to the occupation of any dwellinghouse. In the interests of compliance with Policy LP BAD 1 (Potential Bad Neighbour Development), it is recommended that such a condition be repeated.

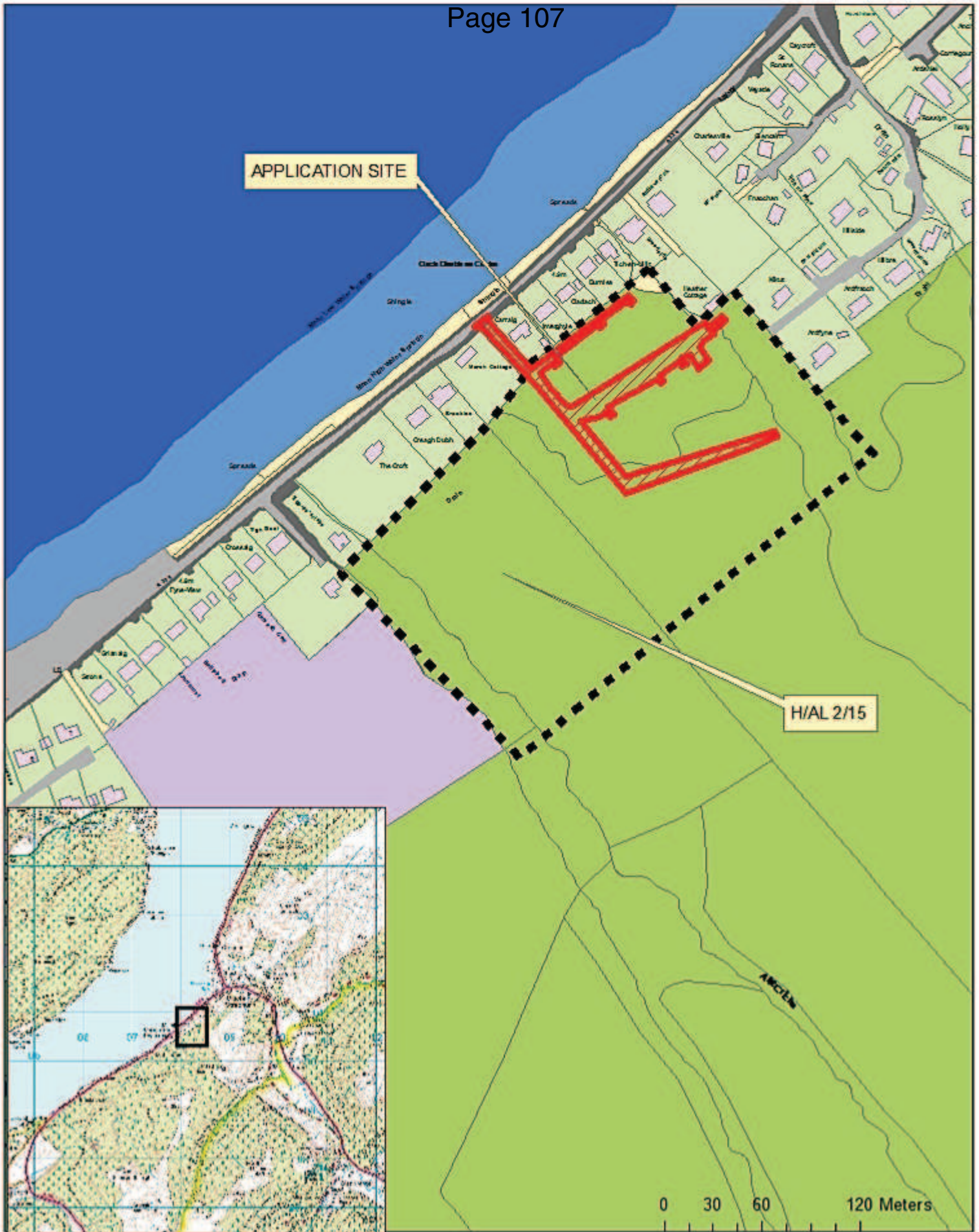
### **E Affordable Housing**

At the time of the previous application in 2009, the following was stated in the Report of Handling:

*“Whilst forming part of a proposed housing allocation, the application site cannot be considered as a new housing site in that two extant planning permissions already allow for its development. Therefore, there is no requirement for compliance with this local plan policy, to provide affordable housing provision on site. However, the applicant’s indicative masterplan for this housing allocation has made provision for affordable housing elsewhere within the allocation and this demonstrates that this application does not compromise the requirements of policy LP HOU 2.”*

The present application, whilst not specifically relating to the erection of dwellinghouses, does have an associated residential component. Similar to 2009, there is no affordable housing element proposed. In the 2009 Local Plan, the allocation specifies that 25% of the proposed residential units should be affordable. Within Bute and Cowal, the issue of affordable housing is currently the subject of debate during the production of the Local Development Plan and the draft LDP indicates that affordable housing within the two PDAs will not be necessary for the two years after its adoption. On this basis, the masterplan does not specifically identify the provision of affordable housing.

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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:** 14/00489/PP

**Planning Hierarchy:** Local

**Applicant:** Sròndore Wind Farmers LLP

**Proposal:** Amendment to planning permission reference 13/01427/PP (Erection of 3 wind turbines with maximum blade tip height above ground level of 110m turbines 1 and 2 and 100m turbine 3, together with a control building, ancillary infrastructure including crane hard standings and access track and temporary ground works) – Increase in height of S1 and S2 turbines from 110 metres to 120 metres (to blade tip)

**Site Address:** Land At Cruach A' Phubuill, (Adjacent To Allt Dearg Windfarm) by Ardrishaig

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**DECISION ROUTE Local Government Scotland Act 1973**

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**(A) THE APPLICATION**

**Development Requiring Express Planning Permission**

- Erection of 2 wind turbines within a consented 3 turbine development with S1 and S2 turbines having an increased blade tip height of 120m relative to current consented height of 110m, with rotor diameter remaining unaltered.

**Other specified operations**

- Formation of new on-site access tracks (1.1km) as per planning permission 13/01427/PP;
- Erection of control building (12m x 6m) consented by planning permission 13/01427/PP but with revised location (14/00843/PP);
- Installation of underground cabling as per planning permission 13/01427/PP;
- Formation of crane hard-standing areas as per planning permission 13/01427/PP;
- Formation of temporary construction compound and laydown area as per planning permission 13/01427/PP;
- Borrow pit workings to provide the aggregate required during construction (to be subject of separate planning applications);

- Minor improvement of existing windfarm access from A83 (not amounting to 'development' );
  - Connection to 33kv overhead line (subject to separate Electricity Act consent).
- 

## **B) RECOMMENDATION**

It is recommended that planning permission be granted subject to:

- i) amendment of the previously concluded Section 75 legal agreement relative to planning permission 13/01427/PP to ensure its obligations relative to the requirement for a Decommissioning Bond and a contribution from the operation of the site towards the implementation of the existing Allt Dearg Habitat and Landscape Enhancement Plan, apply equally to the amended development permitted by this consent as well as the original permission for the Sròndore wind farm development;
  - ii) the conditions and reasons listed in the report.
- 

## **(C) HISTORY:**

06/01158/DET- Erection of 14 turbine wind farm (115m to blade tip and 90m rotor diameter) Land south-west of Stronchullin Farm, Cruach a Phubill, Ardrishaig - planning permission refused following a local hearing

10/00160/PP- Erection of 12 wind turbines, meteorological mast, control building ancillary infrastructure and ground works, – planning permission granted contrary to officer recommendation following a local hearing 11.11.2010

11/01180/PP - Formation of access area to east of A83 (T) to enable delivery of wind farm components to Allt Dearg Wind farm via access to Stronachullin Farm – planning permission granted 02.09.2011

11/02358/PP - Erection of control building with associated substation compound (amended location to that previously consented by permission reference 10/00160/PP) Allt Dearg Wind farm – planning permission granted 09.01.2012.

13/01427/PP - Erection of 3 wind turbines (maximum blade tip height above ground level of 110m turbines 1 and 2 and 100m turbine 3) together with a control building, ancillary infrastructure including crane hard standings and access track and temporary ground works – planning permission granted 12.12.2013.

14/00843/PP - Formation of access track and erection of control building (amended location) – pending consideration.

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**(D) CONSULTATIONS:**

**Scottish Natural Heritage (SNH)** (11<sup>th</sup> April 2014) – has not objected to the proposal in terms of impacts upon designations of national importance but has provided advice to the Council in its determination of the application. SNH maintains its position that turbines larger in scale than those in operation at Allt Dearg are inappropriate, as was their stance in respect of the previously consented application for Srondoire. They therefore advise against an increase in turbine heights which will result in a disparity of 39m between the two adjacent schemes. In recognition of the difficulty in being able to source 70m high towers, their preference would be for a reduction to 60m rather than an increase to 80m.

**The Royal Society for the Protection of Birds (RSPB)** – no response to date.

**Civil Aviation Authority** (6<sup>th</sup> March 2014) – no objection subject to relevant aviation interests being re-consulted in respect of this proposed amendment to approved turbine height.

**Ministry Of Defence (MoD)** (28<sup>th</sup> March 2014) – no objection.

**National Air Traffic Services (NATS)** (6<sup>th</sup> March 2013) – no objection.

**Prestwick Airport** (12<sup>th</sup> March 2014) – no objection.

**Ofcom (CSS Spectrum Management)** (16<sup>th</sup> March 2014) – no objection. .

**Joint Radio Company (JRC)** (27<sup>th</sup> March 2014) – no objection.

**WS Atkins on behalf of Scottish Water** (17<sup>th</sup> March 2014) – no objection

**Council's Public Protection Officer** (7<sup>th</sup> March 2014) – no objection.

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**(E) PUBLICITY:** Regulation 20 Advert – expiry date 4<sup>th</sup> April 2014

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**(F) REPRESENTATIONS:** None.

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**(G) SUPPORTING INFORMATION**

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

- (i) An Environmental Statement (ES):** 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 e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:**

Yes – Blade Tip Height Amendment Written Statement (Feb 2014).

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**(H) PLANNING OBLIGATIONS**

**Is a Section 75 (S75) agreement required:** Yes

A legal agreement is required in order to secure a Decommissioning Bond and off-site habitat management, which cannot be secured by way of the imposition of planning conditions. A bond requirement and a contribution towards habitat management additional to that already derived from the generation capacity of the Allt Dearg windfarm and pro rata to the proposed installed capacity of the Sròndore scheme, has already been secured by means of a Section 75 legal agreement associated with these previous consents. That agreement will require amendment to ensure that its obligations are equally applicable to the amended turbine designs proposed by means of this application.

In the event that an agreement is not concluded within 4 months then the application should be refused for the following reason:

Scottish Government advice is that Planning Authorities should ensure via conditions and/or legal agreement that wind farm site restoration takes place either on the expiry of the consent or in the event of the project ceasing to operate for a specified period. It also cites the opportunities for wind turbine developments to introduce environmental improvement through land management, land restoration and habitat creation, as part of a development scheme. The Council considers that it is appropriate that the restoration of this site be underwritten by means of a financial bond and that off-site habitat management should be implemented in accordance with the intentions set out in the original application for the Sròndore turbines. These measures cannot be secured by means of planning conditions and therefore the developer has entered into a legal agreement to secure these outcomes in association with the original consent. In the absence those obligations being extended to the amended form of development proposed, the proposal fails to satisfy 'Argyll & Bute Local Plan' Policy LP PG 1 or the meet the advice set out in Scottish Government's 'Advice Note on Onshore Turbines' (2012).

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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

Policy STRAT SI 1 – Sustainable Development.

Policy STRAT DC 7 – Nature Conservation and Development Control

Policy STRAT DC 8 – Landscape and Development Control

Policy STRAT DC 9 – Historic Environmental and Development Control

Policy STRAT RE 1 – Wind Farm/Wind Turbine Development

'Argyll and Bute Local Plan' 2009

Policy LP ENV 1 – Development Impact on the General Environment

Policy LP ENV 2 – Development Impact on Biodiversity

Policy LP ENV 6 – Development Impact on Habitats and Species

Policy LP ENV 9 – Development Impact on National Scenic Areas

Policy LP ENV 10 – Development Impact on Areas of Panoramic Quality

Policy LP ENV 17 – Development Impact on Sites of Archaeological Importance.

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

Policy LP REN 1 – Wind Farms and Wind Turbines

Policy LP PG 1 – Planning Gain

Appendix A – Sustainable Siting and Design Principles.

Proposed 'Argyll & Bute Local Development Plan'

The renewables related content of the proposed LDP is the subject of objection and will be considered by the Reporter at the Examination into the plan. Accordingly it cannot be accorded material weight at this stage in the plan-making process.

Note: The Full Policies are available to view on the Council's Web Site at [www.argyll-bute.gov.uk](http://www.argyll-bute.gov.uk)

**(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.**

- Scottish Planning Policy (2009)

- Scottish Government Advice Note on Onshore Turbines (2012)
- 'Argyll and Bute Landscape Wind Energy Capacity Study' (2012)
- '2020 Routemap for Renewable Energy in Scotland' Scottish Government (2011)

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**(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment (EIA):** This proposal is a Schedule 2 EIA Development. The original consented scheme was the subject of EIA. It is not considered that an increase in height of two of the consented turbines by 10m prompts a requirement for a revised EIA. The turbine modification proposed does not give rise to further significant environmental impact beyond that previously assessed.

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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.

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

This proposal relates to a consented but unimplemented three turbine wind farm on land adjoining the operational wind farm at Allt Dearg, to the south of Ardrishaig. Committee approved the development of an additional three wind turbines in October 2013, with the decision being issued in December following the conclusion of a legal agreement to address decommissioning and habitat management. Despite it being entitled Sròndore wind farm, the development is to all intents and purposes an extension to the operational site, sharing the same access route and with the turbines co-located with the existing layout. The intention is that this additional development should take up 6MW of grid capacity which has become available subsequent to the Allt Dearg development having been devised.

The consented proposal has the benefit of being able maintain a compact layout without much in the way of horizontal enlargement, an ability to utilise on-site infrastructure, and its layout is such that it only extends the visual influence of turbines to a few areas which are not already affected by the presence of the Allt Dearg Wind Farm. The additional Sròndore turbines were to be sited off the crest of the site so that their blade tip heights would not exceed those of the operational turbines. Accordingly, two turbines were approved at 110m in height and the other at 100m. The disadvantage of this approach is that it would result in a mix of scales of turbines, with the rotor

diameter being larger and the rotation speed being slower than the existing 81m Allt Dearg turbines. The effect of this contrast in scale would diminish with distance, but the mix of sizes would be more readily apparent in those few locations where closer quarter views are available – notably the A83 southbound at Inverneill. In granting permission it was concluded whilst the additional and larger turbines would necessarily add to the visual and landscape impacts of the operational windfarm, these marginal additional impacts would be of a magnitude which could be accepted in the context of the presence of the operational development.

The current amended proposal seeks to increase the hub height of consented Sròndore turbines S1 and S2 from 70m to 80m, as a result of the use of taller towers. The turbine rotor diameter would remain as previously consented, so the consequence is that the overall tip height of these two turbines would increase from 110m to 120m. Turbine 3 remains unaffected at 100m to tip and would be implemented as per the original consent. The locations of all three turbines will remain within the micro-siting tolerances permitted by the original consent.

At the time of the original application the 60m and 70m towers proposed were industry standards for 2MW machines. The preferred manufacturer (Wind Towers) has since made changes to its tower range and 70m towers are no longer available and are now regarded as non-standard. It would not be cost effective to have two towers custom made or to secure one-off type approval certification for the purposes of bank funding, so as an alternative it would be necessary to utilise either 60m or 80m towers, both of which are standard tower types which benefit from type approval certification. The option of reducing tower height is unattractive to the applicants, particularly given that the existing wind farm at Allt Dearg has proven to have amongst the highest productivity of any wind farm in Scotland, so there is an understandable desire to maximize the capture of the available wind resource where environmental constraints permit. It is estimated that increasing these two turbine tower heights by 10m, as proposed, would give an overall increase in site productivity of 5%. Given the variation in turbine base heights across the Allt Dearg and Sròndore sites, despite the increase in tower height proposed, the overall blade tip height of turbines S1 and S2 will still be lower than six of the existing but smaller Allt Dearg turbines standing on the higher parts of the Allt Dearg site.

The alteration in hub and tip height of the turbines would not have any significant implications in terms of the effect of wind turbine policy or guidance, or in terms of matters related to ecology, ornithology, hydrology, archaeology, noise, traffic, telecommunications or aviation. This is borne out in consultation responses received. Some socio-economic and macro-environmental benefits would accrue due to the marginal increase in energy yield. The main considerations to address are therefore the acceptability of the proposed amendment in visual terms and any associated consequences for landscape character and/or cumulative impact. The applicants have provided revised graphics for comparative purposes with those prepared for the Landscape and Visual Assessment accompanying the consented scheme.

Of the three turbines, the one remaining unaltered at 100m (S1) is in the more sensitive location to the east of the existing Allt Dearg turbines, with visibility from the A83 at Inverneill and a location and height which is intended to avoid visibility from West Loch

Tarbert. Accordingly, it would not lend itself to any increase in height. Proposed turbines S2 and S3 are to the north of the existing turbines and in the foreground of the Allt Dearg turbines in key views from the north. All the representative viewpoints addressed in the original LVIA have been re-assessed in the light of the proposed height increase, and in all cases the incremental adverse effects compared with the consented turbine heights are sufficiently small that they do not change the significance of effects on any of the assessed locations. That most immediately affected is the relatively close quarter viewpoint (around 5km) on the A83 north of Inverneill, from which the hub height of the proposed turbines will be seen above the hub height of the Allt Dearg turbines, and where the variance in scale will be most apparent. However, this viewpoint has already been attributed a 'high' magnitude of change in the assessment of the consented Sròndore proposal, is generally only appreciated by those travelling along the road, and then only to persons travelling south, and for a relatively short duration in the context of normal traffic speeds.

There are no objections to the proposal from consultees or third parties. Scottish Natural Heritage have however advised against permission being given, which is in line with their previous advice on the originally consented Sròndore scheme which was against mixing the size of turbines. Their preference remains for smaller turbines to be used in line with those employed at All Dearg, and given the inability to source 70m towers they recommend the use of 60m towers in preference to the larger towers proposed. In response, the applicants have pointed to the fact that their revisited LVIA does not identify any additional issues of significance, despite the increase in tower height, and that there is significant difference in the energy yield between turbines mounted at 60m or 80m and therefore SNH's preference would contribute less CO<sub>2</sub> offset and less revenue to participating local communities, which is a vital element of this community focused project.

The original Sròndore approval was granted on the basis that despite any adverse visual consequences, residual grid capacity was better exploited by means of a small number of larger turbines to those at Allt Dearg, rather than by means of a greater number of smaller turbines requiring a more dispersed footprint shedding more widespread visual influence. Although the revised turbine model increases the disparity in scale between the two schemes from 19m to 39m, this has to be viewed in the context of the incremental implications for the various viewpoints, few of which are from close quarter locations, and at greater distances the variation in scale will assume that much less importance in the perception of the wind farm as a whole. The location of the proposed turbines below many of the existing All Dearg machines, is such that despite larger rotors, they will still not exceed the overall height of the higher turbines within the Allt Dearg scheme. The marginal difference between the extent of the visual influence of the consented and the proposed amended turbines is not such as to warrant a refusal, notwithstanding SNH's stated desire to limit any variation in scale between the Allt Dearg and Sròndore schemes.

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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 refused: N/A**

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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: None.**

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**Author of Report:** Richard Kerr

**Date:** 14<sup>th</sup> May 2014

**Reviewing Officer:** Angus Gilmour  
**Head of Planning and Regulatory Services**

**CONDITIONS AND REASONS RELATIVE TO APPLICATION: 14/00489/PP**

1. Notwithstanding the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the wind farm hereby permitted shall be operational within five years from the date of this approval unless otherwise agreed in writing with the Council as Planning Authority, following which, by virtue of there having been no start on the development hereby permitted, this consent will be considered to have lapsed. Development which has been commenced but which remains uncompleted and has not resulted in an operational windfarm within this five year timescale (or otherwise agreed timescale) shall be fully restored in accordance with the applicant's statement of intentions (i.e. Environmental Statement dated June 2013 associated with planning permission 13/01427/PP) and as provided for by conditions attached to this permission.

*Reason: In order to reduce unnecessary blight over wind catchment areas and other potential sites which, cumulatively, may result in an adverse environmental impact, but individually might otherwise receive the benefit of planning permission.*

2. The permission shall be for a period of 25 years from the commencement of the commercial operation of the wind farm, the date of which shall be notified in writing to the Council as Planning Authority. Within 12 months of the end of that period, unless a further planning application is submitted and approved, all wind turbines, ancillary equipment and buildings shall be dismantled and removed from the site and the land reinstated in accordance with the applicant's statement of intentions 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.*

3. The operator shall at all times deal with the areas forming the subject of this approval in accordance with the provisions of the application and the mitigation measures set out in the Environmental Statement associated with planning permission 13/01427/PP (dated June 2013) and the plans listed below:

1 of 2 - Site Location Plan Fig 2.1

2 of 2 – Wind Turbine Details (80m hub) Fig 2.3

except as otherwise provided by this approval, and shall omit no significant part of the operations provided for therein except with the prior written approval of the Planning Authority.

*Reason: For the avoidance of doubt and in order that the Planning Authority may retain effective control in the interests of nature conservation and amenity.*

4. Prior to development commencing, details of the turbine model selected for installation on the site and confirmation of the final micro-siting of turbines shall be submitted to the Council as Planning Authority. Micro-siting may be agreed in writing with the Council as Planning Authority as follows:

- a. Each turbine shall be erected in the position indicated on the approved Site Location Plan Fig. 2.1;
- b. A variation of the indicated position of any turbine on the approved Site Location Plan Fig. 2.1 by less than 25 metres shall only be permitted following the approval of the Ecological Clerk of Works;
- c. A variation of between 25 metres and 50 metres shall only be permitted following written approval of the Planning Authority.

Prior to the turbines first being brought into use, the developer shall submit to the Council as Planning Authority, location details for each turbine as erected in the form of co-ordinates compatible with the UK Ordnance Survey.

*Reason: In order to demonstrate that the windfarm has been constructed in accordance with the approved plans.*

5. If, by reason of any circumstances not foreseen by the applicant, it becomes necessary or expedient during the continuance of the operations hereby approved to materially amend or abandon any of the provisions hereof, the applicant or operator shall forthwith submit to the Planning Authority an amended application, plans and statement of intentions but shall also adhere to and comply with this consent until such time as an amended application shall have been determined by the said Authority.

*Reason: In order that the consent may be reconsidered should a change of intentions become necessary.*

6. If, by reason of any circumstances not foreseen by the applicant or operator, any wind turbine fails to produce an 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 site restored in accordance with the agreed scheme, 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 farm site takes place should it fall into disuse.*

7. The wind turbines shall be finished in a non-reflective grey semi-matt colour (RAL 9002, RAL 7035 or similar), or such other colour as may be agreed in writing with the Planning Authority, and the colour and finish of the wind turbines shall not be altered thereafter without the written consent of the Council as Planning Authority. The turbine blades shall all rotate in the same direction as the those of the Allt Dearg windfarm .

*Reason: To reduce the impact of the turbines and minimise reflection in the interest of visual amenity.*

9. There shall be no illumination of the wind turbines hereby permitted, nor shall any symbols, signs, logos, or other lettering be applied to the turbines, other than statutory health and safety notices at the base of the towers, without the prior approval of the Planning Authority.

*Reason: To protect the upland rural character of the area in the interests of visual amenity.*

10. Before the cessation of the planning permission, a decommissioning plan, including a site-specific decommissioning method statement, shall be submitted for the written approval of the Council as Planning Authority in consultation with Scottish Natural Heritage. Within 12 months of the planning consent lapsing, unless any further permission has been granted for their retention for an additional period, the wind turbines and all ancillary structures shall be removed, and the turbine bases and adjoining hard standings covered in soil/peat and re-seeded with appropriate vegetation in accordance with the requirements of the approved plan.

*Reason: To ensure that disturbed areas of the site are reinstated in a proper manner in the interests of amenity.*

11. All wires and cables between the wind turbines and sub-station shall be located underground within the access track verges or within three metres of the access tracks, or as close as is practicable, unless otherwise agreed in writing with the Planning Authority, and the ground thereafter shall be reinstated to a condition equivalent to the land adjoining the trenches within two months of completion of cable laying to the satisfaction of the Planning Authority.

*Reason: In the interests of visual amenity and nature conservation.*

12. No development shall be commenced until a Construction Method Statement (CMS) has been submitted to and agreed by the Council as Planning Authority in consultation with the Scottish Environment Protection Agency. This should address all aspects of the construction process which might impact on the environment, including in particular, excavations and other earthworks, a management/reinstatement scheme for peat areas, construction works associated with watercourse crossings, the management of surface water run-off, the management of waste streams, the timing of works to avoid periods of high rainfall; along with monitoring proposals, contingency plans and reinstatement measures. The development shall be implemented in accordance with the provisions of the duly approved CMS or any subsequently agreed variation thereof.

*Reason: In the interests of pollution control and protection of the water environment.*

13. Prior to the commencement of development, full details of a Restoration Method Statement and Restoration Monitoring Plan shall be submitted for the approval of the Council as Planning Authority. The restoration method statement shall provide restoration proposals for those areas disturbed by construction works, including access tracks, hardstandings and other construction areas. It shall also include measures for the improvement in appearance of the main site access route from the A83 to the location of the turbines in order to mitigate its appearance in long distance views of the site. Restoration of construction disturbed areas shall be implemented within 6 months of the commissioning of the windfarm, or as otherwise agreed in writing with the Council as Planning Authority. The monitoring programme shall include a programme of visits to monitor initial vegetation establishment and responses to further requirements, and long term monitoring as part of regular wind farm maintenance.

*Reason: To ensure that disturbed areas of the site are reinstated in a proper manner following construction in the interests of amenity, landscape character and nature conservation.*

15. No development or ground breaking works shall commence until a method statement for an archaeological watching brief has been 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: To enable the opportunity to identify and examine any items of archaeological interest which may be found on the site, and to allow any action required for the protection, preservation or recording of such remains.*

16. The implementation of the development shall be supervised by an Ecological Clerk of Works (ECoW) whose role should encompass all construction aspects of the development. The ECoW should be responsible for the micro-siting of the development to take account of localised nature conservation interests and the timing of works to avoid disturbance to breeding birds, in order that good practice methods are employed to ensure that sensitive features are avoided and that appropriate mitigation and site restoration measures are identified and implemented. The ECoW should liaise with Scottish Natural Heritage and the role of the ECoW should be clearly conveyed to all personnel prior to their commencement of work on the site.

*Reason: In the interests of nature conservation.*

17. The level of wind turbine noise shall not exceed 35dB LA90, 10 minutes when measured at any residential property in accordance with the methodology of ETSU-R-97. The noise should in addition contain no audible tonal and/or impulsive components so as to cause noise nuisance to the occupiers of any residential dwelling.

*Reason: To minimise any adverse impact of noise generated by the operations on the local community.*

18. At the request of the Council, following a complaint to the Council relating to noise emissions from the wind turbines, the developer shall undertake an investigation of the complaint, carry out monitoring, prepare and submit a report upon the problem and advise of any necessary remedial action in accordance with the methodology of ETSU-R-97 and take such remedial action agreed to the satisfaction of the Local Planning Authority.

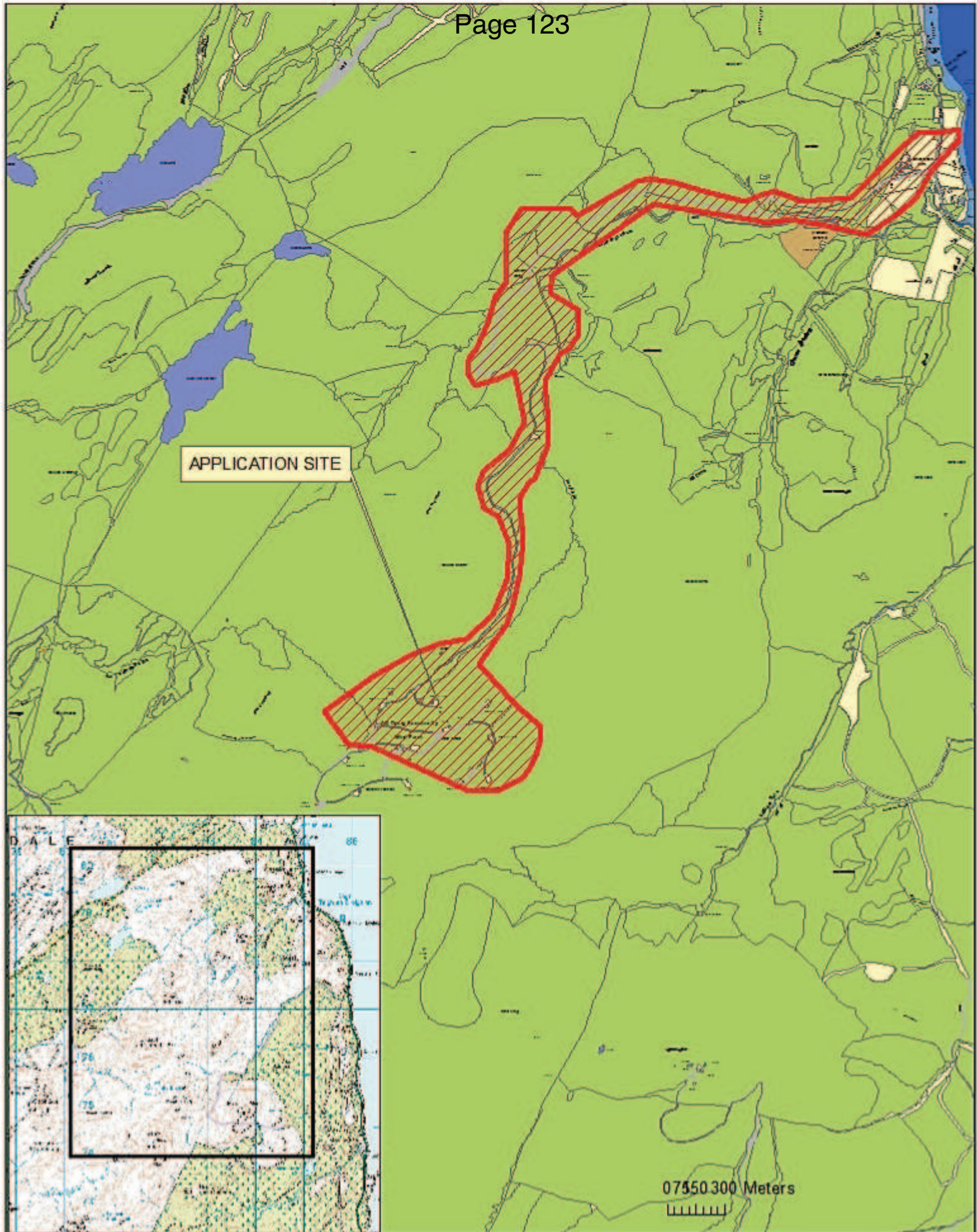
*Reason: To help control and minimise noise pollution.*

## **NOTES 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.

- Notification of the construction dates, the maximum height of construction equipment and the latitude and longitude of each turbine should be notified to the MoD's Defence Infrastructure Organisation at MoD, Safeguarding – Wind Energy, Kingston Road, Sutton Coldfield, B75 7RL or [icgdgc-aero@mod.uk](mailto:icgdgc-aero@mod.uk)
- This consent should be read in conjunction with the obligations associated with the accompanying legal agreement concluded under Section 75 of the Town & Country Planning (Scotland) Act 1997 (as amended) relating to off-site habitat management and decommissioning.



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**Argyll and Bute Council  
Planning and 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**

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**Reference No:** 14/00589/PP

**Planning Hierarchy:** Local Development

**Applicant:** Mrs Mary Turner

**Proposal:** Erection of 40.4m (blade tip) wind turbine (amended by planning condition to 35m to blade tip)

**Site Address:** Land Approximately 515m North West of Auchenhoan Cottage, Campbeltown

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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 40.4m (blade tip) wind turbine (30m to hub)  
*Amended by planning condition to 35m to blade tip requiring a c. 24m tower*

**(ii) Other specified operations**

- Upgrade of existing access track
  - Installation of cabling
  - Connection to existing farm infrastructure
- 

**(B) RECOMMENDATION:**

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

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**(C) HISTORY:**

None relevant on this site however the following application was submitted and withdrawn for a separate site to the south.

13/02065/PP - Erection of 100kw wind turbine (30 metres high to hub height) –  
Withdrawn 20/12/2013

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**(D) CONSULTATIONS:**

Area Roads Manager Report dated 10/04/2014

The council's Area Roads Engineer has offered no objection subject to the following conditions:

- Connection to public road 75 x 2.40 x 1.05 metres.
- Connection to public road to be constructed as per standard detail drawing ref: SD 08/001 Rev a. The junction with the public road must be fully completed, surfaced and approved in writing by Roads & Amenity Services, prior to any work starting on site.
- Vehicular gates to be set back 6.00 metres minimum from edge of public road. Any gates should open inwards and away from the public road.
- No loading or unloading from the public road.
- No storage of materials adjacent to the public road.

Public Protection Unit Memo dated 31/03/2014

Environmental Health has not raised any objections to the proposal given the proximity to sensitive receptors.

West of Scotland Archaeology Service Email dated 01/05/2014

WoSAS has raised no concerns with the proposal.

Scottish Natural Heritage Email dated 01/04/2014

SNH do not intend to offer formal comment on this application.

Highlands and Islands Airports Limited Email sent 01/04/2014

HIAL has advised that the proposal would infringe on their safeguarding surfaces. However, a red obstacle aviation light fitted to the hub of the turbine would address their concerns.

National Air Traffic Services Email sent 01/04/2014

NATS has advised that the proposal does not conflict with their safeguarding criteria.

Ministry of Defence Letter dated 14/04/2014

The MoD has no objection to this proposal.

Core Paths

No response received and no request for an extension of time.

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**(E) PUBLICITY:**

The proposal has been advertised in terms of regulation 20, closing date 18/04/2014.

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**(F) REPRESENTATIONS:**

There have been 13 objections to the application as detailed below.

L E Cowan Oatfield House Campbeltown Argyll and Bute PA28 6PH (07/04/2014)

J R Cowan Oatfield House Campbeltown Argyll and Bute PA28 6PH (07/04/2014)

Mr Kenny Doole 3 Stable Grove Paisley PA1 2DR (29/04/2014)  
Mrs Jennifer Doole 3 Stable Grove Paisley PA1 2DR (29/04/2014)  
Mr Alan Moffitt Feochaig Southend Campbeltown Argyll and Bute PA28 6RF (16/04/2014)  
Mrs Patricia Hurst The Steading Carradale Argyll and Bute PA28 6QG (03/04/2014)  
Margaret Renkin Te Anau Woodland Drive Campbeltown Argyll and Bute PA28 6JW (12/04/2014)  
Mr Andrew Vivers Arniefoul Glamis Forfar DD8 1UD (09/04/2014 x 3)  
Ms Sophie Blair Eriskay Southend Campbeltown Argyll and Bute PA28 6RF (23/04/2014)  
Mr David Blair Eriskay Southend Campbeltown Argyll and Bute PA28 6RF (18/04/2014)  
Ms Christine Alexander Dassia, Low Lossit, Machrihanish, PA28 6PZ (02/05/2014)  
Ms Emma Rawson Belhaven Hill School, Dunbar, East Lothian EH42 1NN (16/05/2014)  
Mr Alex Forshaw 53 Smith Drive, Campbeltown, PA28 6RE (14/05/2014)

**(i) Summary of issues raised**

- The proposal is too close to an existing wind turbine.  
*Comment: The proposal is some 2.5km from the existing turbine and cumulative views are limited. This is not considered too close in principle and is fully assessed in Appendix B below.*
- The existing turbine spoils the view when travelling south to Campbeltown from Carradale and a second turbine will ruin this further.  
*Comment: The proposed turbine will be a significant distance from this road and barely visible. When it might be visible it will only be a blade tip rather than the hub. The impact is considered negligible especially as drivers will be concentrating on the road.*
- The proliferation of turbines in Kintyre is ruining the countryside.  
*Comment: Each planning application is assessed on its own merits and cumulative impact is one of those issues. This is fully addressed in Appendix B below.*
- Wind turbines have an adverse impact on health in terms of noise, vibration and shadow flicker.  
*Comment: The council's Environmental Health department has not raised any concerns regarding the health impacts of the proposal.*
- The proposal will have an adverse impact on biodiversity.  
*Comment: There have not been any adverse comments from SNH and there is no reason to think that this proposal will have an adverse impact on protected species based on current information.*
- The money made from wind turbines lines the land owners' pockets and does not benefit the local community.  
*Comment: This is not a material planning consideration and does not form part of this assessment.*
- The UK 'National Renewable Energy Action Plan' has been found by the United Nations Economic Commission Europe to violate the Aarhus Convention in the absence of public access to environmental information and public participation in the preparation and adoption of that strategy, and that

therefore there should be a moratorium on the approval of wind farms nationally. He also comments adversely on the principle of wind farms, and contends that 'wind farm' is a misnomer and that 'wind factory' would be a more appropriate term for this type of development. He contends that wind turbines are harmful to both wildlife and to human health, that they are inefficient, subsidised and require expensive back-up when turbines are not productive. As far as public opinion is concerned the silent majority are silent because they do not understand the financial, health and environmental harm associated with wind power. He also considers that proliferation of turbines will be harmful to the Scottish tourism economy.

*Comment: The implications of the UN Aarhus ruling are for consideration at government level rather than at the level of individual development proposals. No national moratorium has been put in place in response to that ruling and it remains incumbent on planning authorities to continue to determine applications placed before them. The comments expressed by the objector relate primarily to the merits of wind farm development in Scotland generally, rather than to the particular circumstances of the application at hand.*

- The turbine is right above the coast in an area noticed for its panoramic quality.  
*Comment: Issues of landscape and visual impact are addressed in Appendix A below.*
- The turbine is too large for the area and would dominate the buildings in the area.  
*Comment: Issues of landscape and visual impacts are assessed in detailed in Appendix A below.*
- The applicant states that the turbine would produce 290,000kWh per annum but the holiday cottages and farm only use 50,000kWh. The proposal is not consistent with the provisions of LP REN 1. The remainder would support a proposed wood chip facility which would not be appropriate in this area. This facility would not be suitable given the lack of forestry in the area and would not last anywhere near the 25-year lifespan of the turbine.  
*Comment: An assessment of the proposal in relation to the provisions of Policy LP REN 1 is set out in Appendix A below.*
- The proposal is not consistent with Scottish Planning Policy given it would not reflect the scale and character of the area.  
*Comment: Issues of landscape and visual impacts are assessed in detailed in Appendix A below.*
- The proposal would have a significant cumulative visual impact from the sea.  
*Comment: Issues of landscape and visual impacts are assessed in detailed in Appendix A below.*
- HIAL requires a red obstacle light which would impact yet further into the rural area.  
*Comment: Such red obstacle lights are common on wind turbines in the interests of aviation safety. They are not considered to impact on residential amenity.*

- The area is already pollution free given the nearby SSSI status for lichen and bryophytes.  
*Comment: The SSSI is to the south of the site and will be impacted by the turbine.*
- The proposal represents ‘turbine creep’ into the Mull of Kintyre but Kintyre already makes a significant contribution to renewable energy through existing wind turbines in the spine of Kintyre.  
*Comment: The Mull of Kintyre is not exempt through policy from wind turbines and proposals will be assessed against the relevant development plan policies and all other material considerations.*
- The cottages that would be supplied by the turbine are holiday homes and the residents will already pay for the electricity they use.  
*Comment: it is understood that although the cottages are used for holiday homes it is likely that they will, at certain times of the year, be used for seasonal staff. However, the applicant chooses to use the cottages is up to them and could, in the future, be used as full time dwellings.*
- The proposal will adversely impact on the Kintyre Way.  
*Comment: The proposal is not located within the immediate vicinity of the current Kintyre Way route; there has been no comment from the council’s Core Paths officers, however the turbine will be visible from parts of the extension to the Kintyre Way should this be approved. However, a number of turbines are already visible from various parts of the Kintyre Way and this is not considered an excessive impact and will not impede those using the route.*
- Wind turbines are inefficient and increase the cost of electricity bills for everyone.  
*Comment: Wind turbines form part of the Scottish Government’s drive for renewable energy and to contribute to legally binding renewable energy targets. Concerns regarding the Scottish Government’s commitment to wind energy should be directed to the Scottish Government.*

**(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> | Yes |

General Supporting Statement

**Summary of main issues raised by each assessment/report**

The supporting document summarises the following issues:

- Ecology
- Private water supplies
- Archaeology
- Access
- Radar

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**(H) PLANNING OBLIGATIONS**

**(i) 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 & Bute Structure Plan' (2002)

- STRAT SI 1: Sustainable Development
- STRAT DC 4: Development in Rural Opportunity Areas
- STRAT DC 5: Development in Sensitive Countryside
- STRAT DC 7: Nature Conservation & Development Control
- STRAT DC 8: Landscape & Development Control
- STRAT RE 1: Wind Farm/Wind Turbine Development

'Argyll & Bute Local Plan' (2009)

- LP ENV 1: Development Impact on the General Environment
- LP ENV 2: Development Impact on Biodiversity
- LP ENV 6: Development Impact on Habitats and Species
- LP ENV 7 - Development Impact on Trees/Woodland
- LP ENV 10: Development Impact on Areas of Panoramic Quality
- LP ENV 12: Water Quality and Environment
- LP ENV 17: Development Impact on Sites of Archaeological Importance
- LP ENV 19: Development Setting, Layout and Design
- LP BAD 1: Bad Neighbour Development
- LP REN 1: Commercial Wind Farm and Wind Turbine Development
- LP TRAN 4: New and Existing, Public Roads and Private Access Regimes
- LP TRAN 7: Safeguarding of Airports

Note: The Full Policies are available to view on the Council's Web Site at [www.argyll-bute.gov.uk](http://www.argyll-bute.gov.uk)

'Argyll & Bute Proposed Local Development Plan' (2013)

LDP 6 Supporting the Sustainable Growth of Renewables  
 SG LDP REN 2 Wind Turbine Development up to 50 m high  
 Wind Farm Policy Map

The consultation on the Proposed Local Development Plan ran from 4th February until 29th April 2013. The responses to this consultation have been reported to Council and all unresolved objections have been submitted to the Scottish Government who is to appoint Reporter(s) and hold an Examination of these issues. The Renewable Energy Policies and Wind Farm Policy Map are the subject of 24 representations on these matters, including SNH, the RSPB, various renewable energy companies and individuals. Given the fact that the relevant wind farm policy and map in the emergent LDP have been contested, they ought not to be accorded material weight in the determination of the application at this point in the plan-making process, given that there is no certainty that they will remain unaltered following Examination and Adoption of the plan.

**(i) 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**

- Scottish Planning Policy (2009)
- Scottish Government Advice Note on Onshore Turbines (2012)
- 'Argyll and Bute Landscape Wind Energy Capacity Study' (2012)
- 'Guidance on Siting and Designing Windfarms in the Landscape' SNH (2009)

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**(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:** Yes

The Council has previously issued a Screening Opinion under Regulation 5 of the Environmental Impact (Scotland) Regulations 2011 to the effect that the development is not such as to require the submission of an Environmental Impact Assessment in support of any planning application.

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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:** There are objections originating from 7 addresses in Kintyre out of a total of 13 objectors. This level of representation is not considered such as to warrant the holding of a discretionary local hearing.

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

The application is for the erection of a 40.5m to blade tip wind turbine on land approximately 515m north west of Auchenhoan Cottage. The landscape can be described as the Mull of Kintyre Upland Forest Moor Mosaic (landscape character type 6c).

The turbine itself will sit within the Sensitive Countryside development control zone as per policy STRAT DC 5 and the access track will be located in the Rural Opportunity Area (ROA) development control zone. However, the appropriate policy assessment is LP REN 1 given the initial commercial nature of the proposal.

The applicant intends for a 40.5m wind turbine to provide electricity direct into the farm cottages at Auchenhoan and, eventually, providing power for a woodchip business which the applicant intends to develop as part of an on-going diversification plan. This would allow the applicant to permanently employ an individual to work the woodchip business, stay at Auchenhoan and provide general farming duties and support. This would use up the vast majority of the electricity generated by the wind turbine. However, for the purposes of this report the application is assessed under policy LP REN 1 given the wood chip business is not up and running and there will be more than 25% of the electricity produced by the turbine sold to the national grid.

Through a planning condition it is proposed to limit the height of the proposed wind turbine to 35m to blade tip. This will require a tower of approximately 24m. The applicant has agreed to this approach. Such a condition is necessary to ensure the proposal is consistent with the council's WECS. Further assessment is provided in appendix A.

As demonstrated through Appendix A the applicant has submitted a proposal, when limited by condition, that is considered consistent with the provisions of LP REN 1 through careful siting and the use of appropriate photomontage viewpoint locations. The turbine is well set back into the interior of the forested hills and set within a farmed landscape. It will not impact on coastal views nor views into the interior of the landscape character type due to the undulating landscape. Actual views of the turbine will be localised and kept to a minimum whilst actually adjacent the turbine. Views will be fleeting. The only distance view will be from the south travelling north. However, this view will soon be obscured whilst driving due to the undulating landscape. The proposal, as limited by condition, is considered consistent with the provisions of the WECS.

There are no concerns from consultees that cannot be addressed via planning conditions. There are 13 representations from third parties all objecting to the proposals and these have been summarised in section F above.

The applicant has demonstrated that the proposal is consistent with the provisions of the development plan and WECS. Subsequently the application is recommended for approval subject to the conditions and reasons appended below.

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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 proposal is considered consistent with the council's WECS and LP REN 1 given the minimal impact on the landscape as a result of the rising land and back dropping opportunities afforded by the landscape north and west. The undulating nature of the road limits views to fleeting opportunities travelling north and directly east on the main road. These views are limited and all but one are back dropped. The adverse view is limited and this has been demonstrated by the applicants' submission and a site visit by officers.

The applicant has provided details of the method of transporting the turbine to the site. The councils' Area Roads Engineer has not raised any concerns subject to conditions. With this in mind the proposal is consistent with the provisions of LP TRAN 4.

The proposal conforms to the relevant development plan policies and that there are no other material considerations, including issues raised by third parties, which would warrant anything other than the application being determined in accordance with the provisions of the development plan.

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

N/A

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

**Author of Report: David Love**

**Date: 19<sup>th</sup> May 2014**

**Reviewing Officer: Peter Bain**

**Date: 30<sup>th</sup> May 2014**

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

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 14/00589/PP**

1. The development shall be implemented in accordance with the details specified on the application form dated 06/03/2014 and the approved drawing reference numbers:  
Plan 1 of 2  
Plan 2 of 2

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.

2. Notwithstanding the details of the approved plans the turbine blade tip height shall not exceed 35m. No development shall commence or is hereby authorised until details of the amended wind turbine are submitted to the planning authority for prior approval. These details shall cover the wind turbine dimensions to a 1:100 scale.

Reason: For the purpose of clarity over the application approved and to ensure compliance with the Council's Wind Energy Capacity Study (WECS).

3. Notwithstanding the provisions of Condition 1, the proposed access shall be formed in accordance with the Council's Roads Standard Detail Drawing SD08/001 Rev a and visibility splays of 2.4 metres to point X by 75 metres to point Y from the centre line of the proposed access. The access shall be surfaced with a bound material in accordance with the stated Standard Detail Drawing. Prior to work starting on site the access hereby approved shall be formed to at least base course standard and the visibility splays shall be cleared of all obstructions such that nothing shall disrupt visibility from a point 1.05 metres above the access at point X to a point 0.6 metres above the public road carriageway at point Y. The final wearing surface on the access shall be completed prior to the development first being brought into use and the visibility splays shall be maintained clear of all obstructions thereafter.

Any gates shall be set back a minimum distance of 6.0 metres from the carriageway edge and open inwards.

Reason: In the interests of road safety.

4. If by reason of any circumstances not foreseen by the applicant or operator, the wind turbine fails to produce electricity, either consumed at source or via a local distribution 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 site reinstated to a condition equivalent to that of the land adjoining the application site within a period of 6 months unless otherwise agreed in writing by the Planning Authority.

Reason: To ensure that the full and satisfactory restoration of the site takes place should the turbine fall into disuse.

5. Notwithstanding the effect of Condition 1 and the details specified in the application, no development shall commence until details of the colour finish to be applied to the turbine 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.

Reason: In the interest of visual amenity.

6. Development shall not commence until details of aircraft warning lighting safety to be installed at the development have been submitted to and approved in writing by the Planning Authority, in consultation with the Ministry of Defence and Highlands and Islands Airports Limited. The duly approved aircraft warning lighting shall be installed concurrently with the installation of the wind turbine and thereafter maintained for the duration of the development.

Reason: In the interests of air safety.

7. Development shall not commence until such time as the developer has provided written notification of the development to UK DVOF & Powerlines at the Defence Geographic Centre. Such notification shall include details of: a. the precise location of the development; b. date of commencement of construction; c. expected date of completion of construction; d. the height above ground level of the tallest part of the structure; e. the maximum extension height of any construction equipment; and, f. details of the aviation warning lighting to be fitted to the structure.

Reason: In the interest of air safety.

8. During construction, no unloading/loading of vehicles shall be undertaken from the public road, nor shall any materials, equipment or plant associated with the construction of the development be stored adjacent to the public road without the prior written approval of the Roads Authority.

Reason: In the interest of road safety.

**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.
- Please note the consultation response from the Ministry of Defence which is available on our website.
- A Road Opening Permit under the Roads (Scotland) Act 1984 must be obtained from the Council's Roads Engineers prior to the formation/alteration of a junction with the public road.
- The access shall be constructed and drained to ensure that no surface water is discharged onto the public road.

**APPENDIX A – RELATIVE TO APPLICATION NUMBER: 14/00589/PP**

**PLANNING LAND USE AND POLICY ASSESSMENT**

**A. Settlement Strategy**

The site is located some 515m north west of Auchinhoan Farm which is owned by the applicant. The proposal is for the erection of a 40.4m to blade tip wind turbine, upgrade of the existing access, laying of cabling and connection to the farm infrastructure. The turbine can be described as small/small-medium as per the council's Wind Energy Capacity Study (WECS).

After initial assessment and discussion with the applicant it has been agreed to limit the blade tip height of the application to 35m. This would bring the turbine down to the upper end of the 'small' typology and lowest part of the 'small-medium' typology. This has been secured via a planning condition.

The proposal lies within sensitive countryside whilst the access track is within a rural opportunity area as per policies STRAT DC 4 and STRAT DC 5 of the development plan. However the appropriate policy assessment is LP REN 1 of the adopted Local Plan. Policy LP REN 1 for commercial wind turbine proposals makes allowance for the erection of turbines on suitable sites regardless of development control zone 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 way etc, historic environment, telecommunications, tourism and peat deposits. Each of these has been assessed in details below.

Considering the above, the principle of wind turbines in the sensitive countryside development control zone is considered acceptable subject to a site specific detailed assessment. The proposal raises no conflicts in terms of the existing settlements nor does it undermine the settlement strategy.

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

The wind turbine would be 35m to blade tip and approximately 24m to hub. The rotor diameter would be some 21m. The output is 100kw. The foundation measures 4m x 4m with an overall depth of 2m. The turbine will provide power to two cottages that are used for a mix of holiday lets and seasonal staff accommodation. Should the application receive approval then the applicant intends to develop a wood chip facility that will be powered by the turbine and will make use of the forestry on the farmland. A grid connection has been arranged with SSEPD so that any excess electricity can be exported to the national grid. Ancillary development will include a 1.1m deep trench running to the existing shed at Auchinhoan Farm. The cable will run from the proposed turbine to a control box and meter inside the existing farm buildings at the proposed wood chip facility.

Given the change to the proposal via a planning condition the final details of the turbine appearance might be subject to change but it is anticipated that the details above are accurate of what will be submitted to satisfy the condition.

The site is located some 470m to the west of the minor Kilkerran Road. Campbeltown is some 3.4km to the north which the minor settlement of Feochaig is some 3.5km away. The landscape can be described as forest moor mosaic with an undulating topography. The area is well farmed mainly for sheep and some cattle. The land rises to the north and west whilst gradually drops down to the coast to the east whilst the road follows the coast and undulates toward Southend. The site is approximately 132m AOD with the land to the north, east and south rising to 220m, 354m and 169m AOD respectively.

The turbine is expected to provide some 290,000 kwh per annum. The cottages and farm would use some 50,000 kwh per annum and the wood chip operation approximately 200,000 kwh per annum. At this moment in time the wood chip facility is not operational and therefore the turbine will provide an additional 240,000 kwh of electricity to be exported to the grid and therefore the appropriate policy assessment will be against LP REN 1.

## **C. Natural Environment**

The landscape is described as forming part of the Mull of Kintyre Upland Forest Moor Mosaic (character type 6c) within the council's Wind Energy Capacity Study (WECS). This landscape is forested and sparsely populated in common with other areas of Upland Forest Moor Mosaic. However, unlike other areas of this character type, it does not feature operational or consented wind farm development. This character type comprises a relatively simple rolling plateau of densely forested hills at its core, contrasting with individual summits, such as Beinn Ghuilean, and a more diverse and rugged landform along the coast. The western coast and Mull of Kintyre has a strong wild land character. The diverse coastal landform and the backdrop and setting the outer fringes of these hills provide to smaller scale settled landscapes, increases sensitivity to wind farm development.

An APQ covers much of this character type and is presumed to have been designated because of its coastal scenery and panoramic views of the wider seascape. Sensitivity in relation to landscape value is judged to be high to medium for the large typology and medium for the medium typology.

## **D. Built Environment**

The nearest property is some 500m to the south at Auchenhoan Farm which is owned by the applicant and used for a mixture of holiday letting and seasonal staff accommodation. The property is outwith the required 10 x rotor diameter with regard to shadow flicker and does not raise any noise concerns. There are no further properties affected by this proposal.

## **E. Renewable Energy Policy**

The principle policy is adopted Local Plan policy LP REN1 which requires proposals to be assessed against the following criteria. In addition to this they must also be consistent with all other relevant development plan policies.

- Communities, settlements and their settings  
*Comment: The nearest settlement is Campbeltown which is over 3km away and from where the turbine will not be visible. It is possible that a blade tip might be seen from the B842 whilst travelling south from Carradale to Campbeltown but this will be seen in conjunction with an existing turbine and several existing buildings and power lines as an extremely small element within a panoramic landscape. Such an*

*effect is considered negligible given the distance and presence of existing infrastructure.*

- Areas and interests of nature conservation significant including local biodiversity, ecology and the water environment.  
*Comment: There has been no comment from SNH and there are no designations covering the site. There is a SSSI to the south (Balnabraid Glen) designated for lichens and bryophytes and won't be affected by the development of this turbine.*
- Landscape and townscape character, scenic quality and visual and general amenity.  
*Comment: This is assessed in detail below.*
- Core paths, rights of way, or other important access routes.  
*Comment: There has been no comment from the council's Core Paths officers, however the turbine will be visible from parts of the extension to the Kintyre Way should this be approved. However, a number of turbines are already visible from various parts of the Kintyre Way and this is not considered an excessive impact and will not impede those using the route.*
- Sites of historic or archaeological interest and their setting.  
*Comment: The closest designated site is a Scheduled Ancient Monument (SAM) at the coast to the east which is some distance from the site. WoSAS originally contacted the council to provide comment but have since advised that the proposal will not adversely impact on any historic or archaeological designations. There are no listed buildings in the vicinity that would be adversely affected by the proposal.*
- Telecommunications, transmitting and receiving systems.  
*Comment: There has been no objection from consultees to this element of the proposal. HIAL has asked for an aviation safety light to be fitted to the turbine and this has been included in the conditions.*
- Important tourist facilities, attractions or routes.  
*Comment: The proposal is near a proposed extension to the Kintyre Way and this has been commented on above. The Kilkerran Road coastal route to Southend is in a poor state of disrepair at various points whilst the main road to Southend from Campbeltown is to the west via the B842. Although the Kilkerran Road will be used by tourists views are extremely limited travelling south whilst driving north views of the turbine will also be limited as a result of topography and existing land cover. The proposal will not impact on views to the coast.*
- Stability of peat deposits.  
*Comment: The proposal will not impact on any significant peat deposits.*

Considering the above and further assessment below the proposal is consistent with LP REN1.

## **F. Landscape Character**

The council's WECS describes the landscape as Mull of Kintyre Forest Moor Mosaic (character type 6c). Where settlement occurs close to the east coast within the Upland Forest Moor Mosaic, turbines should avoid intrusion on sea views from the public road. There are greater opportunities to accommodate the small typology (turbines <35m) in these coastal areas due to their better scale relationship with nearby settlement and

reduced visual impact. There may be some opportunities within the simple landform and land cover of the interior rolling and densely forested hills within this character type. The sparsely populated nature of this character type and the potential for limiting visibility and intrusion from surrounding sensitive well-settled and frequented landscapes and the coast within the core of these uplands provide further potential.

In this instance the turbine will not impede coastal views from the public road. SNH's guidance is that turbines should not be more than a third of the height of the land on which they are proposed. In this instance the land is some 132m AOD whilst the turbine will be 35m to tip. Additionally, the land rises to some 220m to the north, 354m to the west and 169m to the south. This demonstrates the undulating nature of the landscape and the relative scale of the turbine compared to the surrounding hills.

The submitted photomontages demonstrate a turbine that is well contained with minor visual impacts from the public road. A single view from the south will show the turbine from almost base to blade tip. However this view is fleeting and will generally be hidden from view by the undulating landscape. The approach to the site from the south is a sharply undulating road which limits to the site. From the north views are also limited again as a result of the undulating topography.

The proposal is considered consistent with the council's WECS and LP REN 1 given the minimal impact on the landscape as a result of the rising land and back dropping opportunities afforded by the landscape north and west. The undulating nature of the road limits views to fleeting opportunities travelling north and directly east on the main road. These views are limited and all but one are back dropped. The adverse view is limited and this has been demonstrated by the applicants' submission and a site visit by officers.

The applicants' submission demonstrates that the turbine will be barely visible in conjunction with the existing turbine to the north which can be seen from Campbeltown. From the ZTV it is possible that a blade tip could be seen from the northern approach to Campbeltown from the B842, however this is a significant distance from the turbine site and the hillside in question that it would flick above has a number of manmade infrastructure elements. This will be reduced through limiting the turbine to 35m. There are no cumulative views from the south. With this in mind the cumulative impact will be negligible. It should be noted that by limiting the turbine blade tip height to 35m the impacts described above will be lessened and that this will represent a worst case scenario.

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

The applicant intends to deliver the turbine by articulated lorry from Campbeltown. The turbine parts themselves will be delivered on one lorry whilst there will be standard cement trucks sourced from Campbeltown with a total of 11 deliveries. A single 60 ton mobile crane with an axle weight of 15T and 2.3m axle width will be required to off load the turbine parts onto a tractor and trailer and then to assemble the tower and turbine head and blades. The crane will remain on site for 2-3 days before travelling back to Glasgow.

There have been no negative comments from consultees and requests for conditions can be accommodated below. There have been 10 objections from third parties but these have all been addressed in section F above.

## **H. Other Key Policy Matters**

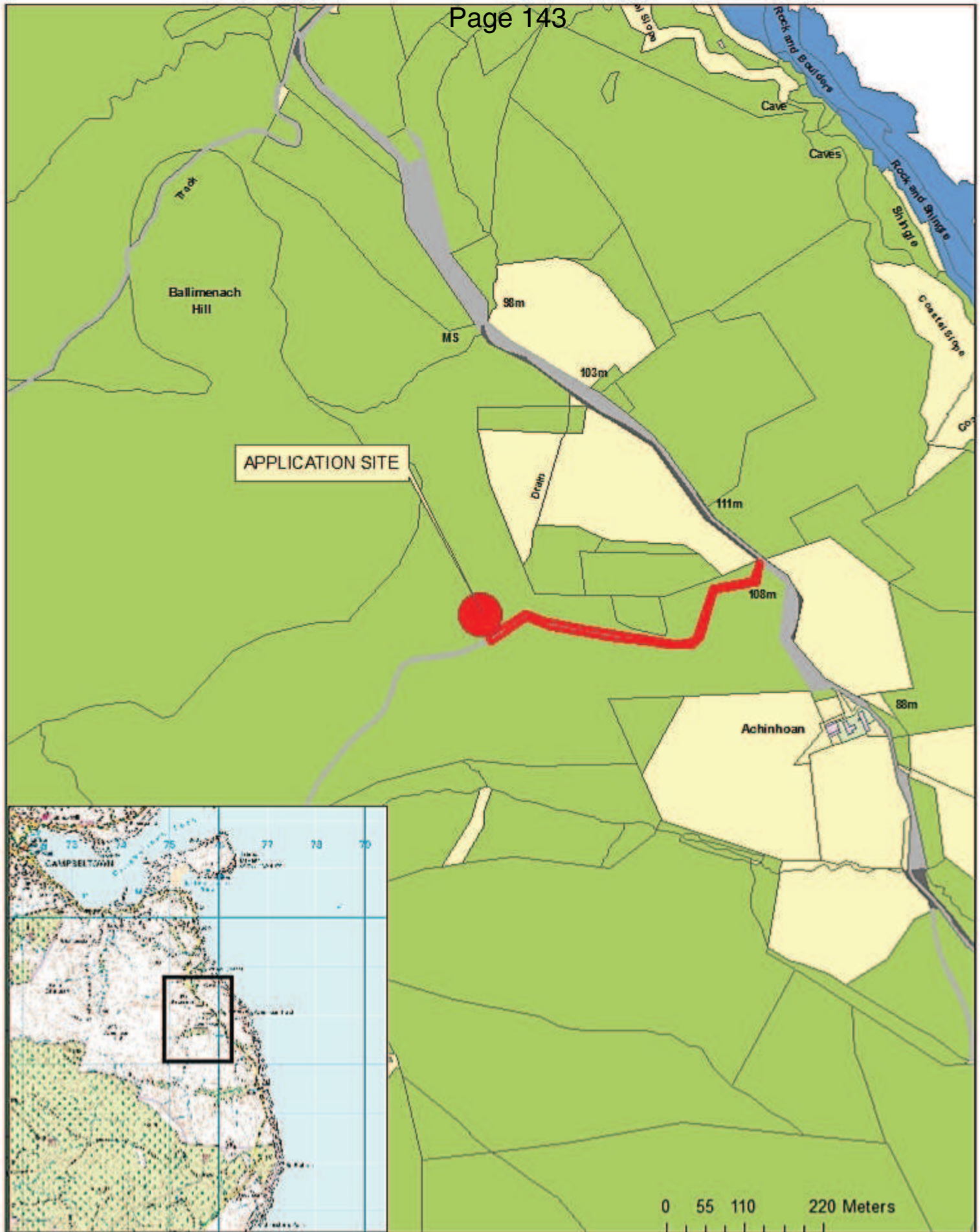


In assessing any application associated with the generation of renewable energy it is necessary to have regard to macro environmental consequences as a material consideration. Government and Development Plan policy supports renewable electricity generation in principle, in the interests of addressing climate change, provided that development does not impinge to an unacceptable degree upon its surroundings or the environment. As part of the decision making process, it is necessary to consider whether the advantages associated with the production of electricity from renewable sources, consequent CO2 savings and the contribution which a development might make to the tackling of global warming. In this case, the turbine output at 100kW is limited, and therefore the development will make a small but limited positive contribution.

**I. Conclusion**

The applicant has demonstrated that on balance the proposal is consistent with the development plan and visual and landscape impacts will be negligible. Any such impacts are weighed against the positive benefits the proposal will bring in terms of combating climate change and the farm itself. It should be noted that having explored various sites and options with the applicant it is highly unlikely that the landholding could support any further significant wind turbine development and further renewable proposals should focus on alternatives to wind energy.

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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:** 14/00653/PP  
**Planning Hierarchy:** Local  
**Applicant:** Mr Stuart Anderson  
**Proposal:** Erection of dwellinghouse and formation of new vehicular access (amended design relative to planning permission reference 11/00399/PP)  
**Site Address:** 146 Frederick Crescent, Port Ellen, 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 detached dwellinghouse (amendment to previous detailed planning permission reference 11/00399/DET);
- Formation of new vehicular access onto a classified road;

##### (ii) Other specified operations

- Connection to public water supply;
  - Connection to public sewer;
  - Part demolition of existing structure in order to reduce the amount of 'underbuild'.
- 

#### (B) RECOMMENDATION:

That permission be Granted subject to the conditions and reasons contained in this report.

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#### (C) CONSULTATIONS:

Flood Risk Assessor	29.05.2014	No objection subject to implementation of finished floor level as shown on submitted drawings.
Area Roads Mid Argyll Kintyre And Islay	09.04.2014	No objection subject to conditions.

Scottish Water		No reply received (No objection received pursuant to previous planning permission 11/00399/DET).
Scottish Environmental Protection Agency	30.04.2014	No objection but Council must satisfy itself as flood risk authority.

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**(D) HISTORY:**

08/00049/DET – Erection of new dwellinghouse and formation of new vehicular access – Granted 24.06.2009 following Committee site visit.

08/00529/CONAC – Demolition of redundant building – Granted 13.07.2009

11/00399/DET – Demolition of workshop and erection of new dwellinghouse and formation of new vehicular access (alternative proposal to that previously granted under 08/00049/DET) – Granted 20.05.2011

13/00073/ENFOC1 – Development allegedly not being constructed in accordance with approved plans – Investigation ongoing, report previously submitted to 17<sup>th</sup> April 2013 PPSL meeting.

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**(E) PUBLICITY:**

ADVERT TYPE:  
Listed Building/Conservation Advert  
EXPIRY DATE: 08.05.2014

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**(F) REPRESENTATIONS:**

**(i) Representations received from:**

- Mr John McNeill, 65 Frederick Crescent, Port Ellen, Isle of Islay. (Two email representations).

**(ii) Summary of issues raised:**

- The documents offered for review by the Council on their website are not to scale and are illegible. Critical dimensions cannot be read and document notes are largely illegible. Nothing can be scaled. I object to the Council proceeding with this application until they have presented me with a proper online access to scaled and legible documents. Alternatively they can send all documents to my address at *[Edinburgh address provided]*. The review period should be extended accordingly. *[quoted in full from email representation dated 28<sup>th</sup> April 2014]*.

*Comment: The online documents have been checked and found to be satisfactory for the purposes of neighbour notification and general information. The online documents attached to the Council's website are not intended to necessarily replace the detailed, scaled and uncompressed plans and drawings submitted with the planning application and the notification letter sent out to interested parties makes this clear, stating that the plans can be viewed at the Council planning office and, in this case, at the Sub Post Office in Port Ellen. Nevertheless, a full set of the submitted plans and drawings have been sent to Mr McNeill at his specified mainland address.*

- There is no record of the site having been used as a dwelling for some 55 years. It is therefore a new development and should be subject to 'new development' conditions. The waste bins are exposed to the street and to my view. This is contrary to planning requirements that waste bins be suitably screened. If a carport is proposed this is contrary to previous requirements that the new construction follow the footprint of the old building. It would further detrimentally affect my residential amenities. I demand also to see the revised flood risk assessment which has not been included in the application documents. This forms the basis of the floor level and should be provided. Freedom of information requires that you produce this for public comment. [quoted in full from email representation dated 28<sup>th</sup> April 2014].

*Comment: The site is within the defined settlement boundary of Port Ellen and was previously occupied until recently by a single storey building of primarily timber construction and last used as a shop and bakery and/or workshop and/or store. Whatever its last known use, this building had been vacant for a number of years and it is agreed that there is no record of it having been used as a dwellinghouse; The Council have not claimed that it was used as a dwellinghouse and the previous two planning permissions for its demolition and replacement by a new dwelling has not relied to any extent upon any claim that it was previously used for residential purposes.*

*There is no 'planning requirement' that waste bins be suitably screened. Domestic waste bins are a common feature of developed areas and Port Ellen is no exception. The submitted drawings show a modest area to the front of the proposed dwelling for the storage of up to three 'wheelie bins' with a three-sided enclosure. It is not considered that this will result in any material loss of amenity or loss of character for this part of the Port Ellen conservation area.*

*There is no carport (or garage) proposed in the current application. Neither is there (or was there) any requirement that 'the new building follow the footprint of the old building'. The current application is for a dwellinghouse of very similar proportions and size to that previously approved in 2011. This previous planning permission did not rely upon any requirement that it follow the footprint of the previous building on the site. The dwellinghouse previously approved and the one currently proposed would have a materially different footprint shape to the building that previously occupied the site (since demolished) and would have a somewhat smaller footprint area than that occupied by the previous building.*

*The flood risk assessment has been provided by the Applicant and is attached to the application file and available to view online.*

- The proposed building ground floor elevation has been lowered to what would appear to be an acceptable elevation in relation to street elevation subject to conformity with flood risk analysis requirements. However the building is not a

single storey building as described in the application. It is a 1.5 storey building. It is also only 17 metres from my dwelling. Local planning guidance dictates that it should be a minimum of 22 metres from my house. I am in the process of lodging a formal objection with the Scottish Executive in respect of the Council's deviation from accepted planning guidelines. Alternatively all windows facing my dwelling should be of frosted glass. The previous store/retail outlet in this location was single storey in fact, not in fiction as the Council would have us believe. To call a 1.5 storey building with two floors a single storey is also a deviation on the part of the Council. In short, the Council continue to make a complete mess of this application. The Council have been described in various audits as being 'not fit for purpose'. Obviously then, this Council being 'not fit for purpose', their handling of this application alone being proof of the fact, the matter shall require consideration by a superior organisation. To relate this grossly exaggerated proposal to existing buildings further up the crescent and isolated from the village green, beach and vista is simply preposterous. The application should be rejected, the land purchased by the Council and restored to its original grass to merge the village green with the village garden. Any other proposal is a failure by the Council in respect of their obligations to their tax payers and to voters in general. [*quoted in full from email representation dated 8<sup>th</sup> May 2014*].

*Comment: The proposed detached dwellinghouse is very similar in size and design to that previously granted planning permission in 2011. The proposed development is described on the submitted planning application form as 'erection of new dwellinghouse and formation of new vehicular access'. The proposed development is not described anywhere on the submitted application form or drawings or the neighbour notification documents produced by the Council as a 'single storey dwelling' and Mr McNeill's comments in this regard are refuted as are the mistaken inferences and allegations that derive from his assumption. The proposed dwellinghouse, like that granted planning permission in 2011, is a detached building with its main accommodation at ground floor level and limited residential accommodation within the roof void and incorporating dormer windows within the roof to the front and rear. Whether such a building should properly be described as 'single storey' or 'one and a half storey' is wholly irrelevant; the proposed building has a ground floor and a standard wall-head height of approximately 3.4 metres (varying slightly due to the shallow incline of the public road) topped by a pitched and gabled roof at an angle of 40 degrees and a ridge height of approximately 6.3 metres. A traditional 'single storey' building would share very similar proportions and a near-identical wall-head height and ridge height. In this case, rather than the roof void being left unoccupied, the current proposal is to utilise this space to provide additional living accommodation with increased internal headroom and floor space achieved by the inclusion of modestly proportioned dormer windows. This is a traditional design and is considered appropriate for this site.*

*The land forming the application site is in private ownership and has long been the site of a detached building. Two planning permissions have previously been granted for the redevelopment of the site to accommodate a single dwellinghouse; once in 2008 and once, for an amended design, in 2011. This land is not within Council ownership and hasn't been for at least the last 20 years (if ever). The Council has no reasonable powers to compulsorily acquire this land nor any mandate to do so.*

*The proposed building would occupy a nearly identical position within the site as that previously granted in 2011. The new dwellinghouse would be sited between*



3.6 and 3.8 metres back from the nearside edge of the adopted highway footpath. The previous building adjoined the footpath. The proposed building would occupy a site on the opposite side of the A846 public road (Frederick Crescent) to Mr McNeill's house, this being the sole main road through the settlement and linking the ferry terminal with Port Ellen, Lagavulin, Laphroaig, Ardbeg and beyond. It is considered that the level of residential amenity that can reasonably be expected within the centre of an historic settlement of the size of Port Ellen and where two developments are separated by an A-classified public road, particularly where the application site was previously developed land, might be somewhat less than in other locations and in other circumstances. Notwithstanding this, the quoted 22 metre 'minimum separation distance' is not a standard adopted or routinely applied by Argyll and Bute Council. The guideline minimum separation distance that has been successfully applied by this Council for many years is 18 metres between windows of habitable rooms (i.e. all rooms except bathrooms and hallways) with the caveat that such separation distances may not always be possible or desirable in certain circumstances.

In the case of the current proposed development, the distance across the A846 main road from the front windows of Mr McNeill's house to the windows of the proposed dwelling would be approximately 19.5 metres. It is not considered that the proposed development will give rise to any materially harmful impact upon daylight and sunlight afforded to neighbouring properties, including that owned by Mr McNeill, having regard to the Council's adopted guidelines and the standards set out in the Building Research Establishment Report: "Site Planning for Daylight and Sunlight" 1991.

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**(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>   | Yes |
| (iv)  | <b>A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:</b> | Yes |

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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 DC 10 – Flooding and Land Erosion

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment  
LP ENV 14 – Conservation Areas and Special Built Environment Areas  
LP ENV 19 – Development Setting, Layout and Design  
LP CST 1 – Coastal Development on the Developed Coast  
LP HOU 1 – General Housing Development  
LP SERV 4 – Water Supply  
LP SERV 8 – Flooding and Land Erosion – The Risk Framework for Development  
LP TRAN 4 – New and Existing Public Roads and Private Access Regimes  
LP TRAN 6 – Vehicle Parking Provision

**(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 proposed Local Development Plan (Feb 2013)
- Argyll and Bute Sustainable Design Guide (Sept 2006)
- Scottish Planning Policy (SPP)

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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): No**

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

The application site is adjoined to the north by Frederick Crescent which comprises a near-continuous terrace of one and three-quarter storey and two storey properties on the landward side and an open grassed area and beach around the shoreward side of Loch Leodamais to the east of the application site. To the west of the application site the land rises and is utilised as a community garden with further private garden ground and a two storey former police station building beyond. The streetscape is almost entirely comprised of traditional buildings and public open space which frames the bay. The grassed area which adjoins the application site is identified as protected open space in the adopted local plan.

The application site is located within the defined settlement boundary for Port Ellen and also within the Port Ellen conservation area.

Planning permission was first granted in 2009 for the demolition of an existing unoccupied and semi-derelict former shop and bakery on the shore side of Frederick Crescent and its replacement with a single storey detached dwellinghouse of traditional design and detailing (Permission reference 08/00049/DET). This planning permission was granted following a Member's site inspection. The building that existed on the site until recently extended to some 200-plus m<sup>2</sup> over a single storey which ranged from the pavement edge almost to the waterside. The existing property was a haphazard construction comprising a number of roof pitches and lean-to elements and was finished in timber cladding, corrugated iron and masonry all painted orange and with a slate roof. The ridge height of the existing building was estimated to be approximately 4m above the height of the adjacent pavement edge.

This planning permission was not implemented and the site was subsequently offered for sale and purchased by the current Applicant who, in 2011, was granted planning permission for an amended development, consisting again of a single detached dwellinghouse of traditional design and detailing but this time incorporating limited residential accommodation within the roof void (Planning permission reference 11/00399/DET). The 2011 permission was, effectively, an amendment to the then existing 2009 permission and proposed the erection of a detached dwellinghouse with a frontage width of 14.3 metres (the existing permission was for a dwelling with a 12.3 metre wide frontage), a depth of 6.6 metres (the existing permission was for a dwelling with a 6.5 metre depth) and a maximum ridge height of 7.18 metres (the existing permission was for a dwelling with a 6.78 metre ridge height). The dwelling approved under the 2011 permission was to occupy the same general position within the site as that the subject of the 2009 permission.

Work was subsequently commenced on the implementation of the 2011 permission but subsequently ceased following allegations that the 'underbuild' (the height of the building between the natural ground level and the internal ground floor level) was significantly greater than shown on the approved drawings. An enforcement investigation (13/00073/ENFOC1) was carried out and the development surveyed with respect of the physical works which existed on the ground.

At this time (March 2013) the previous vacant building had been removed from the site following the grant of Conservation Area Consent for its removal and the foundations and part of the lower blockwork walls for the new dwelling had been built. The Applicant/Developer voluntarily ceased work on site whilst the allegations were investigated and the site has remained unchanged since then.

It was eventually demonstrated that a surveying error in the original 2009 permission and compounded by the drawings prepared for the 2011 alternative scheme had misrepresented the level of the rear part of the site and the height of the public road above sea level, with the road being shown on the elevation drawings submitted in support of the 2011 permission at approximately 0.7 metres higher above sea level than it actually is. The finished floor level (FFL) of the new dwelling the subject of the 2011 permission was required by planning condition to be set a certain minimum height above sea level in order to ensure that the development would not be at risk from coastal flooding. This FFL was accurately shown on the approved elevation drawings submitted in support of the 2011 permission where it could be assessed against the level of the adjacent public road and low stone boundary wall that runs along the front of the site and shown on the same drawings. However, because the line of the public road running across the front of the site was drawn higher than it actually is, this had the effect of misrepresenting the amount of 'underbuild' required to achieve the necessary FFL and therefore the impact of the development upon the street-scene. In very simple terms, the amount of underbuild projecting above the level of the public road would be some 0.7 metres taller than shown on the approved drawings; a difference of almost 100% and increasing the perceived FFL of the building above the level of the public road to between approximately 0.9 and 1.5 metres – significantly greater than that represented on the approved drawings and, critically, above the level of the existing stone boundary wall that runs along the front of the site.

The site investigation revealed two more slight variations between what has been built so far and what was shown on the approved drawings under the 2011 permission: The application site is actually approximately 1 metre wider than shown on the approved drawings and this has had the effect of the foundations/low walls having been built slightly further from the due west site boundary but accurately in respect of the due east boundary. The building has also been rotated slightly with respect to the site boundaries; in a clockwise direction and by an estimated 4 or 5 degrees.

This current application is therefore partly to regularise the discrepancies between the 'as-built' position and the 2011 permission but also to reduce the FFL of the resulting building following the results of a new flood risk assessment and consultation with SEPA. The current proposal also amends the external appearance of the building slightly although its overall size, design, detailing and layout would remain nearly identical to the development previously approved in 2011.

The current application again proposes the erection of a single detached dwellinghouse of traditional design and detailing and again incorporating limited accommodation within its roof void. The dwelling currently proposed would be set back within the site by over 3 metres from the nearside edge of the adjoining public road footpath and would present its primary elevation onto Frederick Crescent. The proposed dwelling would have a frontage width of 14.3 metres (identical to that granted in 2011), a depth of the main part of the dwelling of 6.6 metres with a modest projecting rear gable increasing this depth across part of the building to 8.1 metres (again identical to that granted in 2011). The ridge height of the proposed building would be a uniform 5.9 metres above the finished interior ground floor level and, allowing for the change in levels across the site, this would result in a building with an external ridge height of between 6.1 metres and 6.4 metres above the level of the pavement adjoining the front of the site (this is very slightly lower than that shown on the drawings that resulted in the 2011 permission).

The proposed dwelling would be the same shape as that approved in 2011 and would occupy the same position within the site, with very minor repositioning to accommodate the slight rotation of the building and the marginal increase in plot width as described above. The main changes to its appearance would be the addition of a further dormer window to the rear facing roof plane (one was granted in 2011 and two are currently proposed), an increased amount of glazing to the rear elevation, the provision of a set of timber gates to the driveway entrance off Frederick Crescent and the erection of an area of raised terrace to the rear of the dwelling to rationalise the fall of the site from road to sea. This terrace area would be elevated above the natural ground level to the rear of the dwelling by some 1.4 metres at its highest point and would project from the rear face of the dwelling by approximately 6.7 metres at its maximum extent and span the full width of the dwelling. The proposed terrace would incorporate a 1.1 metre high glass balustrade within a stainless steel frame.

Whilst the proposed raised terrace would occupy a quite substantial area and would be considerably elevated above the level of the foreshore it is not considered that this element of the proposed development would have a materially detrimental impact upon the character and amenity of the site or its surroundings being, for the most part, screened by the dwelling itself. There is considerable precedent for elevated patios, walls and other structures immediately to the rear of those existing buildings occupying the seaward side of Frederick Crescent, with vertical walls and steep embankments bridging the often considerable gradient between sea level and the level of the public road. Although the proposed raised terrace offers a more contemporary design solution to that of the steep stone or concrete buttress walls and embankments employed elsewhere in the vicinity, the proposed design and materials are of high quality and the rear aspect of the proposed development will enhance the character and appearance of this part of the conservation area, both when viewed from the foreshore or the sea beyond and from views from further along the bay.

The proposed external finishes of the building will require amendments in order to conform to its prominent location within the Port Ellen conservation area. Although the proposed white-coloured wet dash render for the walls is acceptable and appropriate in this regard it is considered that the proposed fibre cement tile roof should be substituted by a natural slate roof of appropriate quality and design. Similarly, the notes within the submitted design statement and the annotations to the submitted drawings suggest that aluminium-framed windows and doors are proposed although no details of these windows or doors have been submitted. It is considered that aluminium-framed windows and doors might not be appropriate, particularly in regard to the front elevation of the building facing the street, although they might be acceptable for the more contemporary glazing and detailing at the rear of the building at ground floor level. It is suggested that the external materials can be adequately controlled by the use of planning conditions in order to secure a natural slate roof and to require full details of the proposed windows and doors to be submitted and approved before any building works commence. This will allow the planning authority further opportunity to assess the specific window and door designs and to require amendments if considered necessary.

A revised flood risk assessment has been prepared in consultation with SEPA and this has demonstrated that more accurate flood risk data and bathymetry would support a lower finished floor level (FFL) than previously required. Previously, it was assessed that a minimum FFL of 4.37m above ordnance datum (AOD) should be achieved for this development. Since then however the 1 in 200 year sea level flood event at this part of Port Ellen has been revised by SEPA to an estimated 2.22 metres AOD. An assessment of climate change and wave heights at the development site indicates that the overall coastal flood level at this point is 2.8 metres AOD.

Application of a 600mm freeboard provides a resulting minimum FFL of 3.4 metres AOD or almost one metre lower than that previously thought to be required. The submitted flood risk assessment and the proposed FFL have been assessed by the Council's flood risk manager and found to be appropriate in this regard.

Even given that the actual level of the site and the public road that passes in front of it is substantially lower than previously represented (described above) this revised flood level means that the FFL for the building would be lower even than that represented in the 2011 permission; a maximum of 500mm above the surface of the Frederick Crescent pavement and this only at the eastern end of the building with the FFL at the western end of the building being just 150mm above pavement level.

The location, scale, design and general appearance of the proposed development is considered acceptable having had due regard to all material considerations.

Settlement strategy policy STRAT DC 1 and Local Plan policy LP HOU 1 would support this scale of residential development within a defined settlement boundary, particularly on a previously developed site.

The scale and form of the proposed development is considered acceptable for its location within this part of the Port Ellen conservation area and having due regard both to the comments and objections of the owner of a neighbouring dwellinghouse and to the planning history of the site that has seen the granting of one similar development and one near identical development. The proposed development is considered to be in compliance with the provisions of the Development Plan in this regard, notably to policies STRAT DC 9, LP ENV 1, LP ENV 14, LP ENV 19 and LP CST 1.

Water supply, disposal of foul water sewage and means of access and parking would all be as previously approved. The proposed development raises no access, servicing or infrastructure issues and is wholly in compliance with the provisions of the Development Plan in this regard, notably with policies LP SERV 4, LP TRAN 4 and LP TRAN 6.

The development has been properly assessed in accordance with the statutory flood risk framework and has been found to be acceptable subject to the provision of a minimum finished floor level of 3.40 metres above ordnance datum. It has been demonstrated that this can be achieved without any inappropriate level of underbuild and the development is therefore considered acceptable in this regard and in accordance with the provisions of the Development Plan, notably policies STRAT DC 10 and LP SERV 8.

Having regard to the emergent Argyll and Bute proposed Local Development Plan (pLDP), it is noted that the Council does not intend to revisit the zoning of the application site or its surrounds and that the relevant provisions of proposed policies LDP DM1, LDP 3 and LDP 9 and proposed Supplementary Guidance SG LDP ENV 17, SG LDP CST 1, SG LDP HOU 1 and SG LDP SERV 7 would operate in the same manner as the provisions of the adopted 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 Planning Permission in Principle Should be Granted:**

The location, scale, design and general appearance of the proposed development is considered acceptable having had due regard to all material considerations.

Settlement strategy policy STRAT DC 1 and Local Plan policy LP HOU 1 would support this scale of residential development within a defined settlement boundary, particularly on a previously developed site.

The scale and form of the proposed development is considered acceptable for its location within this part of the Port Ellen conservation area and having due regard both to the comments and objections of the owner of a neighbouring dwellinghouse and to the planning history of the site that has seen the granting of one similar development and one near identical development. The proposed development is considered to be in compliance with the provisions of the Development Plan in this regard, notably to policies STRAT DC 9, LP ENV 1, LP ENV 14, LP ENV 19 and LP CST 1.

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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> May 2014

**Reviewing Officer:** Peter Bain      **Date:** 30<sup>th</sup> May 2014

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

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 14/00653/PP**

1. The proposed development shall be carried out in accordance with the details specified in the application form dated 12<sup>th</sup> March 2014; and the approved drawings numbered 1 of 12 to 12 of 12 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 1 above, the council can approve minor variations to the approved plans in terms of Section 64 of the Town and Country Planning (Scotland) Act 1997 although no variations should be undertaken without obtaining the prior written approval of the Planning Authority. If you wish to seek any minor variation of the application, an application for a non material amendment (NMA) should be made in writing 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.

2. Notwithstanding the provisions of Condition 1 above, the type and colour of materials to be used in the development shall be as specified on the approved Design Statement and as annotated on the approved drawings, with the exception of the roof covering which shall be of natural slate to a specification to be submitted and approved in writing by the Local Planning Authority before any works commence on site. In addition, full details of all of the proposed windows and external doors shall be submitted to and approved in writing by the Local Planning Authority before any works commence on site. Notwithstanding the submitted details, it is anticipated that the windows and external doors, particularly to the front elevation of the building (fronting onto Frederick Crescent) shall consist of traditional timber sash and case windows and timber close boarded doors.

Reason: In order to integrate the development into its surroundings and in order to protect the character and appearance of the Port Ellen Conservation Area.

3. No development shall commence until a scheme of boundary treatment, surface treatment and landscaping has been 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.

4. 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 1D: Any enlargement of a dwellinghouse by way of an addition or alteration to its roof.

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) Order 1992 (as amended).

5. The proposed access shall be formed with visibility splays of 20.0 x 2.0 metres in each direction formed from the centreline of the proposed access. Prior to work starting on site these visibility splays shall be cleared of all obstructions over one metre in height above the level of the adjoining carriageway and thereafter shall be maintained clear of all obstructions over 1.05 metres in height to the satisfaction of the Planning Authority.

Reason: In the interests of road safety

6. Prior to work starting on site, the access hereby permitted shall be formed in accordance with the Council's standard highway drawing SD 08/005, Revision A

Reason: In the interests of road safety.

7. Notwithstanding the provisions of Condition 1, no development shall commence until full details of the layout and surfacing of a parking and turning area to accommodate 2 vehicles within the application site have been 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.

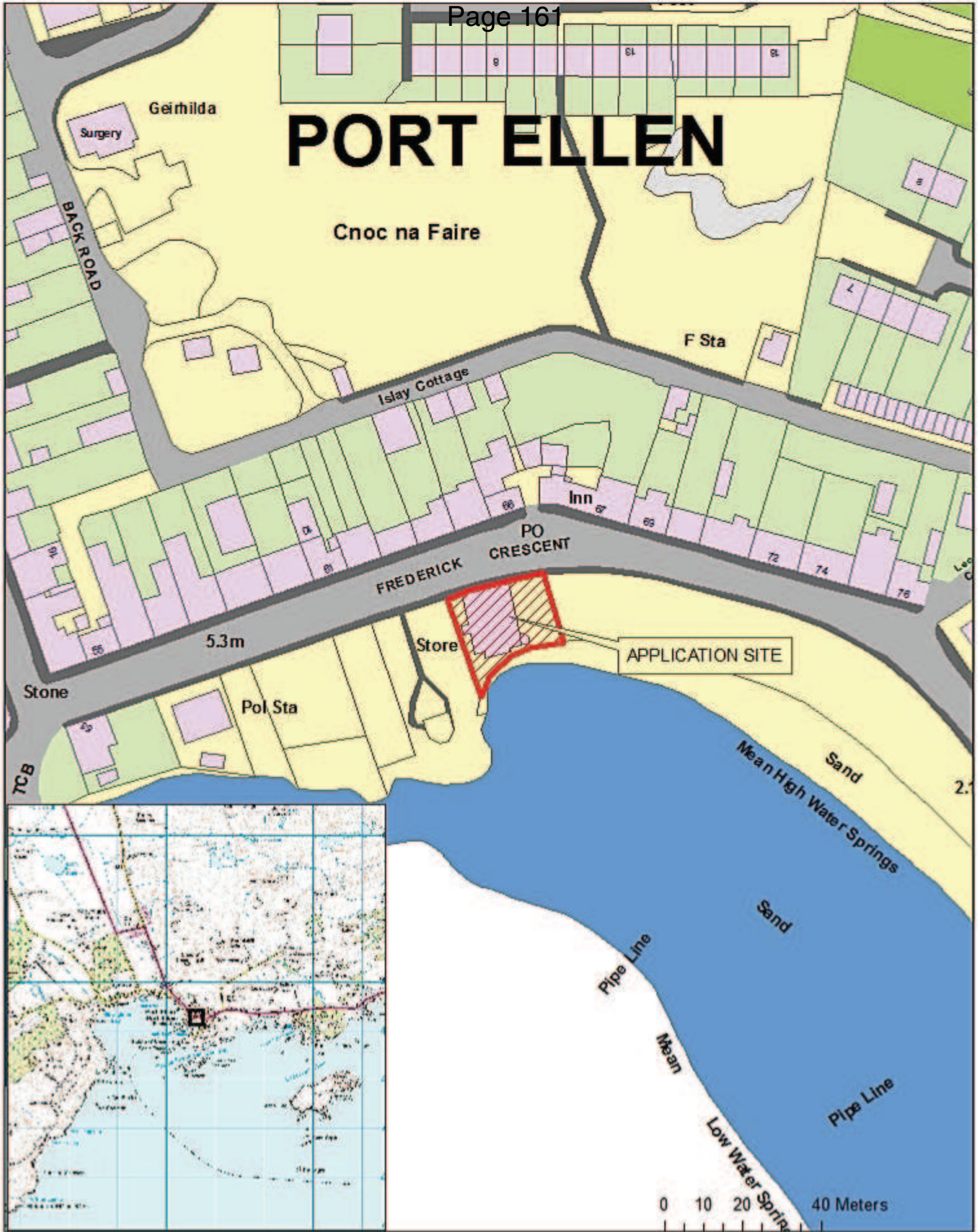
**NOTE TO APPLICANT**

- **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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# PORT ELLEN

Cnoc na Faire



## Committee Plan Relative to Planning Application 14/00653/PP



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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**

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**Reference No:** 14/00821/PPP

**Planning Hierarchy:** Local Application

**Applicant:** Luss Estates Company

**Proposal:** Site for the erection of a residential development including formation of vehicular access and demolition of existing clubhouse.

**Site Address:** Rhu Bowling Club, Manse Brae, Rhu

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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 residential development

**(ii) Other specified operations**

- None

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**(B) RECOMMENDATION:**

It is recommended that planning permission be refused for the reasons given overleaf.

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**(C) HISTORY:** None

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**(D) CONSULTATIONS:**

Environmental Health/ Public Protection- Helensburgh And Lomond	- 21.05.2014	No objections
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Roads Helensburgh And Lomond	28.04.2014	No objections subject to conditions
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Scottish Water

No response

Rhu & Shandon  
Community Council

30.04.2014

Objects to the proposal because:

- The site is an OSPA and its change to housing is contrary to the local plan
- It has not been demonstrated that there is no continuing requirement for the space to be used as an OSPA. Rhu Bowling Club has not given up rights to the land and until it does, no consideration should be given to a change of use.
- The application makes limited reference to possible uses which would maintain it as an OSPA having been explored.
- If it is found there is no demand for continuing use as an OSPA we might not be opposed to a small scale development. However, the access arrangements are vague and are not acceptable.
- R & S CC believes the current application should be refused.

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**(E) PUBLICITY:** Listed Building/Conservation Advert (expiry date 01.05.2014)

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**(F) REPRESENTATIONS:**

18 letters and e-mails of objection have been received in connection with this application from the following individuals. The points of objection and my comments on them are summarised below:

Patricia Spicer, 13 Inchgower Grove, Rhu (letter dated 16/04/14)  
Alister Minnis, 7 Inchgower Grove, Rhu (e-mail dated 22/04/14)  
Peter Clark, 16 Inchgower Grove, Rhu e-mail dated 22/04/14)  
John Fraser, Lydenhill, Upper Hall Road, Rhu (e-mail dated 22/04/14)  
Aileen Overend, Maranatha, Cumberland Road, Rhu (letters dated 17/04/14)  
Andrew Overend, Maranatha, Cumberland Road, Rhu (letter dated 21/04/14)  
Patricia Porteous, 10 Inchgower Grove, Rhu (letter dated 21/04/14)  
Edna Muir, 3 Ardenconnel Way, Rhu (letters dated 17/04/14)  
Martin P Ritch, 11 Inchgower Grove, Rhu (letter dated 16/04/14)  
Margaret Morrison, 6 Inchgower Grove, Rhu (letter dated 17/04/14)  
Peter Knox, 7 Ardenconnel Way, Rhu (e-mails dated 23/04/14 and 24/04/14)  
Robbie Price, 9 Inchgower Grove, Manse Brae, Rhu (letter dated 16/04/14)  
Audrey C Butler, 5 Ardenconnel Way, Rhu (letters dated 21/04/14 and 24/04/14)  
Denise Miller, Flat 1/1 Ardenlea, Cumberland Road, Rhu (e-mail dated 25/04/14)  
Mr and Mrs Stewart Cowie, 1 Ardenconnel Way, Rhu (letter dated 22/04/14)

This is an Open Space Protection Area (OSPA). As such the development is contrary to the Local Plan.

*Comment: See my assessment.*



There is already slippage into my (Maranatha) property due to the current land, which is non-load bearing being built up using existing building materials to some 4 feet with no support structure. This land clearly cannot sustain any load whether it is structures or even parking/road. In addition, as ex building materials have been used, a contamination report should be undertaken to ensure any asbestos or other risk is fully mitigated.

*Comment: The application is for planning permission in principle. It is considered that there is insufficient information to properly assess the proposal although Public Protection has indicated no objection. This issue would need to be assessed before a decision could be taken.*

The application details that current drainage would be used. There is an on-going drainage issue at the T-junction of Cumberland road and School Road which is evidence that current drainage cannot satisfy current demand and would be unable to cope with further load.

*Comment: The application is for planning permission in principle. It is considered that there is insufficient information to properly assess the proposal. See also my assessment.*

The access as proposed is of limited width and therefore not sufficient to support safe vehicular access/egress, pedestrian and turning areas for multiple dwelling. The development, including construction traffic, will have a detrimental impact on parking, manoeuvring and road safety particularly in Inchgower Grove which is already under significant pressure. Manse Brae is a busy main road in proximity to the children's playground and the development would create additional hazards to neighbouring proprietors and the public using Manse Brae and merging from barge Court.

*Comment: The application is for planning permission in principle. The Area Road Manager has no objections to the proposal subject to conditions. See also my assessment.*

Noise and overlooking/shadowing is a concern.

*Comment: In relation to noise Environmental Health/Public Protection has indicated no objection. With regard to overlooking/shadowing the application is for planning permission in principle. As such it is considered that there is insufficient information to properly assess the proposal. See also my assessment.*

A large number of vermin are housed within the built up nature of the current land and am concerned about pest control.

*Comment: This would be a matter for Environmental Health/Public Protection.*

The current club house structure may be housing bats which could then house within local housing and become a nuisance. Newts were also found in an adjoining garden.

*Comment: Bats and newts are protected species. The application is for planning permission in principle and it is considered that there is insufficient information to determine the proposal. The issue of bats and newts would need to be formally assessed before a decision to approve the proposal could be taken.*

The supporting report details that neighbours have been consulted which is incorrect. The document also states that there are no other community groups with an interest in the property. However, Luss Estates have been contacted by a very popular charity childcare organisation who is interested in discussions.

*Comment: On major applications, applicants have to go through a formal consultation with the community. This is not a major application as defined in the hierarchy of*

*development. Neighbour notification is the responsibility of the Council. The issue of other parties is not a material consideration in the assessment of this application.*

Concern that a majority of neighbours have not been notified and that the copy plans were not received by Rhu Post Office until 10 days in to the 21 day period.

*Comment: The plan submitted shows only a site edged red. The plan was available on-line and the application has been advertised.*

The applicant does not have formal rights of access to the development through the existing Inchgower Grove site and will be unable to access the site without consent.

*Comment: This is a civil matter between the parties concerned.*

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**(G) SUPPORTING INFORMATION**

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

- (i) **Environmental Statement:** N
- (ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** N
- (iii) **A design or design/access statement:** N
- (iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** Y

**Summary of main issues raised by each assessment/report**

Rhu Bowling Club, leased from Luss Estates, experienced falling numbers and ceased operating. The site was handed back to Luss Estates in 2013 and there is no requirement for it to continue as a bowling club. The clubhouse is also attracting vandalism.

Given that the locality is primarily residential in nature this would seem to be an appropriate re-use of the site. Initial discussions with the local authority indicated an acceptance that the demise of the bowling club has left the site open for consideration of alternative uses but also that a number of aspects would have to be formally addressed. These include the current Local Plan zoning, a suitable vehicular and pedestrian access, the availability of services and ultimately an appropriate scale of development.

To initiate a re-assessment of the Local Plan zoning, correspondence has been sent to the Forward planning section in Lochgilphead highlighting the situation. No definitive answer has yet been received and the Local Plan section is still considering the matter. However, with increasing vandalism to the premises, the intervention of Police Scotland and concern on the part of some neighbours, Luss Estates Company has decided to progress matters more quickly through the submission of a formal application seeking to establish the future of the site as a small-scale residential development.

The site is a relatively square area of ground extending to approximately 0.23 hectares. It sits in a backland setting to the west of Inchgowrie Grove in Rhu with the sole means of access being a pedestrian footpath from Manse Brae at its junction with Pier Road.

The site is currently zoned as an Open Space Protection Area (OSPA) intended to protect open spaces and recreational facilities. This policy should not be challenged lightly. Nevertheless, the longstanding use of the site has come to a natural end.

Close to the site is a sizeable open play park which ensures there is an adequate local provision of public open space for the neighbourhood. Taking this on board the re-use of the site within the long established residential area of Rhu for residential purposes would appear to accord with other Local Plan policies aimed at re-utilising sites within the settlement.

The most significant challenge to any future residential development would appear to be ensuring compliance with roads/access policies which seek an entrance in accordance with Roads Guidelines. The existing pedestrian access is

not of a width that would allow it to be upgraded to take vehicles. As such, if vehicles are to be brought into the site a new access route will need to be identified.

The removal of the clubhouse would allow the south-eastern boundary wall to be breached thereby creating a road, with two-way working, to be formed off Inchgowan Grove. At present this would entail vehicles passing between a row of parking bays and a terrace of garages opposite these. This is not ideal for significant numbers of traffic movements but perhaps acceptable if only serving a private access with a limited number of movements.

In light of the foregoing factors it is proposed that planning consider the application in terms of a limited number of detached or semi-detached houses, perhaps no more than four/six in total, which would ensure the traffic generation is also limited. In doing this restriction would not only meet Roads criteria but would also benefit the amenity of the neighbouring houses.

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**(H) PLANNING OBLIGATIONS**

(i) **Is a Section 75 agreement required:** N

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**(I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** N

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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

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment  
LP ENV 14 – Conservation Areas and Special Built Environment Areas  
LP ENV 15 – Demolition in Conservation Areas  
LP HOU 1 – General Housing Development  
LP TRAN 4 – New and Existing Public Roads and Private Access Regimes  
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.**

Argyll & Bute Sustainable Design Guidance (2006)

Representations

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**(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: N**

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**(L) Has the application been the subject of statutory pre-application consultation (PAC): N**

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**(M) Has a sustainability check list been submitted: N**

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**(N) Does the Council have an interest in the site: N**

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**(O) Requirement for a hearing (PAN41 or other):** No. It is usual to consider a pre-determination Hearing where there are more than 20 representations. In this case that number has not yet been reached. In any case, the application is partly being refused on a technical issue in terms of the lack of supporting information required to formally determine the proposal. As such, even if the target number to trigger a potential hearing was reached it is not considered there would be any added value from holding a Hearing.

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

Planning permission in principle is sought for the erection of a residential development at Rhu Bowling Club, Manse Brae, Rhu. The site is within the Rhu Conservation Area and within an Open Space Protection Area (OSPA) as defined by the adopted Local Plan. Within Conservation Areas, development must be of the highest quality and respect the architectural qualities of the area. Applications for planning permission in principle will not normally be considered appropriate in these areas. Within OSPAs, there is a presumption against the redevelopment of established playing fields or sports pitches.

Rhu Bowling Club is located within a residential area of Rhu to the west of Inchgower Grove. It is surrounded on all sides by residential property and can only be accessed on foot by a path with access from Manse Brae. It is a square area of land with a site area of 2310 square metres, with the existing single storey pavilion located to the west of the site backing onto the parking area of Inchgower Grove. The proposal is to demolish this pavilion and create an access through Inchgower grove to the site and erect a small residential development of up to six dwellings. The plans submitted with the application show only the site outlined in red and the location of the proposed access. No details are given of the proposed location of any dwellings, the scale or the design. Given the location of the proposed development within a Conservation Area, the applicant has submitted insufficient information to assess the impact of the proposed development on the character and amenity of adjoining properties and whether it will preserve or enhance the character or appearance of Rhu Conservation Area. As such the proposal is contrary to Policy LP ENV 14 of the adopted Local Plan which states that outline planning applications (planning permissions in principle) will not normally be considered appropriate for proposed development in conservation areas and which presumes against development which does not preserve or enhance the character or appearance of the Conservation Area.

The application site is also within an Open Space Protection Area. Policy LP REC 2 of the adopted Local Plan presumes against the redevelopment of sports pitches to other uses. Redevelopment will only be considered where the applicant can prove that there

would be no loss of amenity and alternative provision of equal community benefit and accessibility would be made available, and there is a clear, long term excess of pitches, playing fields, and public open space in the wider area. The applicant provided a Supporting Statement outlining their case for the redevelopment of the site. In it, it states that Rhu Bowling Club's numbers have dwindled over the years to such an extent that the club decided to close. The land is owned by Luss Estates and was handed back to them in May 2013. They believe that there is no requirement to continue as a bowling club and Luss Estates are not interested in leasing the premises as any other form of licensed club. The site is lying vacant and open to vandalism and the applicant considers that a small scale residential development would make the best use of the land and secure the site. The applicants feel that there is no demand for another bowling club and that the site is not suitable for more active clubs due to its location and the fact it is bounded on all sides by residential properties. The applicants have also pointed to the open play park across the road from the application site which they feel ensures that there is adequate local provision of public open space for the neighbourhood. It is therefore the applicant's view that there is no longer any justification for maintaining the OSPA zoning.

It is not considered that the applicant has fulfilled the criteria set out in Policy LP REC 2. This states that alternative provision of equal community benefit should be made available. The applicants have not provided land elsewhere that can be used as a recreational area and have not indicated that they have any intentions of doing so. The play park nearby the site which is referenced in the supporting statement is an existing use and cannot be considered. Furthermore, a play park by nature is inherently different to a playing field and cannot be used as alternative provision. This policy also states that there must be a clear, long term excess of pitches, playing fields and public open spaces in the wider area. The applicants have not demonstrated that this is the case. No justification has been provided to show that there is an excess of these sites in the area. No details have been submitted to show that the application site has been actively marketed for this use and no details have been submitted to show that any effort has been made to retain the use of the site. The proposal is therefore contrary to Policy LP REC 2 of the Argyll & Bute Local Plan.

The proposed Argyll and Bute Local Development Plan is a material consideration in the determination of this application. In terms of this application site and the proposed development, the plan maintains the same policy approach and there are no policies or guidance which would alter the recommendation.

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**(Q) Is the proposal consistent with the Development Plan: No**

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**(R) Reasons why Planning Permission in Principle should be refused**

The applicant has submitted insufficient information to assess the impact of the proposed development on the character and amenity of adjoining properties and whether it will preserve or enhance the character or appearance of Rhu Conservation Area. As such the proposal is contrary to Policy LP ENV 14 of the Argyll and Bute Local Plan which states that outline planning applications (planning permissions in principle) will not normally be considered appropriate for proposed development in conservation areas and which presumes against development which does not preserve or enhance the character or appearance of the Conservation Area.

The application site is designated as an Open Space Protection Area where there is a presumption against redevelopment of these sites. The proposed development will result in the loss of this area of open space and no provision of equal community benefit has been provided elsewhere. Furthermore, the applicant has not shown that the site

has been actively marketed, or that any real effort has been made to preserve its use as a playing field. No details have been provided to show that there is a long term excess of playing fields within the area. The proposal is therefore contrary to Policy LP REC 2 of the Argyll and Bute Local 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: N**

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**Author of Report:** Stephanie Spreng

**Date:** 30/05/2014

**Reviewing Officer:** Howard Young

**Date:** 30/05/2014

**Angus Gilmour  
Head of Planning**

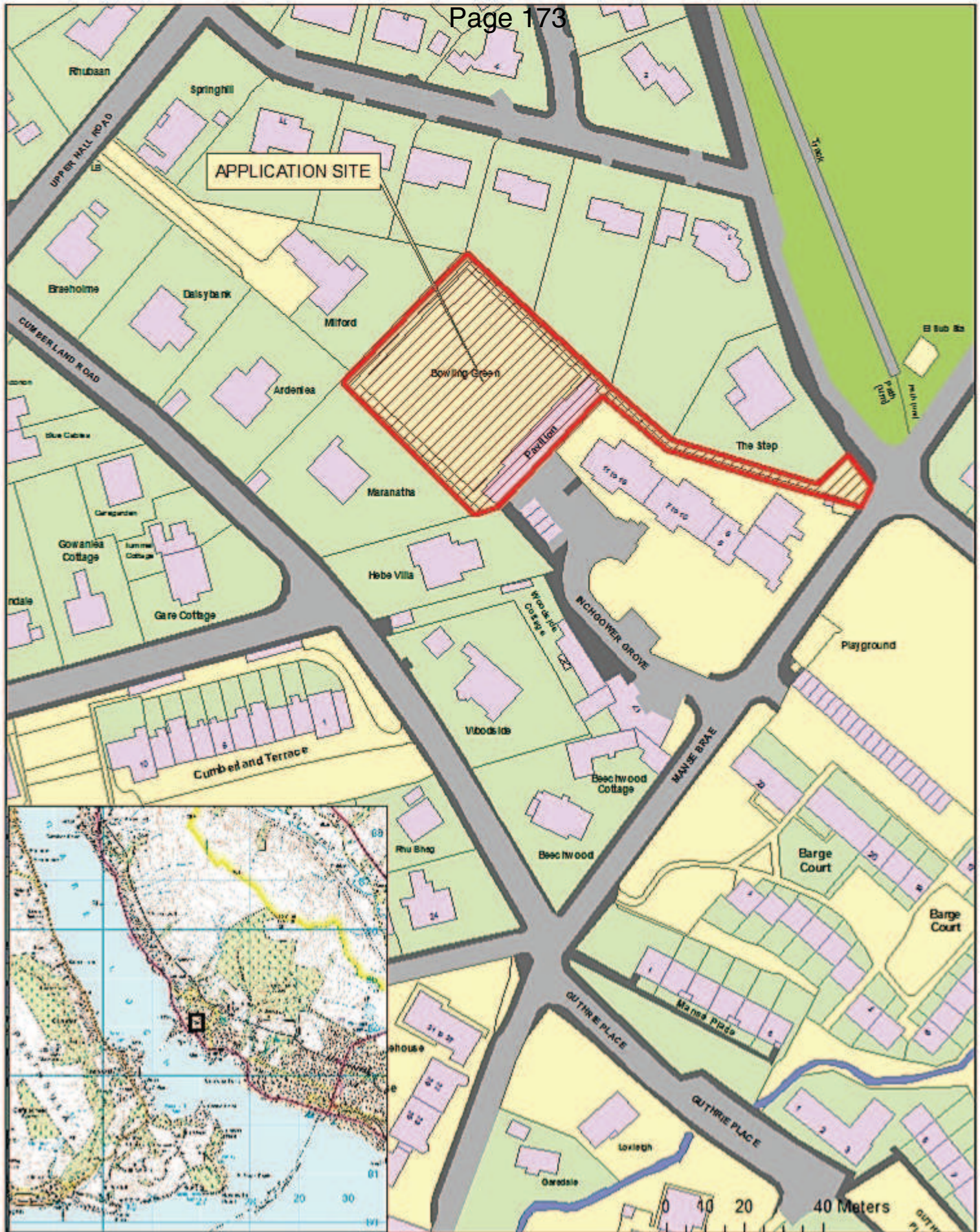
**GROUNDINGS OF REFUSAL RELATIVE TO APPLICATION REF. NO. 14/00821/PPP**

1. The applicant has submitted insufficient information to assess the impact of the proposed development on the character and amenity of adjoining properties and whether it will preserve or enhance the character or appearance of Rhu Conservation Area. As such the proposal is contrary to Policy LP ENV 14 of the Argyll and Bute Local Plan which states that outline planning applications (planning permissions in principle) will not normally be considered appropriate for proposed development in conservation areas and which presumes against development which does not preserve or enhance the character or appearance of the Conservation Area.
2. The application site is designated as an Open Space Protection Area where there is a presumption against redevelopment of these sites. The proposed development will result in the loss of this area of open space and no provision of equal community benefit has been provided elsewhere. Furthermore, the applicant has not shown that the site has been actively marketed, or that any real effort has been made to preserve its use as a playing field. No details have been provided to show that there is a long term excess of playing fields within the area. The proposal is therefore contrary to Policy LP REC 2 of the Argyll and Bute Local Plan.

**NOTE TO APPLICANT**

For the purpose of clarity it is advised that this decision notice relates to the details specified on the application form dated 31/03/2014 and the refused drawing reference number 14.02.04 01.





**Committee Plan Relative to Planning Application 14/00821/PPP**



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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:** 14/00861/PP  
**Planning Hierarchy:** Local  
**Applicant:** Mrs Margaret Muir  
**Proposal:** Installation of ground mounted photovoltaic array (retrospective)  
**Site Address:** The Anchorage, Minard, Inveraray PA32 8YB

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**DECISION ROUTE**

Local Government Scotland Act 1973

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**(A) THE APPLICATION**

- (i) Development Requiring Express Planning Permission**
    - Installation of ground mounted photovoltaic array (retrospective)
  - (ii) Other specified operations**
    - Boundary planting scheme
- 

**(B) RECOMMENDATION:**

It is recommended the application be refused for the reasons contained within this report.

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**(C) CONSULTATIONS:**

Transport Scotland – no objection subject to condition – report dated 30.04.14

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**(D) HISTORY:**

None

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**(E) PUBLICITY:**

None required

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**(F) REPRESENTATIONS:**

- (i) Representations received from:**

9 letters of objection have been received from:

Mr James Thompson, Carnus, Minard (email received 23.04.14)  
Charles & Jill Walker, Oakbank, Minard (letter received 24.04.14)  
Mr Brian Barker, 5 Lower Achagoyle, Minard (email received 29.04.14)  
Leonard McNeill, Tigh Beg, Minard (letter received 02.05.14)  
Mr James McKinlay, A Choille Bheag, Minard (email received 02.05.14)  
Mrs Carolyn Hill, Viewfield Cottage, Minard (email received 07.05.14)  
Mrs Fiona MacNicol, Turnalt Farm, Barbreck, Lohcgilphead (letter received 08.05.14)  
Mrs Jane Allison-Norman, Malin, Mansefield Road, Minard (email received 12.05.14)  
Mr Duncan Allison-Norman, Malin, Mansefield Road, Minard (email received 12.05.14)

**(ii) Summary of issues raised:**

- They will have an impact on the value of adjacent properties.

*Comment: Impact upon the property valuation is not a material planning consideration.*

- A hazard and distraction to road users being sited so close to the A83 Trunk Road.

*Comment: The Trunk Roads Authority, Transport Scotland have raised no objections to the proposal providing that the panels are orientated so that no reflected glare will affect the trunk road to prevent distracting or dazzling drivers on the trunk road. This requirement from Transport Scotland would be difficult to impose and more importantly to monitor and enforce if required. This comment raises concerns that the panels could raise road safety concerns if not orientated correctly.*

- The photovoltaic arrays are inappropriate to the area.
- The length and height of the panels are out of proportion to any other utilitarian structure within the village
- The ground mounted photovoltaic arrays are detrimental visually and out of character with the houses along the front of Minard.
- They are out of scale and character with the neighbouring front road buildings.
- They are out of keeping with the traditional bungalows and houses within Minard

*Comment: Officers detailed assessment of the impact of the photovoltaic array upon the settlement and the character and appearance of the area is set out in Appendix A.*

- The proposed 1.8m hedge will restrict the view of drivers coming from the driveway and neighbouring driveway which is sited on a bend.

- If this proposal was granted consent concern is raised that precedent would be set.

*Comment: It is considered that the granting of this retrospective planning application may set a precedent which might erode the effectiveness of the provisions of policy LP REN 3 – this aspect is addressed in detail in Appendix A.*

- The neighbouring property raises concerns that the hedge would not mask the details from their property and that they would be looking down on them

*Comment: Impact upon the view from private property is not a material planning consideration.*

- Neighbouring properties have restrictions within their deeds on how high they can grow plants along the front of their premises in terms of safety. How tall will the proposed hedge be to block out the view of the photovoltaic array.
- The 1.8m hedge will create an unsightly barrier which will detract from the visual amenity and character of the buildings along the front.

*Comment: the planting of a hedge does not require planning permission and accordingly the applicant is entitled to plant the hedging. The issue of restrictions through title deeds is a civil matter and legal advice should be sought.*

- Concerns is raised that the owner has already planted the hedge giving a presumption that permission will be granted.

*Comment: This is not the case, the applicant has no planning restrictions to prevent a hedge being planted.*

- The application clashes with the area as a Regional Scenic Area

*Comment: Consideration of the relevant Development Plan policies are set out in Appendix A.*

- The bright aluminium and black panel construction should not be erected in any front gardens in the scenic village of Minard

*Comment: Officers detailed assessment of the impact of the photovoltaic array upon the settlement and the character and appearance of the area is set out in Appendix A.*

**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

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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 8 – Landscape and Development Control  
STRAT RE 2 – Other forms of (Non-Wind Energy) Renewable Energy Related Development

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment  
LP ENV 10 – Impact on Areas of Panoramic Quality (APQs)  
LP ENV 19 – Development Setting, Layout and Design

LP ENF 1 – Enforcement Action

LP REN 3 – Other (Non-Wind) Forms of Renewable Energy Related Development

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 and Bute proposed Local Development Plan (Feb 2013)

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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: N**

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

This application for retrospective planning permission has been submitted as the result of an enforcement investigation (ref. 14/00022/ENFHS) following a number of complaints in respect of the installation of ground mounted photovoltaic array erected within the front garden ground of The Anchorage, Minard, Inveraray.

The development is comprised of two parallel rows of 8 PV units each supported on a framework which is approximately 8m in length, 1.375m in width and 1.0m high. Each PV units contains a 6 x 10 grid of individual photovoltaic panels. The two rows are approximately 1.2m apart and occupy an area of approx. 36sqm of the 169 sqm garden lawn.

The proposal includes provision for the planting of a 1.8m high hedge along the boundary of the front garden and 1.2m along the side boundaries to mitigate for the visual effect of the development when viewed from surrounding property and the A83 trunk Road; however it is considered that the hedge will not provide an effective visual screen from these locations.

The development is considered to have a significant adverse impact upon the character and appearance of the built environment, local amenity and also as consequence, upon a key element of a valued wider landscape setting; furthermore, the development is considered to be a potential hazard to users of the A83(T) by means of distraction or dazzle.

The current application for retrospective planning permission has been subject to objection from 9 parties.

The development is not considered to satisfy the requirements of policies STRAT RE 2, STRAT DC 8, LP ENV 1, LP ENV 10, LP ENV 19 or LP REN 3 of the Development Plan.

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**(Q) Is the proposal consistent with the Development Plan: No**

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**(R) Reasons why Planning Permission should be refused:**

The development, by virtue of its location, massing and general appearance, is considered to have a significant adverse effect upon the character of the existing built environment, the amenity of the locale, detracts from a key component of a valued wider landscape setting and is a hazard to the safety of traffic on the A83(T) and is therefore considered to be contrary to the relevant provisions of policies STRAT RE 2 and STRAT DC 8 of the Argyll and Bute Structure Plan 2002, and policies LP ENV 1, LP ENV 10, LP ENV 19 and LP REN 3 of the adopted Argyll and Bute Local Plan 2009.

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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:** Kim MacKay **Date:** 28<sup>th</sup> May 2014

**Reviewing Officer:** Peter Bain **Date:** 30<sup>th</sup> May 2014

**Angus Gilmour**  
**Head of Planning**



**REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO. 14/00861/PP**

1. The development, by virtue of its location, massing, prominence and general appearance, is considered to have a significant adverse effect upon the character of the existing built environment, the amenity of the locale, detracts from a key component of a valued wider landscape setting and is a hazard to the safety of traffic on the A83(T) and is therefore considered to be contrary to the relevant provisions of policies STRAT RE 2 and STRAT DC 8 of the Argyll and Bute Structure Plan 2002, and policies LP ENV 1, LP ENV 10, LP ENV 19 and LP REN 3 of the adopted Argyll and Bute Local Plan 2009.

**APPENDIX A – RELATIVE TO APPLICATION NUMBER: 14/00861/PP**

**PLANNING LAND USE AND POLICY ASSESSMENT**

**A. Settlement Strategy**

The application site is located within the ‘settlement area’ of Minard wherein the provisions of STRAT DC 1 is supportive in principle of up to and including ‘medium’ scale development. The proposed development relates to the installation of PV panels to serve a domestic property and, whilst there is no formal definition of such development types in the Development Plan, this is accepted to be ‘small scale in nature’.

The proposal relates to a non-wind form of renewable energy development and requires to be assessed having due regard to the provisions of policies STRAT RE 2 and LP REN 3.

These provisions set out general support in principle for non-wind renewable energy related development and sets out that proposals will be assessed with regard to their impact on:

i) the key features of the landscape;

*It is considered that the development has a localised adverse impact upon the key landscape features within the West Loch Fyne Area of Panoramic Quality – a detailed assessment in this respect is set out within D below.*

ii) nature conservation interests;

*The development is located within a residential curtilage and does not give rise to adverse impacts upon nature conservation interests.*

iii) public safety and residential amenity;

*The development is considered to have an adverse effect locally upon visual amenity and road safety – these matters are addressed respectively within C and E below.*

iv) access considerations; and

*The development does not give rise to any concern in respect of its access arrangements.*

v) the distributive capacity of the electricity network.

*The development is designed to provide electricity to a domestic premises and as such does not require further assessment in respect of grid capacity.*

The provisions of policy LP REN 3 also sets out that proposals should satisfactorily address all other material considerations.

It is noted that the uncontested provisions of the Argyll and Bute proposed Local Development Plan (Feb 2013) are also a material consideration at this time – in this respect it is confirmed that the aims of draft policies LDP DM 1, LDP 6 or SG LDP

REN 3 do not significantly differ from the provisions of the current Development Plan in this respect although the provisions of SG LDP REN 3 sets out that the Council will not support development which would have an unacceptable adverse impact directly, indirectly or cumulatively upon:

i) areas and interests of nature conservation (including local biodiversity, ecology and the water environment);

*The development is located within a residential curtilage and does not give rise to adverse impacts upon nature conservation interests.*

ii) highly valued landscapes (including Gardens and Designed Landscapes);

*It is considered that the development has a localised adverse impact upon the key landscape features within the West Loch Fyne Area of Panoramic Quality – a detailed assessment in this respect is set out within D below.*

iii) sites of archaeological interest and their settings;

*The development does not affect a site of archaeological interest or the setting of such a site.*

iv) settlement character including conservation areas;

*The development is considered to have a local adverse impact upon the character of the existing built environment – this matter is subject to detailed assessment in C below.*

v) visual, residential and general amenity;

*The development is considered to have an adverse effect locally upon visual amenity and road safety – these matters are addressed respectively within C and E below.*

vi) telecommunications, transmitting or receiving equipment.

*The development is of a scale which would not be expected to have an adverse effect on telecommunications infrastructure.*

Having regard to the above, the development is considered to be contrary to the relevant provisions of STRAT RE 2 of the Argyll and Bute Structure Plan 2002 and policy LP REN 3 of the adopted Argyll and Bute Local Plan 2009. Furthermore, the development is also considered to be contrary to the relevant provisions of draft policies LDP 6 and SG LDP REN 3 contained within the emergent Argyll and Bute proposed Local Development Plan (Feb 2013).

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

The application seeks retrospective planning permission for the installation of a photovoltaic array which has been erected within the front garden of the dwellinghouse known as The Anchorage, Minard. The subject property is located to the west of and adjoins the A83(T) and is set within a grouping of some 17 detached and semi-detached dwellings which follow a common building line, set back from the A83(T). The PV array has been erected within the front garden ground of The Anchorage, between the A83(T) and the principle (front) elevation of the dwelling.

The development is comprised of two parallel rows of 8 PV units each supported on a framework which is approximately 8m in length, 1.375m in width and 1.0m high. Each PV units contains a 6 x 10 grid of individual photovoltaic panels. The two rows are approximately 1.2m apart and occupy an area of approx. 36sqm of the 169 sqm garden lawn. The details contained within the application seek to provide for the planting of an evergreen hedgerow some 300mm wide which will be allowed to grow to a height of 1800mm above the adjacent pavement level along the eastern boundary of the property and some 1200mm high along the northern and southern boundaries.

The hedge planting has been implemented earlier this year and in practice comprises of 200 Privet Hedge Plants planted along the eastern and southern boundaries of the property in two staggered rows of 6 per row per metre currently ranging in height from 60-90cm with an estimated potential to grow to 2.4 to 2.7m in three years. Whilst it is acknowledged that in time the hedge will partially obscure the view of the PV array from the A83(T) it is noted that it will take a number of years before this has any meaningful effect leaving the development open to view in the intervening period. It is also noted that third party representations advise that properties in this locality are subject to a title burden restricting the height of boundary treatment – whilst such provisions are a matter of civil law and such is not a material planning consideration, it is noted that the existence of such a heritable burden upon the property would jeopardise the applicant's ability to provide a hedge of the dimensions proposed. Officers have not sought to confirm the existence of any such title burden in light of their recommendation to refuse planning permission, it is however suggested that clarification of this matter would be desirable in the event that members were minded to consider granting planning permission.

The owner of the property has investigated siting the array within other areas of the garden, and on the roof of the property; however the array is too large to be sited within either the side or rear garden, or upon the hipped roof of the dwellinghouse which is of insufficient area to accommodate the full extent of the PV array.

### **C. Built Environment**

Minard is a village which is presently characterised by a frontage of detached (or semi-detached) modest sized dwellinghouses visible across open and undeveloped lawns, and limited curtilage containment to the front facing the A83 trunk road. The installation of this photovolotaic array introduces built development within garden area between the dwelling and the A83(T) which is uncharacteristic of its surrounds. The PV array is of sufficient scale to be highly prominent and, in this particular location, is considered to be an unsightly development resulting in a detrimental visual impact on the character of this settlement which is highly visible from both sea and road.

Whilst the applicant has proposed to mitigate against the perceived adverse visual impact of the PV array with the provision of a substantial boundary hedge it is the consideration of Officers that a significant period of time will require to elapse before a landscape screen would have any meaningful effect, and in any event concern is also expressed that provision of a hedge to the proportions proposed (1.8m high along the roadside) would in itself be out of keeping with the existing townscape character. It is further advised that the proposed hedge would not prevent the development being readily visible from the front facing windows/curtilage of adjacent residential property from where the effect upon the townscape setting and visual

amenity of the locale would also be apparent. The neighbouring properties boundaries consist of small stone built walls and garden fences, however no planning restriction is in place to prevent the applicant planting along her boundary although it is considered that provision of a hedge of the dimensions proposed would be unlikely (given that it would remove the outlook from the subject property) outwith the context of the current application.

Local Plan policy LP ENV 19 – ‘Development Setting, Layout and Design’ states that development shall be sited and positioned so as to pay regard to the context within which it is located. Developments with inappropriate layouts or densities including over-development shall be resisted. LP ENV 19 also insists that the design of developments shall be compatible with the surroundings. Particular attention should be given to massing, form and design details within sensitive locations such as Areas of Panoramic Quality.

Having regard to the above the proposal is contrary to the provisions of policy LP ENV 19 of the adopted Argyll and Bute Local Plan 2009.

#### **D. Landscape Character**

The application site is located with the West Loch Fyne Area of Panoramic Quality (APQ) wherein the provisions of policies STRAT DC 8 and LP ENV 10 would seek to resist development which has a significant impact on the character of the landscape. Furthermore it is stipulated that all development within an APQ must be of the highest standards in terms of location, siting, landscaping, boundary treatment and detailing.

Given its small scale, the visual impact of the photovoltaic array is confined to the immediate environs of the Minard settlement area such as is visible from the A83(T). It is however considered that the development is sufficiently out of keeping with the existing townscape setting that it would have potential to set a precedent for the introduction of further built development in the front garden areas of adjacent property and as such, in having a significant effect upon the townscape of Minard, the development is also considered to have a significant adverse effect upon a key landscape component of the wider APQ and as such is considered to be contrary to the relevant provisions of STRAT DC 8 of the Argyll and Bute Structure Plan 2002, and LP ENV 10 of the adopted Argyll and Bute Local Plan 2009.

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

The PV array is located within 4m of the carriageway of the A83(T) and site substantially forward of the existing building line, the development is consequently highly visible to traffic travelling north on the A83(T). Concern has been raised that the uncharacteristic appearance within their localised setting and inherent reflective qualities of the PV panels themselves is a distraction/glare to drivers on the northbound carriageway of the A83(T).

Transport Scotland have affirmed such concerns within their consultation comments; whilst they have not objected to the proposal they have advised that if planning permission were to be granted then this would require to include a planning condition stipulating that the panels be orientated in a manner which ensures that no reflected glare will affect the trunk road to avoid distraction or dazzle to drivers. Officers would however raise concern in relation to the competency of such a condition, firstly its terms are not sufficiently specific, and secondly compliance with the terms of the condition may necessitate the orientation of the panels away from direct sunlight to a

degree where they no longer function effectively and thereby negate any benefit of the development to the applicant.

Having regard to the above, the development is considered to represent a hazard to road safety on the A83(T) as a potential distraction and source of glare and as such is considered to be contrary to the relevant provisions of policy LP ENV 1 of the adopted Argyll and Bute Local Plan 2009.



**Committee Plan Relative to Planning Application 14/00861/PP**



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**Argyll and Bute Council  
Planning and 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:** 14/00863/PP

**Planning Hierarchy:** Local Development

**Applicant:** Scottish Water

**Proposal:** Erection of 3 x 5kw wind turbines (15m hub height, 17.7m blade tip)

**Site Address:** Water Treatment Works, Tarbert Road, Campbeltown

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**DECISION ROUTE**

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

---

**(A) THE APPLICATION**

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

- Erection of 3 x 5kw wind turbines (15m hub height, 17.7m blade tip)

**(ii) Other specified operations**

- Laying of cabling
- 

**(B) RECOMMENDATION:**

It is recommended that the application is refused for the reasons appended below.

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**(C) HISTORY:**

12/02135/PP – Erection of three wind turbines – Withdrawn

13/01873/PP – Erection of three wind turbines (21.5m to blade tip) – refused December 2013

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**(D) CONSULTATIONS:**

Area Roads Manager Report dated 25/04/2014

No objections as the size of the components are small.

Highland and Islands Airports Limited Email dated 22/04/2014

HIAL has confirmed that the proposal would infringe on the safeguarding surfaces for Campbeltown airport. An omni-directional steady red aviation warning lights should be fitted at the hub height of turbines T2 and T3.

Public Protection Unit Memo dated 24/04/2014

No objection subject to a planning condition covering noise.

National Air Traffic Services Limited Email dated 22/04/2014

NATS has confirmed that they have no safeguarding objection.

West of Scotland Archaeology Service (WoSAS) Letter 30/4/14

The proposal raises no substantive issues.

Ministry of Defence Letter dated 02/05/2014

No objection.

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**(E) PUBLICITY:**

The proposal has been advertised in terms of regulation 20, closing date 16/05/2014.

---

**(F) REPRESENTATIONS:**

There have been 8 representations submitted against this application each raising objections.

Ms Christine Alexander, Dassia Low, Machrihanish, PA28 6PZ (02/05/2014)

Ms Lesley Cowan, Oatfield House, Campbeltown, PA28 6PH (14/05/2014)

Mr Alex Forshaw, 53 Smith Drive, Campbeltown, PA28 6LA (14/05/2014)

Mr John Cowan, Oatfield House, Campbeltown, PA28 6PH (14/05/2014)

Ms Emma Rawson, Belhaven Hill School, Dunbar, East Lothian, EH42 1NN (16/05/2014)

Mrs Sophia Blair, Eriskay Southend PA28 6RF (18/05/2014)

Mr David Blair, Eriskay Southend PA28 6RF (18/05/2014)

Mr John Seddon, Kilmaluag Cottage Glenbarr PA29 6UZ (17/05/2014)

**(i) Summary of issues raised**

- Adverse visual impact on the countryside.

*Comment: Issues of landscape and visual impact are assessed in full in appendix A of this report.*

- No requirement for turbines in this location.

*Comment: Scottish Water, as with all public bodies, is required by Scottish Government to maximise their assets and reduce their electricity consumption. This application forms part of Scottish Waters' approach to reduce their energy use. The requirement of the turbines or otherwise is not a material planning consideration.*

- Adverse impact on tourism

*Comment: There is no conclusive evidence to suggest that wind turbines have a significant adverse in tourism. It is highly unlikely that this development would have any form of impact on tourism in the area given they are associated with the existing water treatment works site.*

**(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> | Yes |

Landscape and Visual Impact Assessment

- This document provides a general overview to the proposal and a ZTV and photomontages.

Decommissioning and Restoration Plan

- This document confirms that the turbines will be removed from the site and that inspections will take place every 2 years for on-going maintenance.

Traffic and Transport Management Plan

- This document confirms that all parts, plant and machinery will be transported to the site via the A83 trunk road and that vehicles will be 'everyday type' insofar that no abnormal loads are expected.

Environmental Noise Assessment

- This document provides a general noise assessment on third party sensitive receptors. The nearest third party property is 150m to the south. The document confirms that the ETSU standard of 35dB at the nearest third party property will be achieved.

Design Statement

- This document provides a general background to the application and a summary of the proposals and discussions to date with the planning department.

**(H) PLANNING OBLIGATIONS**

- |  |    |
|--|----|
| <b>(i) Is a Section 75 agreement required:</b> | 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 4 – Development in Rural Opportunity Areas  
STRAT DC 8 – Landscape and Development Control  
STRAT RE 1 – Wind Farm/Wind Turbine Development  
STRAT SI 1 – Sustainable Development  
STRAT RE 1 – Wind Farm/Wind Turbine Development

Argyll and Bute Local Plan 2009

LP ENV 1 – Impact on the General Environment  
LP ENV 2 – Impact on Biodiversity  
LP ENV 6 – Impact on Habitats and Species  
LP ENV 10 – Development Impact on Areas of Panoramic Quality  
LP BAD 1 – Bad Neighbour Development  
LP TRAN 4 – New and Existing Public Roads and Private Access Regimes  
LP REN 2 – On Site Commercial and Domestic Wind Turbines

Note: The Full Policies are available to view on the Council's Web Site at [www.argyll-bute.gov.uk](http://www.argyll-bute.gov.uk)

'Argyll & Bute Proposed Local Development Plan' (2013)

LDP 6 Supporting the Sustainable Growth of Renewables  
SG LDP REN 2 Wind Turbine Development up to 50 m high  
Wind Farm Policy Map

The consultation on the Proposed Local Development Plan ran from 4th February until 29th April 2013. The responses to this consultation have been reported to Council and all unresolved objections have been submitted to the Scottish Government who is to appoint Reporter(s) and hold an Examination of these issues. The Renewable Energy Policies are the subject of representations on these matters, including SNH, the RSPB, various renewable energy companies and individuals. Given the fact that the relevant policy in the emergent LDP has been contested, it ought not to be accorded material weight in the determination of the application at this point in the plan-making process, given that there is no certainty that it will remain unaltered following Examination and Adoption of the plan.

(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.**

- Scottish Planning Policy (2009)
- Scottish Government Advice Note on Onshore Turbines (2012)
- 'Argyll and Bute Landscape Wind Energy Capacity Study' (2012)
- 'Guidance on Siting and Designing Wind Farms in the Landscape' SNH (2009)

**(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: Yes**

A negative screening opinion has been issued previously for an application of 3 taller turbines confirming that an EIA is not required for this proposal. It is considered reasonable that this screening opinion is applicable to this proposal which only differs through shorter turbine masts.

**(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

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

The proposal is for the erection of 3 x 5kw turbines measuring 17.5m to blade tip and 15m to hub. The site is the waste water treatment works located just outside of Campbeltown to the north-west.

The proposal is intended to offset the electricity usage of the water treatment works and is part of Scottish Water's overall strategy to reduce their electricity use. The site sits on a hill overlooking the town with rising land to the north east. Agricultural fields surround the site on all sides. The A83 is to the south. The nearest third party property is some 150m away at Braeside Farm to the south. The site falls within the 'Sensitive Countryside' development control zone in the Argyll and Bute Local Plan 2009.

A similar proposal for taller turbines was previously refused by the PPSL committee. This application seeks to address the previous reasons for refusal with turbines that are mated on masts which are 3.8m shorter. The previous reasons for refusal included the adverse scale of the turbines in relation to the water treatment works, the skylining experienced from some key viewpoints and the how the turbines would highlight the water treatment works location to passers-by. This application seeks to address those concerns previously raised regarding the visual impact of the development. This proposal, although an improvement over the previous application, does not address all

the reasons for refusal stated last time around. There remains a concern over skylining of the turbines and their effect of drawing more attention to the treatment works site. The marginal reduction in tower height is not sufficient to overcome the shortcomings of the previous application insofar as the turbine rotors would still skyline in views which were assessed as being unacceptable in the case of the original proposal.

There have been no objections from consultees that could not otherwise be controlled by planning conditions. There have been 8 objections from members of the public including one councillor.

It is recommended that the application is refused for the reason appended below.

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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 refused**

The turbines blade to tower ratio means the blades will spin very fast drawing the eye of passersby and those residents in direct view. The turbines will in themselves be prominent and will also serve to draw attention to the existing elevated situation of the water treatment works.

The turbines are situated above the sky line at the edge of the ridge especially when viewing the turbines from the public road on the approach to Campbeltown along the A83. This sky lining location will result in the turbines being visible across long distances as demonstrated by the applicants' Zone of Theoretical Visibility.

The council's Landscape Wind Energy Capacity Study aims to avoid significant sky lining locations of turbines. In this instance the adverse visual effects of the skyline location will be exacerbated by the small diameter rotors which will spin very fast drawing the eye.

Therefore, the proposal is not consistent with the provisions of the Council's LWECS nor with policies LP ENV 1 and LP REN 1 by virtue of unacceptable of adverse impact on visual amenity and the setting of nearby settlements.

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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: 03/06/2014**

**Reviewing Officer: Richard Kerr Date: 04/06/2014**

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

**GROUNDINGS OF REFUSAL RELATIVE TO APPLICATION REFERENCE 14/00863/PP**

The proposed development, by virtue of its design and location, will appear as a prominent and incongruous element on the skyline from within a significant portion of the settlement of Campbeltown, its immediate surrounds and from the approach to the town by road and by sea. In addition to being a prominent addition to the local skyline, the height and fast rotor rotation of the proposed wind turbines would also serve to draw attention to the presence of the existing water treatment works buildings, which have been purposely designed, sited and finished with the intent of minimising their visual impact upon their surroundings, given their operational requirement for an elevated location. Accordingly, the proposal is considered to result in a significant adverse harm to the setting of the settlement in view of its locally adverse consequences for visual amenity, as appreciated from the lower lying areas of the settlement of Campbeltown within proximity of the development, and from the approaches to the town via the A83 and via Campbeltown Loch. Having regard to the above, the proposal is considered to be contrary to the provisions of policy STRAT RE 1 of the 'Argyll and Bute Structure Plan' 2002, policy LP REN 2 of the 'Argyll and Bute Local Plan' 2009, and the guidance for the siting of small scale wind turbines as set out in Chapter 7 of the Council's 'Landscape Wind Energy Capacity Study'.

**APPENDIX A – RELATIVE TO APPLICATION NUMBER: 14/00863/PP**

**PLANNING LAND USE AND POLICY ASSESSMENT**

**A. Settlement Strategy**

The proposal is for the erection of 3 x 5kw turbines measuring 17.5m to blade tip and 15m to hub. The site is the waste water treatment works located just outside of Campbeltown to the north-west.

The site sits on a hill overlooking the town with rising land to the north east. Agricultural fields surround the site on all sides. The A83 is to the south. The nearest third party property is some 150m away at Braeside Farm to the south. The site falls within the Sensitive Countryside development control zone in the Argyll and Bute Local Plan 2009. The proposal aims to offset Scottish Water's electricity usage and part of an overall scheme to reduce the public body's use of electricity. The site is not designated for landscape, or nature conservation purposes.

The main policy consideration is LP REN 2 given that the proposal consists of 3 wind turbines and is, technically, a wind farm. With this in mind the impact needs to be assessed against specific criteria:

- Areas and interests of nature conservation significance including local biodiversity, ecology and the water environment
- Highly valued landscapes including Gardens and Designed Landscapes
- Sites of historic or archaeological interest and their settings
- Settlement character including conservation areas
- Visual, residential and general amenity
- Telecommunications, transmitting and receiving systems

**B. Natural Environment**

The site lies between fields which are included in the Kintyre Goose Management Scheme and the Black Loch which forms part of the Kintyre Goose Roosts SPA. The nearest feeding field lies within 1.8km of the proposal site to the south west and the Black Loch lies approximately 3km to the north east. However, SNH has not objected given the heights involved and that the risk of collision is likely to be very low.

There are no known significant peat deposits in the site given that it is within the grounds of the water treatment works.

**C. Visual Amenity and Setting of the Settlement**

The proposal is situated at the entrance to Campbeltown in a gateway location. The small rotor size of the proposals means the blades will spin very fast drawing the eye of passers-by and residents to the moving objects. There will be a lasting impression of poorly positioned wind turbines skylining on the setting of the settlement.

The existing water treatment works buildings and other structures are relatively low lying and recessive in their appearance from public locations, having been finished in a green colouring to help assimilate them in their landscape setting. Out of operational necessity



the existing water treatment works has been located in an elevated position but has been sited, designed and finished with the intent of, in so far as is possible within operational constraints, minimising the impact of the appearance of the buildings from the A83 and other surrounding roads, and from within Campbeltown and its immediate surrounds. Whilst these existing buildings are visible on the skyline from many locations in and around Campbeltown, they do not in general have an imposing presence or leave a lasting conscious impression of a significant development.

The applicants' ZTV demonstrates that the turbines will be visible from most of the Campbeltown settlement area, and across the wider area including Stewarton to the south. ZTVs do not represent real life scenarios given that they are terrain based and do not have regard to intervening buildings and vegetation. Visibility from within Campbeltown will depend on having line of sight unimpeded by buildings so will vary considerably dependent upon the location of the receptor. However given the flat nature of the Laggan, the ZTV is a reasonably accurate depiction of how visible the turbines will be to the west and over Campbeltown Loch.

The applicant has sought to contend in their submissions that the proposed turbines are in keeping with the scale of the existing water treatment works buildings and will be viewed against a backdrop of rising land. This may well be true in the more distant views which would be afforded of site where the development would be back-dropped by Beinn Ghuilean (when viewed from elevated areas to the north), Ballywilline Hill (when viewed from elevated areas to the south) or Balegreggan Hill/Knockscalbert (when viewed from Stewarton and B843 Machrihanish Road to the southwest and west). However at such distances, the small scale nature of the turbines would render them relatively insignificant items within a panoramic landscape setting.

It is however the consideration of Officers that the applicant's landscape and visual impact assessment fails to satisfactorily acknowledge the significant visual impact which would arise within the more immediate proximity of the proposed development, where the development is largely open to public view from lower lying areas – this generally being within a 250 degree arc of some 6-700m in radius from the application site running clockwise from the High Street/Kinloch Park in the south east through to Ballywilline Farm to the north west.

For the avoidance of doubt the area described includes Kinloch Park/the western end of Campbeltown Loch, Millknowe, Hillside Road, Calton Hill, Snipefield, the A83, Ballywilline and the unclassified Gobagrennon Road. Within this area, the existing water treatment works buildings are can be seen on the skyline from public locations and private residences sitting at approximately 80m AOD at the eastern edge of a ridge of Balegreggan Hill. However, despite their elevated location, the existing water treatment works buildings with their recessive green finish, and low rise appearance from these localities do not draw attention and to some extent appear as an unobtrusive extension of the undulating ridge above the settlement area of Campbeltown.

The proposed wind turbines with an intended hub height of 15m will appear from many of these locations to be taller than the existing water treatment works buildings. Whilst, it should be noted that this has been somewhat addressed by the applicants latest submission which reduces tower height, the fast rotation of the small rotors will exacerbate the prominence of their location against the skyline within the surrounding area, render them as incongruous and eye catching elements within the immediate setting of the settlement in their own right, and will also draw attention to the existing water treatment works buildings. It is considered that the proposed development fails to

satisfactorily respect the setting of Campbeltown and would result in significant adverse harm to both the scenic quality and visual amenity of the locale.

**D. Landscape Character**

The site is located within the Bay Farmland landscape character type (LCT 14). As per the LWECS the turbines are classed as 'small' in typology whilst the sensitivity to the landscape is medium-low and visual classification of medium. The appropriate section of the LWECS to assess the application against is chapter 7. This chapter recommends that turbines are situated close to the buildings they are intended to serve to reduce the overall visual impact. In this instance however the turbines are sky-lined above the ridge height of the structures to which they relate, and it is appropriate to try and avoid this scenario, as per the advice given in the WECS.

The ZTV indicates that the development would not only cast an influence over part of the settlement of Campbeltown but this would extend over the Laggan and out into Campbeltown Loch. However, due to the scale of the development this influence is mainly limited to part of the adjoining settlement and its immediate setting, rather than the wider landscape, and accordingly notwithstanding its localised visual impacts, the development does not prejudice landscape character.

**E. Historic Environment**

There are no nearby historic designations that the turbine would adversely affect. The site is not within an archaeological trigger zone therefore there will be no adverse impact on the historic environment.

**F. Telecommunications**

There have been no objections from NATS, NERL or Glasgow Prestwick Airport. NATS has requested a planning condition for a steady red aviation light to be fixed to the top of both turbines T2 and T3 as labelled on the submitted plans.

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

The applicant intends to deliver the turbine parts, plant and machinery to the site via the A83 trunk road using standard size vehicles. The council's Area Roads Department has not objected or raised concerns regarding this element of the proposal.

**H. History**

Given that a very similar application has previously been refused by Members at Committee it is appropriate to address the previous reason for refusal. To this end there was a single reason attached to application 13/01873/PP for refusal. This is reproduced below for ease of reference:

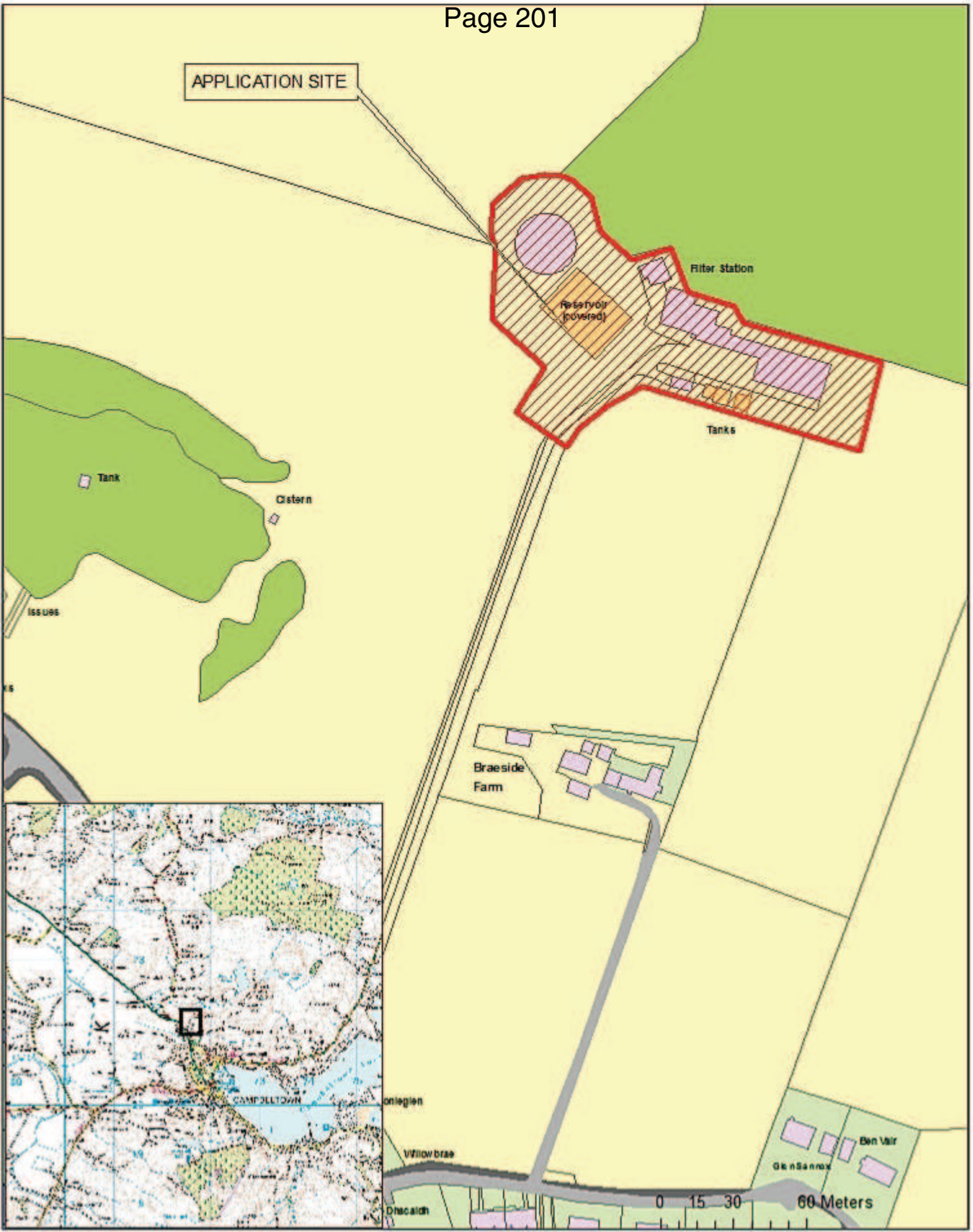
*"The proposed development, by virtue of its design and location, will appear as a prominent and incongruous element on the skyline from within a significant portion of the settlement of Campbeltown, its immediate surrounds and from the approach to the town by road and by sea. In addition to being a prominent addition to the local skyline the height and fast rotor rotation of the proposed wind turbines would also serve to draw attention to the presence of the existing water treatment works buildings which have been purposely designed, sited and finished with the intent of minimising their visual impact*

*upon their surroundings, given their operational requirement for an elevated location. Accordingly, the proposal is considered to result in a significant adverse harm to the setting of the settlement in view of its locally adverse consequences for visual amenity, as appreciated from the lower lying areas of the settlement of Campbeltown within proximity of the development, and from the approaches to the town via the A83 and via Campbeltown Loch. Having regard to the above, the proposal is considered to be contrary to the provisions of policy STRAT RE 1 of the 'Argyll and Bute Structure Plan' 2002, policy LP REN 2 of the 'Argyll and Bute Local Plan' 2009, and the guidance for the siting of small scale wind turbines as set out in Chapter 7 of the Council's 'Landscape Wind Energy Capacity Study'."*

It should be acknowledged that this proposal must be regarded as an improvement over the previous application and does to some extent address the concern over scale. However, concerns remain over the fast rotor speed and how this will draw attention to the location of the water treatment works which have been carefully positioned and finished recessively in an effort to minimise the visual impact of their necessarily elevated location. Additionally, the skylining from the A83 when heading into Campbeltown from the north, still raises particular concern given the site lies in a 'gateway' location on the approach to the town.

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APPLICATION SITE



**Committee Plan Relative to Planning Application 14/00863/PP**



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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**

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**Reference No:** 14/00885/PP

**Planning Hierarchy:** Local Application

**Applicant:** Mr Thomas Paterson and Mrs Margery Osborne

**Proposal:** Erection of 1.8 metre high fence and gates (retrospective)

**Site Address:** Land opposite 21 To 25 Cumberland Avenue, Helensburgh

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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 1.8 metre high fence and gates (retrospective)

**(ii) Other specified operations**

- None
- 

**(B) RECOMMENDATION:**

It is recommended that planning permission be refused for the reasons listed overleaf.

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**(C) HISTORY: Y**

05/00514/DET – Erection of 7 dwellinghouses (refused 7 December 2005).

06/01317/DET - Erection of 6 dwellinghouses, formation of private way and new access (refused 8 September 2006)

06/02621/TPO - Application to fell trees in a TPO area (refused 28 February 2007)

The two latter applications were subject of an appeal dealt with by means of a conjoined Public Local Inquiry (PLI). A separate claim for an award of expenses against the Council in both cases was also made. The Reporter dismissed both the appeal and the claim of expenses.

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**(D) CONSULTATIONS:**

Area Roads Manager (memo dated 24/04/2014 – No objections subject to conditions

Helensburgh Community Council (letter received 04/05/2014)

We wish to object strongly to this planning application. This is a much valued open space in west Helensburgh and HCC is in full support of A&BC's clear and commendable aim of restoring the amenity value of this land.

This site is designated in the A&BC 2009 Local Plan as an Open Space Protection Area (OSPA) and to protect it has a Tree Preservation Order (TPO) placed on it. A Tree Planting Notice was served – subsequently upheld on appeal by a Scottish Government on Appeal (Ref: DPEA Ref TENA: 130 2000). Subsequently, A&BC served an Enforcement Order on the owners to replace 28 trees already cut down to bring back their much loved amenity value temporarily lost by the felling of the protected trees on the site. HCC backs this action by the Council

The 1.8 M high fence and gates have been built without planning permission. As a result they are the subject of an A&BC Enforcement Order as they are:

*“..... an alien and formal boundary treatment which undermines the previously attractive context of the street merging with an open space and which added considerably to the street at this point.”*

HCC gives its full backing to this Order and regards the fence as totally inappropriate and alien. There is no other fence of this kind in Cumberland Avenue. It is a hard barrier and screen separating this piece of restored woodland from the surrounding streets. It is ugly and unattractive, and is totally unsympathetic to its surroundings. It undermines (deliberately or not) A&BC's determination to re-open this site and restore its Open Space designation for the value it gives to local residents for the open appearance and amenity value of this piece of land. Of course if the land is restored to Open Space HCC would expect the owners to remove the fence from the site along with all felled wood and equipment.

Granting retrospective planning permission in this instance would set a bad precedent for the town as a whole indicating that it could be much more easily obtained in similar situations in future. If this application is (hopefully) refused HCC gives its full support to the Helensburgh Community Woodland Group's long term objective of purchasing the site at Open Market Value from the owners and turning it into a Community Woodland open to all. This would bring an end to the long running battle between the parties involved over the development of this site. Hopefully our local Councillors would lend their weight to convincing the applicant to bring this about as the only viable and sustainable option.

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**(E) PUBLICITY: N**

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**(F) REPRESENTATIONS: Y**

16 letters and e-mails of objection and 3 letters of support have been received in connection with this application. The points of representation, both for and against the proposal, and my comments on them are summarised below:

**Objectors**

David Adams, 12 Cumberland Avenue, Helensburgh (e-mail dated 12/04/14)  
Catriona Malan, 36A James Street, Helensburgh (letters dated 13/04/14)  
David Robertson, 3, Flat 5 Achray Avenue, Alexandria (e-mail dated 17/04/14)  
Tom Adam, 19 Cumberland Avenue, Helensburgh (letter dated 23/04/14)  
James Crawford, 18 Loch Drive, Helensburgh (e-mail dated 22/04/14)  
Heather Sykes, 16 Dalmore Crescent, Helensburgh (e-mail dated 29/04/14)  
Ian Reed, 16 Fraser Avenue, Helensburgh (e-mail dated 29/04/14)  
Pat Reed, 16 Fraser Avenue, Helensburgh (e-mail dated 29/04/14)  
Michael Board, 1 Empress Drive, Helensburgh (e-mail dated 01/05/14)  
John Christie, 10 Cumberland Avenue, Helensburgh (e-mail dated 30/04/14)  
Catherine Grout, 18A Upper Glenfinlas Street, Helensburgh (e-mail dated 14/05/14)  
Lorna Masterton, 8 Fraser Avenue, Helensburgh (e-mail dated 30/04/14)  
Kathleen Siddle, 12 Duchess Park, Helensburgh (letter dated 15/04/14)  
Steve Kirby, 8 Edward Drive, Helensburgh (e-mail dated 20/05/14)  
Gordon Greig, Ardencaple Drive, Helensburgh (e-mail dated 20/05/14)  
Dr I. E. Reay, 25 Strathclyde Court, Helensburgh (letter r'd 2/6/14)

**Points of Objection**

This 1.8 metre high fence is the subject of a formal Enforcement Notice which requires its removal and which was served by Argyll and Bute Council some considerable time ago. The reason the Council gave for the Enforcement Notice was that the fence "represents an alien and formal boundary treatment which undermines the previously attractive context of the street merging with the open space and which added considerable quality to the street at this point". It is "alien" in that there is no other tall fence of this type in Cumberland Avenue. It is too high and looks hard, unattractive and unsympathetic to its surrounding.

Comment: See my assessment.

The land it borders is the subject of a Tree Preservation Order (TPO). The Council's admirable objective for this land is to restore its amenity value which was temporarily lost by the unauthorised felling of the protected trees there. The land was subject to a TPO and a subsequent Tree Replanting Notice has been upheld by a Scottish Government Reporter at Appeal (DPEA Ref TENA – 130 – 2000). If the fence were allowed to remain, it would act as a screen separating the restored land from the street and would therefore undermine the Council's objectives of giving the residents of Helensburgh back the appearance and amenity value of the green trees and open space of the land. And it would be in contradiction to the objectives of Policy LP ENV 1 of the adopted Local Plan.

Comment: See my assessment.

The site, being an OSPA, should not be restricted, as it has for some time. It is cynical in the utmost that the developers have trashed the ground and left it in such an unpleasant and unapproachable condition, then used this hazardous state as an excuse to continue to fence off the area, in spite of the order to remove the fence.

Comment: See my assessment.

It is good to see that the Council are taking control to re-instate this area for the public benefit by carrying out the replanting of 28 illegally felled trees. This together with removing the fence and gate will help restore this area to an accessible OSPA.

Comment: These points are noted.

The fence is a barrier to an area that historically was open to the public and under current Scottish Access Woodlands legislation should not be blocked-off to the public.

Comment: This point is noted and is being looked at under separate legislation. The fence and gates are assessed on their planning merits against development plan policy and other material considerations.

### **Supporters**

Allan Jones, 23 Cumberland Avenue, Helensburgh (e-mail dated 16/04/14)  
Eileen MacKay, 21 Cumberland Avenue, Helensburgh (e-mail dated 27/04/14)  
Mr and Mrs James Barlas (e-mail dated 01/05/14)

### **Points of Support**

Whilst it is a great shame that the destruction of the trees in the area has already taken place, it has taken place, and we now have to move on. I see the land as an obvious building plot, shouting out for the construction of houses. Unfortunately, as I live opposite this land, I realise that I would have to endure the greatest level of disruption should construction be given the go ahead. But despite that I still believe it would be the right decision in the long term to build.

Comment: This point is noted. The site has been the subject of a number of previous applications for housing development which have been refused and subsequently dismissed on appeal. The current proposal is a retrospective application for a fence and gates and is assessed on its planning merits against development plan policy and other material considerations.

The fence may be ugly but it does have a purpose. I believe that if it is taken down the land will be used as a tipping ground by all and sundry and would therefore be both an eyesore to residents and a danger to health and safety for people living within the vicinity. If the Council can unequivocally and 100% guarantee that they will both regularly clean up the plot and accept liability for any injuries, then, and only then, will I change my opinion. In the meantime the fence should remain.

Comment: The owners have responsibility for keeping the site clean and tidy and for safety. Under the Town and Country Planning (Scotland) Act 1997, if it appears to a planning authority that the amenity of any part of their area, or an adjoining one, is adversely affected by the condition of land in their area, they may serve a Notice on the owner or occupier requiring them to remedy its condition within a certain time. In addition, there is also other legislation to control fly tipping. See also my assessment.

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**(G) SUPPORTING INFORMATION**

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

- (i) **Environmental Statement:** N
- (ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** N
- (iii) **A design or design/access statement:** N
- (iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** N

**Summary of main issues raised by each assessment/report**

*N/A*

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**(H) PLANNING OBLIGATIONS**

- (i) **Is a Section 75 agreement required:** N
- 

- (I) **Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** N
- 

- (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 REC 2 – Safeguarding of Recreational Land and Important Open Spaces

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 and Bute Proposed Local Development Plan

Representations

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**(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: N**

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**(L) Has the application been the subject of statutory pre-application consultation (PAC): N**

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**(M) Has a sustainability check list been submitted: N**

---

**(N) Does the Council have an interest in the site: N**

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**(O) Requirement for a hearing (PAN41 or other):** No. 15 letters and e-mails of objection and 3 e-mails of support have been received in connection with this application. However, the site has been the subject to previous applications some of which have been to appeal. This is a retrospective application for a fence and gates and it is not considered that there would be any added value by having a pre-determination Hearing.

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

Planning permission is sought retrospectively for the erection of a 1.8 metre high fence and gates on land at Cumberland Avenue, Helensburgh. The site is located in the west of the town and has a complex planning history. There are 3 enforcement cases relating to this site: - (1) Implementation of Tree Replacement Notice (2) Removal of Builders Materials (3) Removal of fence.

A meeting was held on the 4 March 2014 with the landowners to discuss various enforcement issues and other matters regarding this site. They have previously been advised that the fence required planning permission. The landowners were advised that an Enforcement Notice would be served the week beginning 17<sup>th</sup> March requiring the removal of the unauthorised wooden fence. This notice was to give the minimum 28 days before becoming effective and allowing 28 days for the required steps to be complied with. Should a Planning Application be submitted and made valid either before or during the Notice period then the appellants were advised that Enforcement activity would be withdrawn pending determination of the application. Should the fence be reduced in height at any time to 1m or below then it would be permitted development.

Subsequently, the Enforcement Notice was served on 26<sup>th</sup> March 2014 allowing 28 days before becoming effective and a further 28 days for the required steps to be complied with. This was a reasonable timescale which had already been flagged up to the landowners who understood the sequence of action the Council would take. An

application has now been submitted and, as such, the Enforcement Notice has been withdrawn pending its determination.

On Cumberland Avenue the boundary treatments are characterised by low walls and hedges. The only other, similar fence is directly opposite on the applicants' site where they have built 3 houses. Even here the fence is to the side and rear and the front of the properties retain their open aspect. Assessed on its merits against development plan policy and other material considerations, the wooden fence erected along the boundary of the land to Cumberland Avenue represents an alien and formal boundary treatment which undermines the previously attractive context of the street merging with the open space and which added considerable quality to the street scene at this point. The retention the fence also undermines the Council's objectives to seek to restore the amenity value of the site caused by the unauthorised felling of protected trees on land subject to a Tree Preservation Order and where a Tree Replanting Notice has been upheld by a Reporter at appeal (DPEA Reference TENA-130-2000). The retention of the fence would therefore screen the site separating it from the street scene and undermine the Council's objectives of restoring the appearance and associated amenity value of the land to the locality contrary to the objectives of Policy LP ENV 1 of the adopted local plan.

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

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

On Cumberland Avenue the boundary treatments are characterised by low walls and hedges. The only other, similar fence is directly opposite on the applicants' site where they have built 3 houses. Even here the fence is to the side and rear and the front of the properties retain their open aspect. Assessed on its merits against development plan policy and other material considerations the wooden fence erected along the boundary of the land to Cumberland Avenue represents an alien and formal boundary treatment which undermines the previously attractive context of the street merging with the open space and which added considerable quality to the street scene at this point. The retention the fence also undermines the Council's objectives to seek to restore the amenity value of the site caused by the unauthorised felling of protected trees on land subject to a Tree Preservation Order and where a Tree Replanting Notice has been upheld by a Reporter at appeal (DPEA Reference TENA-130-2000). The retention of the fence would therefore screen the site separating it from the street scene and undermine the Council's objectives of restoring the appearance and associated amenity value of the land to the locality contrary to the objectives of Policy LP ENV 1 of the adopted Local 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: N**

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**Reviewing Officer:** Ross McLaughlin

**Date:** 5/6/14

**Angus Gilmour**  
**Head of Planning**

**GROUNDINGS OF REFUSAL RELATIVE TO APPLICATION REF. NO. (14/00885/PP)**

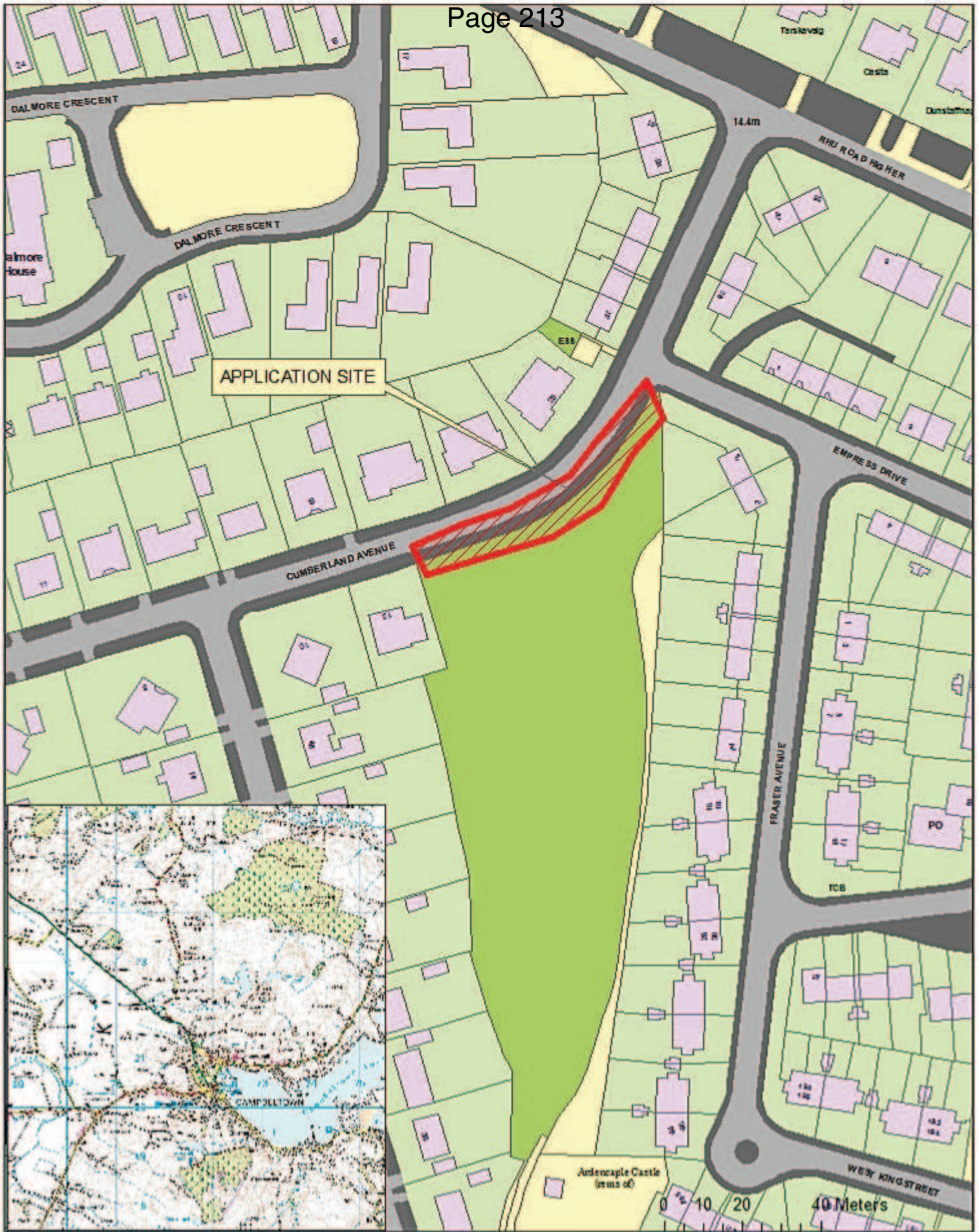
On Cumberland Avenue the boundary treatments are characterised by low walls and hedges. The only other similar fence is directly opposite on the applicants' site where they have built 3 houses. Even here the fence is to the side and rear and the front of the properties retain their open aspect. Assessed on its merits against development plan policy and other material considerations the wooden fence erected along the boundary of the land to Cumberland Avenue represents an alien and formal boundary treatment which undermines the previously attractive context of the street merging with the open space and which added considerable quality to the street scene at this point. The retention the fence also undermines the Council's objectives to seek to restore the amenity value of the site caused by the unauthorised felling of protected trees on land subject to a Tree Preservation Order and where a Tree Replanting Notice has been upheld by a Reporter at appeal (DPEA Reference TENA-130-2000). The retention of the fence would therefore screen the site separating it from the street scene and undermine the Council's objectives of restoring the appearance and associated amenity value of the land to the locality contrary to the objectives of Policy LP ENV 1 of the adopted local plan.

**NOTES TO APPLICANT**

For the purpose of clarity it is advised that this decision notice relates to the details specified on the application form dated 1 April 2014 and the refused drawing reference numbers 2279..01 and 2279..02.

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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:** 14/00914/PP

**Planning Hierarchy:** Local Development

**Applicant:** Mr Tony Hill

**Proposal:** Change of Use of Land for Siting of Timber Shed, Installation of Petrol Storage Tank and Erection of Associated Fencing

**Site Address:** Land adjacent to Public Car Park, Ellenabeich, Isle of Seil

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## **DECISION ROUTE**

### **Local Government Scotland Act 1973**

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

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

- Installation of petrol storage tank;
  - Erection of timber shed with solar panel;
  - Erection of screen wall;
  - Erection of boundary fencing and gate.
- 

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

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission be granted subject to:

- i) the conditions and reasons appended to this report, and
  - ii) a discretionary pre-determination hearing being convened in response to the representations received.
- 

#### **(C) HISTORY:**

14/00084/PP

Change of use of land for the siting of storage container, installation of petrol storage tank and erection of associated fencing – Withdrawn as a result of officer advice 11/04/14.

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(D) **CONSULTATIONS:**

Area Roads Manager

Report dated 25/04/14 advising no objection to the proposed development subject to conditions regarding the formation of the access and service delivery arrangements.

Environmental Health Unit

Memo dated 15/04/14 advising no objection to the proposed development subject to conditions regarding, operating hours, emergency action plan, ground contamination/vapour release prevention report, external lighting.

Trading Standards Unit

E-mail dated 23/05/14 advising no objection to the proposed development as they would not require to be licensed by the Council under the Petroleum Act. Such matters would require to be addressed by the Health and Safety Executive.

Conservation Officer

Memo dated 17/04/14 advising that advice on a previous application informed the current application and which is considered significantly more appropriate for the area.

Scottish Environment Protection Agency

Letter dated 29/04/14 advising no objection to the proposal on flood risk grounds but advising that the Council should consult with their flood prevention colleagues. However the site is outwith the area identified at risk of coastal flooding and accordingly, in this instance, such a consultation is not considered necessary.

Seil and Easdale Community Council

E-mail dated 01/06/14 raising no objection to the proposal but stating the following.

“The view of the Community Council is that whilst the actual site is not residential, it is in extremely close proximity to residential property. In determining the application the planners must address the concerns of residents regarding access, safety, noise and general loss of amenity. These are well documented in the letters of objection. At the public meeting some specific aspects were raised, which the Community Council fully endorse, especially that the Conservation Officer reassess the visual aspect of the proposal and that the Roads Department have a closer look at how pinch points might impede traffic flow. The Community Council recognises that there is a balance to be struck between supporting local business and maintaining the integrity of a residential and conservation area. Residents in the immediate vicinity have expressed grave concerns, both in written objections and at public meetings, over the development. In considering the application the Community Council strongly urges the Planning Department to respond to these concerns so that those directly affected can be assured of their safety and their right to enjoy their homes with minimal disturbance”.

*Comment: These comments are noted. It is not considered that there is any need to further consult with any of the consultees who have fully assessed the proposal twice. The points raised by residents have been fully addressed at Section F below.*

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**(E) PUBLICITY:**

The proposal has been advertised in terms of Conservation Area procedures, closing date 08/05/14 with the associated Site Notice closing date 21/05/14.

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**(F) REPRESENTATIONS:**

13 representations have been received regarding the proposed development 11 objections and 2 support.

**OBJECTION**

David Nathan, Caolas Cottage, Ellenabeich, Easdale, Oban (2 submissions)  
(23&27/04/14)

Henry Tarbatt, 33A Easdale Island, Oban, PA34 4TB (03/05/14)

Ruth Odling, 61 Ellenabeich, Easdale, Oban, PA34 4RQ (06/05/14)

Chris Odling, 61 Ellenabeich, Easdale, By Oban, PA34 4RQ (03/05/14)

Graeme Bruce, The Old Coach House, Ellenabeich Isle of Seil Oban Argyll  
(05/05/14)

Wendy Bruce The Old Coach House Ellenabeich Easdale Isle Of Seil By Oban  
(06/05/14)

Mr Brien Dickey, Sealladh Na Mara, Ellenabeich, Isle of Seil, Oban (30/04/14)

Mr John MacFarlane, Glenalbyn, Clachan Seil, Isle of Seil, By Oban, PA34 4TJ  
(08/05/14)

Mrs Linda Munton, Old Inn, Ellenabeich, Isle of Seil, PA34 4RF (08/05/14)

Eileen MacFarlane 2 Caolas Cottages Easdale Oban Argyll PA34 4RQ (08/05/14)

Mrs Barbara Nathan No 1 Caolas Ellenabeich Easdale By Oban PA34 4RQ  
(28/04/14)

**Summary of issues raised**

- The proposal is contrary to the Local Plan and Structure Plan.

*Comment: The proposal is assessed against the relevant Development Plan policies in Appendix A to this report.*

- Road and pedestrian safety issues - narrow access road; cars and motor homes parked in front of properties; increase in vehicular activity; unsuitable road for large delivery vehicles.

*Comment: The Area Roads Authority was consulted on the proposed development and in their response raised no objections with regards to road or pedestrian safety or the ability of the site to be accessed by delivery vehicles. Should the road become blocked by parked cars, this would be a matter for the police.*

- The car park displays signage prohibiting vehicles over 7.5 tonnes and indicates that the transfer/discharge of goods is not permitted within the car park.

*Comment: The Area Roads Authority who control the use of council car parks raised no objection to the proposed development which will be on land outwith the designated car park.*

- The heavy vehicles and increased vehicular movement will have an adverse effect on the fabric of the village (roads and old/listed buildings).

*Comment: As detailed above, the Roads Authority has raised no objection to the impact of the development on the existing road infrastructure. With regards to the stability of old/listed buildings, this is not a material planning consideration in the determination of this application.*

- There is no permission in place for the existing Seafari businesses in Ellenabeich or Easdale and this should be addressed prior to the determination of this application.

*Comment: This is not a material consideration in the determination of this current application but is being investigated under enforcement procedures.*

- Issues regarding the safety of the proposal and the potential for fuel spillage resulting in odour issues, ground pollution and fire risk.

*Comment: This issue will be addressed by a condition attached to the grant of planning permission requiring the submission of an Emergency Action Plan to be used in the event of an uncontrolled spillage of liquid or vapour fumes into the environment.*

- There is no detail of how petrol will get from the storage tank to the shoreline or how it will be decanted from the containers used into the fuel tanks of the boats.

*Comment: This is not a material consideration in the determination of this planning application.*

- What measures will be in place to prevent petrol being sold from the village shop and from the site to local boat owners, gardeners and the general public.

*Comment: This is not a material planning consideration in the determination of this application but a matter which will be dealt with under Health and Safety Regulations.*

- Is it the intention to store petrol in cans within the trailers/vehicles on site.

*Comment: The purpose of the application is to have a permanent facility to remove the need for petrol cans to be stored in vehicles. The Health and Safety Executive will control the operation of the site under separate legislation.*

- Public safety due to the proximity to the public car park and lack of access to emergency services due to no mobile phone signal at the site.

*Comment: The proposed development will require to comply with separate Health and Safety Regulations and also the requirements of the Council's Environmental Health Unit. With regards to lack of mobile phone signal, this is not a material consideration in the determination of this planning application.*

- There is no indication on the monitoring of the development should it proceed to ensure compliance with restrictions and safe working practice.

*Comment: The proposal will require to be undertaken in accordance with the conditions attached to the planning permission and also the relevant requirements of the Health and Safety Executive.*

- SEPA have classed the area at risk from flooding.

*Comment: The site is outwith the area identified at risk of coastal flooding on the relevant trigger maps. However, as a result of comments from third parties, a consultation was undertaken with SEPA who raised no objection on flood risk grounds.*

- Concerns over public safety from re-fuelling of boats from the public ferry slipway.

*Comment: This is not a material consideration in the determination of this planning application.*

- Boats turn away from the harbour because Seafari boats spend so much time at the pier.

*Comment: This is not a material consideration in the determination of this planning application.*

- Seafari is a noisy business operating from 06:15 to 23:00 hours on some days and the application proposes refuelling at the end of the day. Will there be any restriction on operating hours.

*Comment: The Council's Environmental Health Unit have requested that a condition be imposed on the grant of permission limiting the hours of operation of the development to 08:00 to 18:00, 7 days a week.*

- Loss of amenity due to increase in traffic and activity at unsociable hours.

*Comment: It is not considered that the proposal will result in any significant increase in traffic given that the site is adjacent to a public car park. A restriction to operating hours of the development is proposed as detailed above.*

- The tall boundary fence with warning signs will give the appearance of an industrial compound which is out of keeping of the area.

*Comment: The site is already enclosed by a post and wire fence. The application proposes to replace with this the same type of fence only higher. No details of warning signs have been indicated in this*

*application and it will be highlighted in an informative attached to the grant of permission that such details may require Advertisement Consent.*

- The site should be enclosed by a wall rather than a fence.

*Comment: The petrol tank itself is to be partially contained by a stone wall. The site is currently enclosed by a post and wire fence and it is considered the proposed fence, whilst higher, is acceptable within this location.*

- The development is out of character of the area and wider Conservation Area.

*Comment: This point is addressed in Appendix A of this report.*

- The approval of this application will set a precedent for industrial proposals within the Conservation Area.

*Comment: The granting of planning permission for this small scale development does in no way infer that the area is suitable for industrial proposals.*

- There is insufficient drainage on the site to deal with surface water drainage. Water from the site runs along the edge of the neighbouring property, under the car park and onto the beach. Petrol spilt at the site will drain into this and will be toxic to the marine environment and explosive.

*Comment: This issue will be addressed by a condition attached to the grant of planning permission requiring details of a Sustainable Urban Drainage System to address surface run off from the site.*

- A detailed plan should be submitted showing how the development will fit on the site.

*Comment: A detailed site plan has been submitted as part of the application.*

- Residents have attended two Community Council meetings and did not satisfactorily answer questions put to him regarding the proposal.

*Comment: This is not a material consideration in the determination of this planning application.*

- Health related issues resulting from vapours from the development site.

*Comment: This issue will be addressed by a condition attached to the grant of planning permission requiring the submission of measures to be installed in the development to minimise ground contamination and vapour release into the environment.*

- The proposal contravenes the relevant Health and Safety Regulations for such a development.



Comment: *The proposed development will require to comply with separate Health and Safety Regulations*

- Seafari boats offer up to 20 trips a day and the impact on wildlife on these trips should be fully assessed.

Comment: *This is not a material consideration in the determination of this planning application.*

- Any economic benefit brought to the area would be negated by the adverse impact of the proposal on traditional tourists who come here for peace and quiet.

Comment: *Any economic benefit to the area as a result of the proposal is to be welcomed.*

- Seafari has not advertised jobs nationally and not in the local press.

Comment: *This is not a material consideration in the determination of this planning application.*

- How much do Seafari pay in pier dues?

Comment: *This is not a material consideration in the determination of this planning application.*

- Seafari choose to use petrol engines because it is an agent for them and much of its other marine gear.

Comment: *This is not a material consideration in the determination of this planning application.*

- Seafari do not work with the residents of Ellenabeich in fact the very existence of Ellenabeich or the Conservation Area are not even mentioned on the Seafari website.

Comment: *This is not a material consideration in the determination of this planning application.*

- Consultation should have been undertaken with the fire authority.

Comment: *The Fire Authority is not a statutory consultee although they have been contacted informally and have confirmed that they are aware of the proposal. As the proposal does not require a Petroleum Licence, fire risk will be a matter for the Health and Safety Executive.*

- If the application is approved, a number of residents will sell their properties and vacate the island. This has the potential to deprive the area of businesses and school aged children who make a valuable contribution to the area.

Comment: *This is not a material consideration in the determination of this planning application.*

## SUPPORT

Mrs Keren Cafferty, The Puffer, Easdale Island, Easdale, PA34 4TB (15/05/14)  
Ms Janet Fraser, 57 Easdale Island, Easdale, PA34 4TB (06/06/14)

### Summary of issues raised

- *“As a local business owner I would like to offer my full support to this application. It is imperative that this successful tourism business is allowed to develop their infrastructure and help secure this fragile rural community and the local economy. The business provides many employment opportunities especially for our younger generation and also attracts graduates to come and live and work here. The company's passion for the area and the attractions the area has to offer are clearly visible in its marketing and they are attracting visitors from around the world to Easdale and Argyll. Sea.fari are often first in line to help visiting yachts and boats in non emergency situations e.g yachts and powerboats with engine failure. To undertake these tasks they require fuel to be easily accessible. Refusal for planning permission could reduce the support Seafari can offer to the local boating tourism community and this would have a detrimental effect in promoting the area for this kind of pastime. It would also be a huge loss of an essential safety net”.*
- *“I wholeheartedly support this application which will benefit the local community by strengthening the infrastructure for a vital local business which brings a considerable revenue to the area and provides employment both for local people and also brings new people to the area, many of whom retain their ties with Easdale”.*

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)   | <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 |

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## (H) PLANNING OBLIGATIONS

(i)	<b>Is a Section 75 agreement required:</b>	No
<hr/>		
(I)	<b>Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:</b>	No
<hr/>		
(J)	<b>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</b>	
(i)	<b>List of all Development Plan Policy considerations taken into account in assessment of the application.</b>	
	<u>Argyll and Bute Structure Plan 2002</u>	
	STRAT DC 1 – Development within the Settlements STRAT DC 8 – Landscape and Development Control STRAT DC 9 – Historic Environment and Development Control STRAT DC 10 – Flooding and Land Erosion STRAT SI 1 – Sustainable Development	
	<u>Argyll and Bute Local Plan 2009</u>	
	LP BUS 1 – Business and Industry Proposals in Existing Settlements LP ENV 1 – Impact on the General Environment LP ENV 10 – Impact on Areas of Panoramic Quality (APQs) LP ENV 13a – Development Impact on Listed Buildings LP ENV 14 – Conservation Areas and Special Built Environment Areas LP ENV 19 – Development Setting, Layout and Design LP SERV 8 – Flooding and Land Erosion – The Risk Framework for 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 Appendix C – Access and Parking Standards	
(ii)	<b>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>	
	Argyll & Bute Sustainable Design Guidance (2006) SPP, Scottish Planning Policy, 2010	
<hr/>		
(K)	<b>Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:</b>	No
<hr/>		
(L)	<b>Has the application been the subject of statutory pre-application consultation (PAC):</b>	No
<hr/>		

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

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**(N) Does the Council have an interest in the site:** Yes

Vehicular access to the site is through a public car park which is in the ownership of Argyll and Bute Council.

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**(O) Requirement for a hearing:** Yes

The application has been the subject of 13 representations, 11 of objection and 2 in support. All these representations are from local addresses and this level of interest in the application is of significance in the context of a small community. The range of issues raised is broad and the majority of them relate to legitimate planning matters. There would therefore be benefit in the matter being addressed by means of a discretionary local hearing.

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

In terms of the adopted 'Argyll and Bute Local Plan', the site is situated within the minor Settlement Zone of Ellenabeich where Policy STRAT DC 1 of the approved Argyll and Bute Structure Plan gives encouragement to small development which is compatible with an essentially rural settlement location.

The site is situated within the Ellenabeich Conservation Area subject to the effect of Policy LP ENV 14, Development in Conservation Areas and Special Built Environment Areas, which states that there is a presumption against development that does not preserve or enhance the character or appearance of an existing or proposed Conservation Area or its setting.

Policy LP ENV 13(a), Development Impact on Listed Buildings, states that development affecting a listed building or its setting shall preserve the building or its setting and any features of special architectural or historic interest that it possesses. considered it will provide an acceptable contrast between the old and the modern and it is not considered

The proposed site is situated a sufficient distance from any of the Listed Buildings within the village to ensure it will not have any adverse impact on their setting.

The main issues in respect of the proposal are the impact of the development on the Conservation Area and nearest residential properties.

In addition to the above, the proposal also has to be assessed for compliance with other relevant local plan policies which are detailed in Appendix A of this report.

The proposal has elicited 13 representations from local residents.

The proposed development is considered to be acceptable within this part of the Conservation Area and would not appear as a significantly dominant or intrusive feature which would detract from the wider setting of the Conservation Area.

On the basis of the foregoing, the proposal is considered to be acceptable and to accord with the relevant Development Plan policies and it is recommended that planning permission be granted subject to the conditions appended to this report, and subject to a discretionary local hearing being convened in response to the level of representation received.

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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**

It is considered that the proposed fuel storage facility is an acceptable development for the site and will not appear as a significantly dominant or intrusive feature within the wider setting of the Conservation Area.

Having due regard to the above, the proposal is considered to accord with Policies STRAT DC 1, STRAT DC 8, STRAT DC 9, STRAT DC 10 and STRAT SI 1 of the approved Argyll and Bute Structure Plan and Policies LP BUS 1, LP ENV 1, LP ENV 10, LP ENV 13a, LP ENV 14, LP ENV 19, LP SERV 8, LP TRAN 4 and LP TRAN 6 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:** 22/05/14

**Reviewing Officer:** Richard Kerr      **Date:** 10/06/14

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

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 14/00914/PP**

1. The development shall be implemented in accordance with the details specified on the application form dated 04/04/14 and the approved drawing reference numbers:

Plan 1 of 2 (Drawing Number 13-2111-P-01 D)  
Plan 2 of 2 (Supporting Statement)

other than where provided for by the terms of the conditions below, 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.*

2. The access at the junction with the car park access road shall be constructed in accordance with the Council's Roads Standard Detail Drawing SD 08/002a; and visibility splays of 25 metres to point X by 2.4 metres to point Y from the centre line of the proposed access. The access shall be surfaced with a bound material in accordance with the stated Standard Detail Drawing. Prior to work starting on site the access hereby approved shall be formed to at least base course standard and the visibility splays shall be cleared of all obstructions such that nothing shall disrupt visibility from a point 1.05 metres above the access at point X to a point 0.6 metres above the public road carriageway at point Y. The final wearing surface on the access shall be completed prior to the development first being brought into use and the visibility splays shall be maintained clear of all obstructions thereafter.

*Reason: In the interests of road safety.*

3. Notwithstanding the provisions of Condition 1, no development shall commence until full details of the layout and surfacing of the internal access track and parking area to serve the proposed development within the application site have been submitted to and approved in writing by the Planning Authority. The duly approved scheme shall be implemented in full prior to the development first coming into use and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

*Reason: In the interests of road safety.*

4. Notwithstanding the provisions of Condition 1, the construction period for the development hereby permitted shall be restricted to the specified hours of 08:00 to 18:00 Monday to Friday, 09:00 to 14:00 on Saturdays with no working on Sunday or Bank Holidays. Emergency operations/works outwith these times must have prior agreement with the Planning Authority.

*Reason: In order to protect the amenity of the area.*

5. Notwithstanding the provisions of Condition 1, the development hereby permitted shall be restricted to the specified operational hours of 08:00 to 18:00, 7 days a week. The Planning Authority must be notified if emergency operations/works are to occur outwith these times.

*Reason: In order to protect the amenity of the area.*

6. No development shall commence on site, or is hereby authorised, until a detailed report on the control measures to be installed and built into the equipment on the site to minimise ground contamination and vapour release into the environment has been submitted and approved by the Planning Authority in consultation with the Council's Environmental Health Unit.

The development shall not be brought into use until the approved details have been implemented in full. Thereafter the development shall only be operated in accordance with the approved details unless otherwise approved in writing by the Planning Authority.

*Reason: In order to protect the amenity of the area.*

7. No development shall commence on site, or is hereby authorised, until an Emergency Action Plan to be used in the event of an uncontrolled spillage of liquid or vapour fumes into the environment has been submitted and approved by the Planning Authority in consultation with the Council's Environmental Health Unit.

*Reason: In order to protect the amenity of the area.*

8. No development shall commence until full details of any external lighting to be used within the site has been submitted to and approved in writing by the Planning Authority. Such details shall include the location, type, angle of direction and wattage of each light which shall be so positioned and angled to prevent any glare or light spillage outwith the site boundary.

No external lighting shall be installed except in accordance with the duly approved scheme.

*Reason: In order to avoid light pollution in the interest of amenity.*

9. Notwithstanding the provisions of Condition 1, the development shall incorporate a surface water drainage system which is consistent with the principles of Sustainable urban Drainage Systems (SuDS) compliant with the guidance set out in CIRIA's SuDS Manual 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.*

10. Notwithstanding the provisions of Condition 1, no development shall commence on site, or is hereby authorised, until full details in plan form showing the location, extent and materials of a 1.8 metre high stone wall to the site boundary, sufficient to restrict views of the interior of the compound from public locations, has been submitted and approved in writing by the Planning Authority.

The petrol storage tank shall not be brought into use until the required screen wall has been constructed in accordance with the duly approved details and the wall shall remain in place in accordance with these requirements thereafter.

*Reason: In the interests of visual amenity.*

11. Notwithstanding the provisions of Condition 1, no development shall commence on site, or is hereby authorised, until full details of the proposed solar panel proposed to the shed roof, in the form of a plan/specification, has been submitted and approved in writing by the Planning Authority.

Thereafter the development shall be undertaken in accordance with the approved details unless otherwise agreed in writing by the Planning Authority.

*Reason: In the interests of visual amenity.*

**Notes to Applicant:**

- 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 Sections 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.
- 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 under the Roads (Scotland) Act 1984 must be obtained from the Council's Roads Engineers prior to the formation/alteration of a junction with the public road.
- The access shall be constructed and drained to ensure that no surface water is discharged onto the public road.
- Site specific advice in respect of conditions 6 and 7 may be obtained by contacting the Council's Environmental Health Officers.
- All external lighting should be designed in accordance with the Scottish Government's Guidance Note "Controlling Light Pollution and Reducing Light Energy Consumption" 2007, Annexes A and B. Site specific advice may be obtained by contacting the Council's Environmental Health Officers.
- 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).
- Please note that this permission 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.



**APPENDIX A – RELATIVE TO APPLICATION NUMBER: 14/00914/PP**

**PLANNING LAND USE AND POLICY ASSESSMENT**

**A. Settlement Strategy**

In terms of the adopted 'Argyll and Bute Local Plan', the site is situated within the minor Settlement Zone of Ellenabeich where Policy STRAT DC 1 of the approved Argyll and Bute Structure Plan gives encouragement to small scale development which is compatible with an essentially rural settlement location.

The site is situated within the Ellenabeich Conservation Area subject to the effect of Policy LP ENV 14, Development in Conservation Areas and Special Built Environment Areas, which states that there is a presumption against development that does not preserve or enhance the character or appearance of an existing or proposed Conservation Area or its setting.

The site is also within the Knapdale and Melfort Area of Panoramic Quality where Policy LP ENV 10, Impact on Areas of Panoramic Quality states that development in, or adjacent to, an Area of Panoramic Quality will be resisted where its scale, location or design will have a significant adverse impact on the character of the landscape.

In addition to the above, the proposal also has to be assessed for compliance with other relevant local plan policies which are detailed below.

The main issues in respect of the proposal are the impact of the development on the residential properties and Conservation Area.

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

Planning permission is sought for the change of use of land to allow for the siting of a petrol storage tank and associated infrastructure on an area of land adjacent to the public car park in Ellenabeich.

The applicant has submitted a supporting statement outlining the need for a permanent petrol storage facility to serve his business. The information submitted by the applicant states that Seafari vessels used over 70000 litres of petrol in 2013 at its Easdale operation. This involves petrol being collected from Oban in small (333 litre) loads and, at the height of the summer, can involve 3 or 4 trips per day between Ellenabeich and Oban. Petrol regulations do not allow for any quantity of petrol to be stored unless it is placed in a designated store hence this current application.

The supporting statement further states that the applicant has been unable to further develop their business due to the time and resources taken to collect fuel (approximately 2 hours per load). A permanent fuel storage facility would allow the expansion of the business which in turn could result in an increase in employment for the local area.

Prior to the submission of this current application the applicant sought pre-application advice on alternative sites. One site was on the existing pier within the village and which is considered would be an appropriate site being on a public, working pier, however the applicant discounted this site due to the hostile response from the public. A further two sites were discounted by the Planning Service as they were in

prominent, open and exposed areas within the village and it was considered they would have an adverse visual impact on the village and the wider Conservation Area

The site subject of the application is situated to the northwest of the village on the eastern edge of the main public car park which serves Ellenabeich. The site measures approximately 340 square metres in size and is a relatively flat area of land with a covering of grass. A small timber shed exists on the northern boundary of the site. Access to the site is to be taken from the public car park through an existing parking space.

The application proposes to site a 3000 litre bunded petrol tank which will sit on a concrete base which will extend a minimum of 300mm from the edge of the tank. The petrol tank measures 2.9m long x 1.95m wide x 1.15m high. The applicant proposes that this should will be screened from public view on three sides by a 1.5 metre high stone wall with a 1.5 metre high gated to the front. The application also shows the existing post and wire fence and gate which currently encloses the site replaced by a new 1.8 metre high post and wire fence and a 1.8 metre high metal gate, the height of which is determined by Health and Safety Regulations.

However, given the location of the site within the Conservation Area, it is considered that a 1.8 metre high stone wall would be a more suitable form of boundary treatment to the compound as a whole (rather than just to the tank alone) providing improved screening from public locations, helping to integrate the proposed development into the conservation area and minimising any adverse visual impact which may otherwise occur. The prospect of this has been raised with the applicant and the requirement for screening in this manner is recommended to be imposed by means of a condition.

A small timber shed with a felt roof measuring 3m x 2.4m with an overall height of 2.8m is also proposed at the southern end of the site for the storage of equipment. A solar panel is proposed to the roof of the shed.

Within the site the application shows a 3 metre wide track to provide access to the serve the petrol tank along with a parking space to the temporary storage of trailers or vehicles.

It is considered that the site is relatively well contained within the existing public car park, which in itself is not considered to contribute to the appearance or setting of the Conservation Area. On this basis, and having regard to recommended conditions, it is considered the site has the ability to successfully accommodate the proposed fuel storage facility, which would not appear as a significantly incongruous or intrusive feature within its immediate setting, or in terms of the character and appearance of the wider Conservation Area.

**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 site as a petrol storage facility has the potential to constitute 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 was consulted on the proposal and, whilst acknowledging the location and operation of the proposal could present potential issues with regards to noise, ground contamination and odour issues, raised no objection subject to a number of conditions being imposed on the grant of permission. Conditions proposed include a restriction to working hours during the construction phase; restriction to hours of operation of the completed facility; submission of an emergency action plan to deal with any uncontrolled spillage of liquid or vapour/fume into the environment; submission of a report detailing measures to prevent ground contamination and vapour release and a restriction to any external lighting proposed at the site.

Accordingly subject to the conditions required by Environmental Health, it is considered that the proposed development will not have any significant adverse impact on the amenity of neighbouring properties or the wider area. The site is not one which would require a Petroleum Licence from the Council and the operation of the site is one which would fall within the jurisdiction of the Health & Safety Executive.

**The proposal is considered to be acceptable under Policy LP BAD 1.**

Policy LP BUS 1 gives support to new business enterprises within existing settlements provided, in residential locations, the proposed development would not erode the residential character of the area or adversely affect local residents through an increase in traffic levels, noise, fumes or hours of operation, subject to other relevant policies. As detailed above it is considered that the site can successfully accommodate the proposed development without any significant adverse impact on the existing settlement.

**The proposal is considered to be acceptable under Policy LP BUS 1.**

**C. Built Environment**

The site is situated in Ellenabeich which has been designated as a Conservation Area and which is steeped in history related to its industrial past connected to the slate islands.

Structure Plan Policy DC 9, Historic Environment and Development Control, states that protection, conservation, enhancement and positive management of the historic environment is promoted. Development that damages or undermines the historic architectural or cultural qualities of the historic environment will be resisted, particularly if it would affect a Scheduled Ancient Monument or its setting, other recognised architectural site of national or regional importance, listed building or its setting, conservation area or historic garden and designed landscape.

Policy LP ENV 14, Development in Conservation Areas and Special Built Environment Areas states that there is a presumption against development that does not preserve or enhance the character or appearance of an existing or proposed Conservation Area or its setting.

Policy LP ENV 13(a), Development Impact on Listed Buildings, states that development affecting a listed building or its setting shall preserve the building or its setting and any features of special architectural or historic interest that it possesses. considered it will provide an acceptable contrast between the old and the modern and it is not considered

Accordingly, as a development within a Conservation Area, in deciding whether permission should be granted it is necessary to consider whether the petrol storage tank and associated infrastructure would prejudice the overall character of the Conservation Area, thereby undermining the purpose of designation.

The conclusion in this case, is that with recommended boundary treatment to the compound, it is not considered that the development would meet the requirement that development in conservation areas should preserve or enhance the character and appearance of the designated area. It is considered that the proposed site is situated a sufficient distance from any of the Listed Buildings within the village to ensure it will not have any adverse impact on their setting.

**In this regard it is not considered that the proposal will have a significant adverse impact on the surrounding area or the wider Conservation Area consistent with the criteria set out in Policies STRAT DC 9, LP ENV 13(a) and LP ENV 14 which seek to ensure that developments do not have an adverse impact on the character of the built environment.**

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

The application shows the site accessed via the public car park to the north of Ellenabeich to serve the site.

The Council's Roads Authority was consulted on the proposal and in their response raised no objection subject to conditions regarding the construction of the access to the site and servicing details for the site. However, the servicing details are contained within the supporting statement accompanying the application and therefore there is no need to attach a condition for this aspect of the proposal.

**In this regard, subject to a condition regarding the formation of the access, the proposal is considered to be acceptable in terms of Policy LP TRAN 4 which seeks to ensure that developments are served by a safe means of vehicular access.**

**E. Flooding**

The site is outwith the area identified at risk of coastal flooding. However, as a result of comments received from third parties, a consultation was sent to the Scottish Environment Protection Agency. In their response they raised no objection to the proposed development on flood risk grounds but advised that the Council consult with their Flood Prevention Unit. However, as the site is outwith the area where such a consultation would be triggered, this is not considered necessary.

**In this regard the proposal is considered acceptable in terms of Policies STRAT DC 10 and LP SERV 8 which seek to restrict developments which are likely to be significantly at risk from flooding as indicated by a trigger map.**



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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:** 14/00942/PP

**Planning Hierarchy:** Local Development

**Applicant:** Costa Coffee

**Proposal:** Change of Use from Class 1 (Retail) to Combined Class 1 and Class 3 (Retail and Food and Drink) including External Seating Area

**Site Address:** Unit 1, Kilmartin Court, Station Road, 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 combined Class 1 and Class 3 (retail and food and drink).
  - Formation of pavement café.
- 

#### **(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:**

No relevant history.

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**(D) CONSULTATIONS:**

Area Roads Authority

Initial report dated 19/05/14 recommending refusal as the pavement café to the east of the entrance door left insufficient pavement width for the free movement of pedestrians. This element of the proposal was subsequently omitted by the applicant. In a revised response dated 26/05/14 the Area Roads Authority confirmed no objection to the proposed development subject to a condition ensuring a minimum pavement width of 2 metres between the barriers and litter bin.

Environmental Health Unit

Memo dated 14/05/14 requesting further details in the form of a noise assessment for the proposed development. This response was amended in an e-mail dated 22/05/14 where the Environmental Health Unit confirmed that they were satisfied that planning permission could be granted subject to a suspensive condition requiring the submission of a noise assessment addressing the levels of noise likely to be generated by the general operations of the proposed development and in particular any significant individual sources of noise arising from the operation of specific items of plant/equipment within the premises, i.e. refrigeration plant/air conditioning, extract systems, etc.

Oban Regeneration Project Manager

E-mail dated 28/05/14 advising no objection to the proposed development stating:

*“this change of use and the outside seating area proposed will add value to the wider Oban Public Realm scheme being developed by the Council for Oban Waterfront and Station Road in particular.*

*We are keen to support pavement cafes and outdoor seating areas as part of our wider regeneration objectives in accordance with Council policy”.*

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**(E) PUBLICITY:**

The proposal has been advertised in terms of Listed Building procedures, closing date 29/05/15 with the associated Site Notice closing date 03/06/14.

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**(F) REPRESENTATIONS:**

26 representations have been received regarding the proposed development 25 objections and 1 support.

**OBJECTIONS**

MT Selby, Flat 2, Kilmartin Court, Oban, PA34 4NT (16/05/14)  
Peter MacLeod, The Wheelhouse, Ganavan, Oban, PA34 5TU (12/05/14)  
Lorne MacLeod, Orasaig, Crannag a' Mhinisteir, Oban, PA34 4LU (12/05/14)  
Mr Nicholas MacLean, Flat 2/6, Lismore House, Oban, PA34 4NU (11/05/14)  
Mrs Daphne MacLean, Flat 2/6, Lismore House, Oban, PA34 4NU (11/05/14)  
Lorna MacMillan, 4 Kilmartin Court, Oban, PA34 4NT (15/05/14)  
Mr Laurence Jacobs, Kilmartin Court, Oban, PA34 4NT (14/05/14)  
Mr Mark Lyons, 6 Kilmartin Court, Station Road, Oban, PA34 4NU (14/05/14)  
Elizabeth King, 3 Sutherland Gate, 21 Sutherland Street, Helensburgh (14/05/14)  
Graeme McLean, Scottish Midland Co-Operative Society, Newbridge, Edinburgh, EH28 8QJ (12/05/14)



JG McClure, Flat 1/3 Lismore House, Oban, PA34 4NU (19/05/14)  
Mrs Ann Jacobs, Kilmartin Court, Oban, PA34 4NT (15/05/14)  
Mr Andrew Thornton, Ardenlinne, Ganavan Road, Oban, PA34 5TU (04/05/14)  
Ashley N. Toole (e-mail) (17/05/14)  
Mrs Donna MacCulloch, 1 Pulpit Rock, Oban (22/05/14)  
V. Mitchell, 57 Shore Street, Oban, PA34 4NT (22/05/14)  
John Forrest, Flat 3, Kilmartin Court, Oban, PA34 4NT (21/05/14)  
Mr A. Mackay, Backhill Farmhouse, Kinellar, Aberdeen, AB21 0SP (21/05/14)  
Mrs E. Mackay, Backhill Farmhouse, Kinellar, Aberdeen, AB21 0SP (21/05/14)  
Jean Brown, Room 15, Stafford Street, Oban (20/05/14)  
Mr John MacPherson, Mingary, Crannaig-a-Mhinister, Oban, PA34 4LX (27/05/14)  
Mr Stewart McKechnie, Pinetrees, Glenmore Road, Oban, PA34 4PG (27/05/14)  
Mandy Anfield, Irene MacKinnon & Gillian Walker, Kronks, Oban (29/05/14)  
Sara MacPherson (no address given) (30/05/14)  
Fay MacGillivray, MacGillivray Trust (no address given) (30/05/14)

### Summary of issues raised

- The granting of planning permission for change of use for Costa Coffee will have an adverse effect on various small independent coffee shops in the town.

*Comment: The number of coffee shops in the area is a matter determined by market forces. 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 it represents an appropriate town centre use that accords with policy.*

- The arrival of yet another national brand on Oban's high street will detract from the character and individuality of the town thus adversely affecting tourism.

*Comment: The identity of an applicant is not a material planning consideration. The application is for a change of use to a combined shop and cafe and it must be determined on the basis of compatibility with development plan policy, taking account of material considerations. Market competition is not a material planning consideration. Filling this current vacant unit with a cafe and small outdoor seating area will help 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. This is eminently a desirable outcome which the Planning Authority should support.*

- Oban already has an overprovision of coffee and eating premises within the town.

*Comment: The number of such premises in the area is a matter determined by market forces. It is considered that an appropriate mix of uses exists within the town to underpin its vibrancy and vitality. Class 3 is an appropriate town centre use.*

- The granting of planning permission for the proposed development would result in future developments for fish and chip outlets and licensed trade moving in to the detriment of the area.

*Comment: The granting of planning permission for a Class 3 Food and Drink outlet in no way infers that the site is suitable for use as a hot food takeaway or licensed premises. Both of those uses would require the submission of a further planning application for change of use if they were ever proposed, and any such application would be considered on their own merits against the Development Plan in force at the time. Hot food takeaways (sui generis) are recognised as raising different considerations and impacts than Class 3 cafes.*

- When the building was built it was envisaged it would be for retail and residential use only. 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. Current policy supports Class 1, 2 or 3 uses within this town centre site.*

- The accepted and sensible pattern of retail outlet distribution would be compromised should the application be approved.

*Comment: It is considered that the use of the building as a food and drink outlet with part retail use 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.*

- Station Square should be designated as a protected retail area.

*Comment: The adopted 'Argyll and Bute Local Plan' and forthcoming 'Local Development Plan' identify the site as being within the main town centre of Oban but outside the Core Shopping Area which is itself protected for retail use. An extension to the Core Shopping Area is a matter for the next round of the Local Plan, but is not proposed at this stage.*

- The granting of planning permission would create an undesirable precedent making it difficult to resist similar planning proposals elsewhere.

*Comment: Each planning application is assessed on its own merits against the Development Plan in force at the time. The adopted Development Plan supports Class 1, 2 and 3 uses at the site.*

- The external seating area will cause problems for pedestrians in a very busy part of the town centre.

*Comment: As a result of comments from the Area Roads Authority the proposal has been amended to omit the seating area to the east of the entrance, which would have created a conflict with pedestrian usage. With this amendment, the Roads Authority is happy to recommend no objections subject to a planning condition to ensure a minimum of 2 metres between the seating area and refuse bin, which is proposed.*

- Concerns regarding adverse impact on amenity of residential properties due to noise/cooking/preparation smells.

*Comment: The Council's Environmental Health Unit was consulted on the proposed development and raised no objection subject to a condition being imposed on the grant of planning permission requiring a detailed noise assessment to be submitted. The noise assessment will require to be approved by Environmental Health prior to any works starting on the proposed development.*

*With regards to noise from visiting patrons, nearby residents already experience a certain amount of noise and disturbance in this town centre location and a Class 3 use is not likely to add unacceptably to the existing activity in the area. Town centre noise and disturbance is already higher than that experienced in quieter residential streets. Any disturbance associated with anti-social behaviour would be a matter for the police.*

- The development would necessitate the installation of substantial public toilet facilities which would put a burden on the existing infrastructure within the town.

*Comment: Use of the public water and drainage systems is a matter for Scottish Water.*

- It would be a retrograde step for the Council to deprive Oban's elderly of the opportunity to spend their latter days in one of the flats in these two desirable blocks.

*Comment: This is not a material determination in the consideration of this planning application, nor does the proposal create any obvious impact that would generate the alleged extent of impact on residential use of the flats above the premises.*

- The proposal contradicts many of the statements in the CHORD document for the area and it is premature to grant planning permission when the plans for the re-development have not yet been considered.

*Comment: The Oban Regeneration Project Manager was consulted on the proposal and advises that the outside seating area proposed will add value to the wider Oban Public Realm scheme being developed by the Council for Oban Waterfront and Station Road in particular. Furthermore she advises that the Regeneration Project is keen to support pavement cafes and outdoor seating areas as part of the wider regeneration objectives in accordance with Council policy.*

- The Economic Development Action Plan (EDAP) has not yet been approved and it would not be prudent for the application to be approved.

*Comment: The proposal will create a small number of new jobs and supports the nationwide 'town centre first' approach promoted by Scottish Government. The proposal will have a positive impact on the local economy and should be supported. The adopted Local Plan is the primary determining factor. The planning application need not be held back whilst the Economic Development action Plan progresses.*

- The application contradicts many of the findings in the EKOS perceptions survey.

*Comment: The survey referenced is not a material planning consideration in the determination of this planning application.*

- Lack of neighbour notification to 6 Kilmartin Court.

*Comment: Neighbour Notification was served on this property on 30/04/14. A copy of the notification can be viewed on the Council's Public Access System under Document Number: 20993303.*

- Concerns over management of customer rubbish in Station Square.

*Comment: The proprietors will be responsible for waste disposal from the premises, both internally and externally. Should this become an issue, this will be a matter for the Council's Amenity Services and/or Environmental Health Unit.*

- The proposal is contrary to Policy LP BUS 3 which covers local businesses.

*Comment: This policy is not relevant in the consideration of this planning application. It relates to the loss of business and industry sites (Class 4 and Class 5), which is not applicable to this site.*

- When the building was built there was no provision made at the back of the building for bin storage except for use by residents. There are concerns that there will be a build up of food and general waste at the rear of the building.

*Comment: The application details a bin store within the premises. Should external waste become an issue, this would be a matter for the Council's Environmental Health and Amenity Services Units.*

## **SUPPORT**

Mr Alistair Knox, Kilmartin Court, Oban, PA34 4NT (19/05/14 & 21/05/14)

### **Summary of issues raised**

- There will be no changes to the building structure and therefore there will be no impact on the building structure which would impact the residents of Kilmartin Court.
- There is no change to the drainage arrangements which would impact on the residents of Kilmartin Court, however grease traps should be fitted.
- The premises show an internal bin store within the premises which is a positive step for residents of the building.
- Noise from customers will be no worse than the other coffee unit in the area, which is negligible.
- There is no large exhaust fan shown so excessive noise and smells will be no worse than other coffee shops in the area and a lot quieter than licensed premises and fish and chip shops in the town.
- Please confirm that no hot food will be served on the premises so that noxious smells will not affect the area.
- The signage is not obtrusive and is in keeping with signs of other outlets.
- Lighting from the unit will illuminate this dingy and dull corner of the property and will enhance security in the area.
- The tables and chairs are similar to other nearby premises and do not pose a major obstruction to the premises.
- The application highlights that the premises have lain empty for 18 months and no local trader, to the best of knowledge, has made an offer to rent the property.
- The unit is presently a security hazard and a prime target for vandalism in its present state.
- A company such as Costa should be encouraged to invest in the town, provide much needed jobs and provide a quality service and a fair market price to Oban residents and visitors.
- Granting of permission can avoid the unit being let to a less desirable tenant which could include businesses selling alcoholic beverages, hot food, gambling services, nicotine products.
- Clarification on whether the commercial properties are contributing to the upkeep and maintenance of the building as per the deed of conditions.

*Comment: These points are noted. The redevelopment of this unit and provision of a pavement café will enliven this building in an important area in the main town centre of Oban.*

*The fitting of grease traps is a matter that Scottish Water will deal with, if required.*

*With regards to the selling of hot food, the application indicates that paninis will be sold which require minimal heating and should not give rise to adverse odour issues. (The application is not for a hot food takeaway, which would likely generate these type of*

issues.) A condition to control this aspect of the proposal will be imposed on the grant of planning permission.

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:**

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

*"The occupation of this central, long term vacant unit by Costa, a popular national multiple retailer, will bring a much needed boost to this part of Oban town centre, especially given the surrounding context – there were three vacant units within close proximity of the site (off Shore Street and Station Road) at September 2013. Implementation of the proposals constitutes investment in Oban, generating jobs and footfall, all to the benefit of wider town centre vitality and viability.*

*Neither the signage nor the outside tables will adversely impact on pedestrian or vehicular movement.*

*Ultimately, the proposal will facilitate an appropriate town centre use which will make an important, long term contribution to the vitality and viability of Station Road and the wider Oban town centre. It is therefore requested that Argyll and Bute Council permits the change of use and associated application for advertisement consent at the subject premises".*

The above represents an extract from the supporting statement. Full details are available on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

- |   |           |
|---|-----------|
| <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> | <b>No</b> |
|---|-----------|

**(H) PLANNING OBLIGATIONS**

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

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

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

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

Argyll and Bute Structure Plan 2002

STRAT DC 1 – Development within the Settlements  
STRAT SI 1 – Sustainable Development

Argyll and Bute Local Plan 2009

LP ENV 1 – Impact on the General Environment  
LP ENV 10 – Impact on Areas of Panoramic Quality (APQs)  
LP ENV 13a – Development Impact on Listed Buildings  
LP ENV 19 – Development Setting, Layout and Design  
LP RET 1 – Retail Development in the Towns – The Sequential Approach  
LP BAD 1 – Bad Neighbour Development  
LP BAD 2 – Bad Neighbour Development in Reverse  
LP TRAN 1 – Public Access and Rights of Way  
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.**

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>	<b>No</b>
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<b>(L)</b>	<b>Has the application been the subject of statutory pre-application consultation (PAC):</b>	<b>No</b>
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<b>(M)</b>	<b>Has a sustainability check list been submitted:</b>	<b>No</b>
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<b>(N)</b>	<b>Does the Council have an interest in the site:</b>	<b>Yes</b>
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The external seating area is on land within the ownership of Argyll and Bute Council.

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<b>(O)</b>	<b>Requirement for a hearing:</b>	<b>No</b>
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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 in Class 1, 2 and 3, 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 from Class 1 (retail) to combined Class 1 and Class 3 (retail and food and drink) along with the formation of an external seating area. The premises are currently unoccupied having been last used as a retail unit with two separate occupiers.

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.

Policy LP RET 1 gives a presumption in favour of Class 1, 2 and 3 developments within a defined town centre.

It is considered that the use of the building as a food and drink outlet with part retail use 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 proposal will help further promote the vibrancy and vitality of the town centre.

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 appended to this report, 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 26 representations, 25 objections and 1 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 food and drink outlet with part retail use.

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, LP RET 1, LP TRAN 1 and LP TRAN 6 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: 26/05/14**

**Reviewing Officer: Stephen Fair Date: 30/05/14**

**Angus Gilmour  
Head of Planning**



**CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 14/00942/PP**

1. The development shall be implemented in accordance with the details specified on the application form dated 14/04/14 and the approved drawing reference numbers:

Plan 1 of 10 (Location Plan)  
Plan 2 of 10 (Drawing Number 1.0 D)  
Plan 3 of 10 (Drawing Number 1.1 A)  
Plan 4 of 10 (Drawing Number 1.2 F)  
Plan 5 of 10 (Drawing Number 2.0 B)  
Plan 6 of 10 (Drawing Number 2.1 B)  
Plan 7 of 10 (Drawing Number 4.2 D)  
Plan 8 of 10 (Barrier Specification)  
Plan 9 of 10 (External Furniture Specification)  
Plan 10 of 10 (Planning Supporting 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 (as amended).

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

Note to Applicant:

- 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 Sections 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.
- 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.

2. No development shall commence until a Noise Assessment for the proposed development has been submitted and approved in writing by the Planning Authority in consultation with the Environmental Health Unit. The assessment should identify the levels of noise likely to be generated by the general operations of the proposed development and in particular any significant individual sources of noise arising from the operation of specific items of plant/equipment within the premises i.e. refrigeration plant/air conditioning, extract systems etc.

The assessment must also identify the attenuation provided by the structure and any additional controls/measures to be adopted to prevent the transmission of noise.

The development shall not be brought into use until the approved noise attenuation measures have been implemented in full. Thereafter the development shall only be operated in accordance with the approved scheme unless otherwise approved in writing by the Planning Authority.

*Reason: In order to avoid noise nuisance in the interest of amenity.*

Note to Applicant:

Site specific advice may be obtained by contacting the Council's Environmental Health Officers.

3. Outwith opening hours, the external seating area comprising tables, chairs and barriers erected on the footway, shall be removed from the footway and securely stored.

*Reason: To safeguard the environmental amenity of the area and in the interests of pedestrian and road safety.*

Note to Applicant:

Separate permission from the Roads Authority is required to occupy the footway for the proposed pavement café.

The Council's Guidance Policy for Use of Pavements – Café Culture should be adhered to for the proposed pavement café.

4. Notwithstanding the provisions of Condition 1, a minimum pavement width of 2 metres shall be maintained at all times between the external barriers enclosing the pavement café and the public litter bin.

*Reason: In the interests of pedestrian safety.*

5. Notwithstanding the provisions of Condition 1, no preparation of hot food shall take place on the premises other than that specified in the 'Planning Supporting Statement prepared for Costa' accompanying the application without the prior written approval of the Planning Authority.

*Reason: In order to avoid odour nuisance in the interest of amenity and the inability of the building to accommodate sufficient extract ventilation.*

**APPENDIX A – RELATIVE TO APPLICATION NUMBER: 14/00942/PP**

**PLANNING LAND USE AND POLICY ASSESSMENT**

**A. Settlement Strategy**

Planning permission is sought for change of use from Class 1 (retail) to combined Class 1 and Class 3 (retail and food and drink) along with the formation of an external seating area. The premises are currently unoccupied having been last used as a retail unit with two separate occupiers.

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.

Policy LP RET 1 gives a presumption in favour of Class 1, 2 and 3 developments within a defined town centre.

It is considered that the use of the building as a food and drink outlet with part retail use 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 proposal will help further promote the vibrancy and vitality of the town centre.

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 appended to this report, the development is considered to represent a suitable opportunity for the proposal consistent with the terms of the current Development Plan.

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

The premises form part of a larger building known as Kilmartin Court which has two commercial units at ground floor level with residential flats on the upper floors.

The building is a three and a half storey purpose built structure finished in reconstituted stone with a concrete roof tile.

The proposal is to utilise the existing retail unit and refurbish the interior in order to make best use of the internal space to accommodate a coffee shop facility. The main alterations to the building comprise the following.

- § Formation of internal partitions to form the kitchen area and toilet facilities.
- § Replacement of one window in the rear elevation to a louvre to match the existing above the fire exit door.
- § Formation of a pavement café to the east of the entrance door.

In addition to the above, new signage is indicated but this has been subject to separate Advertisement Consent.

**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 has the potential to constitute 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 to the proposed development subject to a condition being imposed on the grant of planning permission requiring the submission of a detailed noise assessment for their approval.

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. 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. Built Environment**

The building is situated in close proximity to the Bank of Scotland and the former Clydesdale Bank (Mitchells Coffee Corner) both of which are Listed Buildings.

Structure Plan Policy DC 9, Historic Environment and Development Control, states that protection, conservation, enhancement and positive management of the historic environment is promoted. Development that damages or undermines the historic architectural or cultural qualities of the historic environment will be resisted, particularly if it would affect a Scheduled Ancient Monument or its setting, other recognised architectural site of national or regional importance, listed building or its setting, conservation area or historic garden and designed landscape.

Policy LP ENV 13(a), Development Impact on Listed Buildings, states that development affecting a listed building or its setting shall preserve the building or its setting and any features of special architectural or historic interest that it possesses. considered it will provide an acceptable contrast between the old and the modern and it is not considered

However, as the application merely represents a change of use of the premises, with minimal external works proposed, it is not considered the development will have any adverse impact on the setting of the listed buildings in question.

**In this regard it is not considered that the proposal will have a significant adverse impact on the surrounding area or the setting of the nearby listed buildings consistent with the criteria set out in Policies STRAT DC 9 and LP ENV 13(a) which seek to ensure that developments do not have an adverse impact on the character of the built environment.**

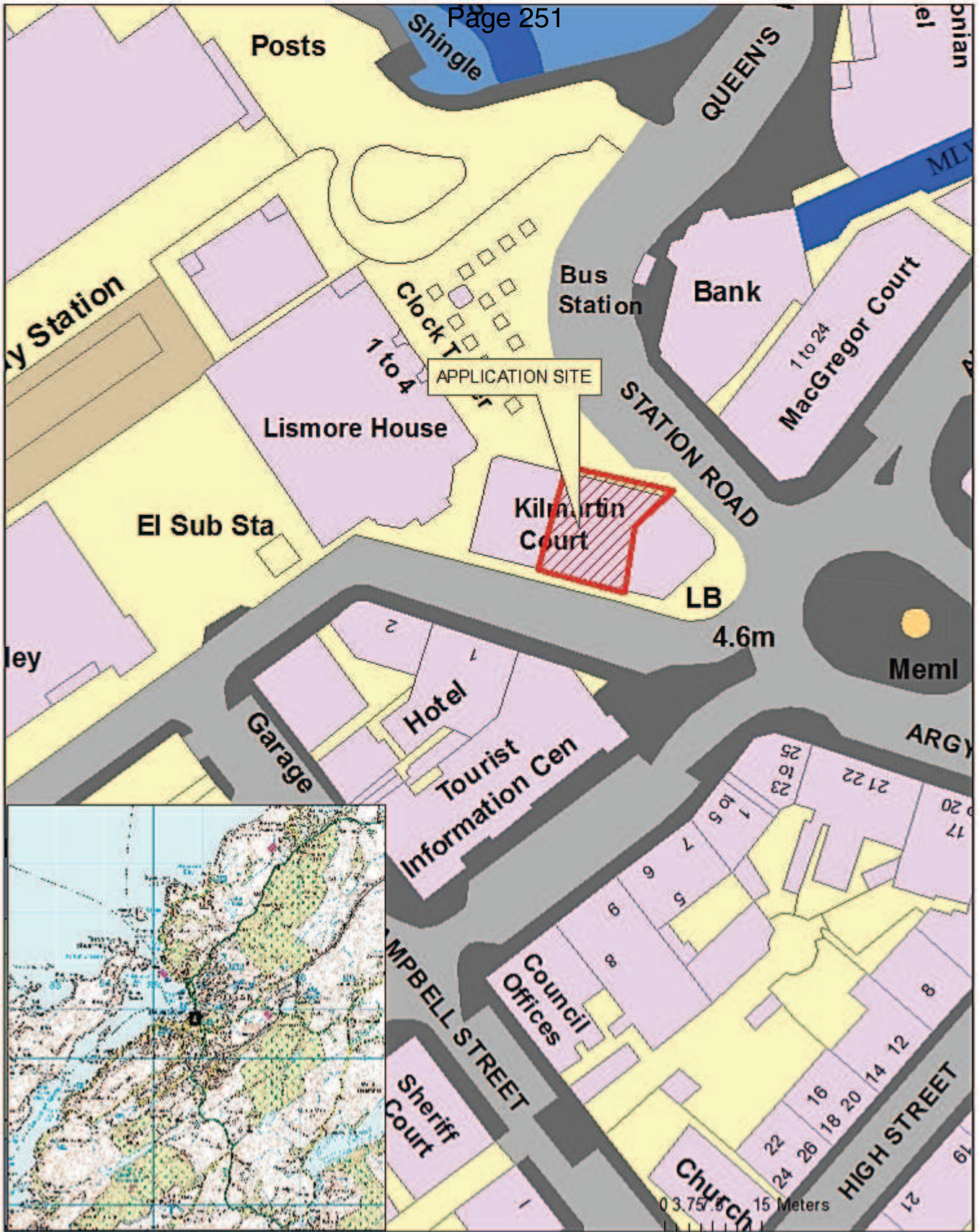
**D. Road Network, Parking and Associated Transport Matters.**

The site is situated within Oban town centre where Appendix C, Car Parking Standards, states that the use of premises within Class 3 will not be expected to provide any off-street car parking provision. The site, being within a town centre, is well served by public transport and by existing public car parks.

The Area Roads Authority raised no objection to the proposed pavement café subject to a condition being imposed to ensure a minimum 2 metre width between the external barriers and the public litter bin on site.

**The proposal is considered to be acceptable in terms of Policies LP TRAN 1, LP TRAN 6 and Appendix C of the adopted 'Argyll and Bute Local Plan' which seek to ensure developments do not restrict public rights of way and are served by an appropriate parking provision.**

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**Committee Plan Relative to Planning Application 14/00942/PP**



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Argyll and Bute Council

Planning Protective Services &amp; Licensing Committee

Development &amp; Infrastructure Services

June 2014

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**Reference No:** 14/01152/S36**Proposal:** Proposed Installation of 10MW Demonstration Tidal Array including cable landfall and sub-station – Consultation under Section 36 of the Electricity Act 1989**Site Address:** Sound of Islay, Isle of Islay

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**A. SUMMARY**

This is a consultation from Marine Scotland in respect of an application under the Electricity Act by Scottish Power to deploy and operate a tidal energy array in the Sound of Islay, with the installation of export cables and the construction of associated onshore infrastructure. The report recommends views to be conveyed to Marine Scotland on behalf of the Council as Planning Authority in respect of the consent sought under Section 36 of the Act, which if it were to be granted, would include a Direction that planning permission for the onshore development be deemed to be granted.

**B. BACKGROUND**

The Sound of Islay is a 21km passage of water separating Islay from Jura which at its narrowest point in the vicinity of Port Askaig is only 1.4km wide. It is scoured by tides of up to 5 knots but is generally well protected from wave action. It is 50m to 60m deep at its deepest point, which extends south from Port Askaig for about 1.5km. This location has been the subject of consideration for some time for a production scale developmental tidal energy project, which would provide the applicants with operating experience of devices which might then be deployed in less protected and more energetic waters elsewhere off the Scottish coast.

This is a revised proposal to one which was consented by the Scottish Government in 2010. The Council was a consultee at the time and no objection was raised to the marine elements of the proposal. Since that time development work has continued on the project, although no commencement of the development has taken place. Two principal changes to the project have arisen in the interim. Firstly, the type of device to be deployed has now changed as developmental work in this emergent sector has gathered pace, and secondly, the location of the proposed cable landfall, onshore infrastructure and grid connection has been changed from one which was intended to be on the Isle of Jura to one which is now to be located on Islay.

Since the original consent was granted there have also been changes to the consenting regime for major electricity generation projects. Due to the introduction of

amended regulations at the end of 2013, it is now open to developers to elect to apply to the Scottish Government for both onshore and offshore elements of a marine project, on the basis that this will include a deemed planning consent for those works which would otherwise have required separate planning consent for works on land. This is one of the first schemes being progressed on that basis.

The Electricity Act consent granted in 2010 provided for the installation of 10 No. 1MW tidal devices in the Sound of Islay for the purposes of capturing tidal energy and converting that to electricity. Each turbine was to be mounted on a tripod support structure and would host a 23m rotor diameter at a minimum water depth of 48m from the blade tip, so as to maintain navigation. The particular turbine model was designed so as to be capable of being installed without the need for specially designed vessels or installation equipment, or the use of divers, with a substructure held in place on the sea bed by ballast to secure it against overturning loads imposed by the tide or the rotation of the turbine blades.

The devices were to be installed in a north-south orientation parallel to the Islay coast in an area of deep water to the south of Port Askaig, and were envisaged to be operated during an initial 7 year lease period, with an option to extend. The cable landfall point was intended to be at the south end of the Array on the Jura coast, with a cable route along the edge of the public road on Jura to a proposed new substation inland, approx. 1.4km from the landfall point. No planning permission was sought at the time for the onshore works, and following a change in land ownership on Jura, the site originally envisaged is no longer available. Accordingly, approval is now being sought for the onshore element of the proposal at an alternative site on Islay, and by means of a composite Section 36 application addressing all the infrastructure required for the project.

In consenting the original scheme in 2010, the Scottish Ministers imposed conditions at the request of consultees, including the Council, which secured *inter alia* the following:

- An operational life of 14 years following commissioning;
- The implementation of an Environmental Monitoring Plan in respect of marine mammals, birds, basking sharks, migratory fish, shellfish and seals;
- The submission and approval of a Fishing Mitigation Plan in consultation with the Clyde Fishermen's Association.
- Mapping and avoidance of maerl (protected rocky seaweed);
- The submission and approval of a Construction Method Statement and a Waste Management Plan;
- Removal of equipment in the event electricity generation was to cease for more than 18 months;
- A requirement for a decommissioning programme at the end of the consent period.

**C. DETAILS OF THE REVISED PROPOSAL**

The purpose of this project is to gain experience in the operation of tidal devices in relatively sheltered waters. It will build on recent development work with the deployment of trial devices in Orkney and Norway which in turn will assist in the development of sites in more exposed locations such as the Pentland Firth.

The current proposal is to utilise an alternative model of turbine to that previously consented in the light of subsequent technical development and trial experience and to move the locations of the devices slightly from their consented positions. An amended means of device installation is also proposed (moored barge and tug rather than dynamic positioning vessel). This cannot be achieved in the context of the original Marine Licence so requires a further application.

It is also proposed that the cable landfall and sub-station site be location on Islay rather than Jura as originally envisaged, and the opportunity is being taken to seek consent for both the marine and terrestrial elements of the revised proposal by means of a single modified Marine Licence application. That application has been submitted to Marine Scotland and is accompanied by Supplementary Environmental Information to that which was produced as part of the Environmental Impact Assessment undertaken in 2010 in support of the original application.

The proposed turbine model is a fully submerged bottom mounted horizontal axis 3 bladed device, mounted on a gravity ballast tripod support structure. The ten turbines proposed will be located in pairs or groups of three in a north–south aligned pattern off the east coast of Islay to the south of Port Askaig. Each turbine has a 26m hub height and a 26m rotor diameter (compared with a previously consented 22m hub height and a 23m blade diameter). The revised tip height will be 39m (rather than 33.5m as consented) although given a slightly deeper deployment depth, the under keel clearance will still be a minimum of 13.6m. (Under keel clearance for the largest vessel known to use the Sound will be over 5m and over 9m for the Calmac ferry). The device locations are to move between 41m and 117m from their consented locations but will still be within the confines of the original application site. The anticipated life of the project is to be increased from 14 to 25 years. Construction is intended to be completed by April 2017.

In addition to the marine infrastructure, deemed planning consent is being sought as part of the Marine Licence for the onshore element of the proposal which comprises a substation compound accommodating a control building, transition pit, external transformers, current regulators and associated electrical infrastructure.

**Marine works**

The environmental consequences of the marine element of the revised proposal have been re-assessed in an addendum to the original Environmental Statement which concludes as follows:

Physical Processes – ‘negligible’ effect on hydrodynamic sedimentary regime.

Benthic Ecology - no species of conservation importance present and no implications beyond those identified in connection with the original proposal.

Water and sediment quality - no implications beyond those identified in connection with the original proposal.

Marine Mammals – primarily harbour seals and some grey seals. Collision risk impact considered ‘minor’ which is less than the original estimated impact given the result of modelling which was not available at the time of the previous application. Potential impacts unlikely to undermine the conservation objectives of the South-East Islay Skerries Special Area of Conservation.

Marine Fish and Shellfish, Anadromous (freshwater spawning) Fish, and Elasmobranchs (basking sharks) – ‘negligible’ adverse effects.

Ornithology – further seabird surveys carried out but no further implications identified beyond those identified in connection with the original proposal.

Commercial Fisheries and Navigation – commercial fishing limited in the Sound to use of static gear (creeling). Extensive consultation with fishing interests undertaken. Impacts on navigation with mitigation in place assessed to be ‘minor’ during construction phase and ‘negligible’ for the operational phase. Navigational Safety Risk Assessment undertaken with risks identified as being ‘tolerable with monitoring’ during both the construction and operational phases.

### **Onshore Works**

Due to land ownership change, the originally envisaged sub-station site on Jura is no longer available, so an alternative on Islay is now proposed. Cables will be brought ashore close to the landfall of the existing Jura – Islay electricity interconnector and then will be laid underground for a short distance to a proposed sub-station compound and control building in a location adjacent to the overhead 33kv grid line providing Islay with its electricity supply.

The compound will include a control building, transformers and other electrical equipment. This would be accessed via an existing access track on the Dunlossit Estate from the public road network close to Ballygrant, which will require extending for about 300m to reach the sub-station site. The site itself is removed from habitation and the public road system. It is located on a level platform between 26 and 30m AOD behind a steep rocky raised beach. The land to the south and west rises up steeply to Beinn Dubh (267m) which provides a massive backdrop to the site. The site will be visible from the Sound of Islay and from ferries arriving at or departing from Port Askaig, as well as at greater distance from a section of the A846 Feolin-Craighouse road where it runs along the west coast of Jura.

The site has been selected for the following reasons:

- 1) It lies less than 2km from the south end of the array so will only require a short undersea cable route;
- 2) It is at the existing transition point from the undersea Islay – Jura interconnector to the overhead distribution line on Islay, which is the most preferable location for connection to the grid;
- 3) It is at a favourable landfall location and is sited close to the coast which will minimise the need for onshore underground cabling;
- 4) The landowner is willing to make the land and access available;
- 5) This is a topographically favourable location, being is one of the few areas of level ground on this coast, sheltered by trees to the north and back-dropped by rising land to the west;
- 6) Access from the public road is available along existing private ways almost up to the site itself. These are capable of improvement without the need for extensive road construction works ;
- 7) The site is not subject to any landscape, nature conservation or other designations and it avoids the need for development within the Jura National Scenic Area, as originally envisaged;
- 8) The site is well removed from any habitation or other noise sensitive receptors;

The principal issues with the development of the site are:

- 1) It lies relatively close to a Golden Eagle nest site so there is potential for disturbance during the construction period;
- 2) The site is removed from other development and will be visible from the ferry route to Port Askaig, from the coast road on Jura, and from some elevated locations within the NSA.

Onshore development comprises a cable landfall with a transition pit at the rear of the inter-tidal zone from where cable will be laid underground for 200m to reach the sub-station site, which will lie immediately south of the existing 33kv pole mounted overhead line. The sub-station will comprise a fenced compound including a transition pit, a control building, external transformers, a capacitor bank, 3 car parking spaces and a septic tank. The compound will measure 62m x 40m and the control building will measure 24.0m x 11.5m in area, and 5.9m to the ridge. The tallest external electrical equipment will be 4.6m high. Mesh security fencing which has an option of a powder coated paint finish is proposed. A temporary 40m x 20m construction compound will be formed abutting the south end of the compound site.

The site is located on a level plateau above a steep rocky raised beach at around 26 – 30m AOD, above which the land level then rises steeply to the west and south-west up to Beinn Dubh (267m). Land to the north of the site is covered by deciduous woodland with some conifer stands and it is within this area that the Golden Eagle nest site is situated. Further north, there is the development influencing the coast in the form of the estate house at Dunlossit, the harbour infrastructure and buildings at Port Askaig, houses fringing the coast at Freeport, and then the substantial distillery building at Coal Ila. The site itself is influenced by the presence of the existing electricity line land fall and the single and twin pole overhead line which runs up the contours inland. Land to the south of the site down to the lighthouse at McArthur's

Head is markedly different with an absence of any development or trees, a steeper and more rocky coastline with cliffs, and more of a wilderness character. This area to the south of the site is accordingly designated as an Area of Panoramic Quality. The coast of Jura on the opposite side of the Sound lies within a National Scenic Area.

The environmental consequences of the onshore element of the revised proposal have been re-assessed in an addendum to the original Environmental Statement which concludes as follows:

**Ornithology** – the substation site lies in proximity to a breeding nest site for Golden Eagles. No implications of significance during the operational phase of the development but short-term construction impact is considered to be ‘major’ adverse. Mitigation measures identified in consultation with Scottish Natural Heritage including restrictions on construction related activity during the January – August breeding season. Ecological Clerk of Works to be employed.

**Terrestrial Ecology** – no designations and land not of any particular conservation value, being mainly bracken acid grassland and wet heath. There are a number of minor watercourses nearby which attract otter to the wider area and will necessitate pre-construction surveys, but there is otherwise no protected species interest of importance within the site itself.

**Landscape and Visual** – The proposed site will not be visible from roads, properties or locations generally frequented by the public on Islay and will only be seen on the approach at close quarters from within the Dunlossit Estate. It will be primarily experienced from ferries transiting the Sound to and from Port Askaig, and at greater distance from the initial section of the coast road from Feolin to Craighouse on Jura. Distant views will also be available from elevated vantage points in the Jura NSA. Of these, views from the ferry will be transient and in the context of adjacent existing native woodland and a huge elevated landscape backdrop. The adjacent woodland, is intended to be extended along the final section of the extended access track and across the front of the sub-station compound in order to help assimilate the development into its landscape setting. Planting is proposed in stands of hardy native pioneer species suited to this location, including Alder, Ash, Birch and Hazel. A localised hill within the development site is to be removed and the foreground of the sub-station site is to be re-contoured with site won material and then planted in order to achieve an element of naturalistic screening. (The artificial appearance of more significant artificial bunding would be counter-productive in this location).

Nonetheless, the presence of development will be evident so care will be required in the selection and colour of materials for the building and fencing. The appearance of this landscape changes markedly from the greens of summer to the browns of winter, so the applicants have created montages of a range of nine sample colours, in order to inform the final choice. A branch from the access track serving the existing interconnector is proposed in order to avoid the use of the final section which passes close to the site of the eagle nest. This will be largely parallel to the coast running along the line of existing contours which will avoid the prospect of an unsightly access scar on the hillside.

**D. POLICY CONTEXT**

Consultation on the draft of Scotland's first 'National Marine Plan' has closed and it is expected to be adopted later this year. This seeks to support the sustainable development of wind, wave and tidal renewable energy, to facilitate joined-up marine planning and licencing processes, to contribute to national renewable energy targets, and to facilitate the development of offshore demonstration facilities.

The Argyll and Bute Renewable Energy Action Plan (REAP) – Powering Scotland's Future sets out a vision that "Argyll and Bute will be at the heart of renewable energy development in Scotland by taking full advantage of its unique and significant mix of indigenous renewable resources and maximising the opportunities for sustainable economic growth for the benefit of its communities and Scotland".

The Argyll and Bute Economic Action Development Plan (EDAP) 2010 – 2013 recognises the potential in as yet untapped sources of renewable energy to create higher value jobs and incomes, to attract private and public inward investment, to result in sustainable economic benefits in more peripheral, remote and fragile communities, to generate community benefit funds that promote local development, and economic benefits to businesses and households through generation and consumption of renewable energy.

The provisions of Policy STRAT RE 2 of the 'Argyll and Bute Structure Plan' 2002 and Policy LP REN 3 of the 'Argyll and Bute Local Plan' 2009 set out general support for other (non-wind) forms of renewable energy and related development. Support is expressed for forms, scales and locations where it will promote the aim of sustainable development, where the servicing, electricity distribution and access impacts are acceptable, and all other material considerations including the Council's international and national obligations are satisfactorily addressed.

The site does not lie within any nature conservation, historic environment or landscape designations. There are, however, designated interests within influencing distance of the site, including an eagle breeding site, the SE Islay Skerries SAC, the Islay coast Area of Panoramic Quality and the Jura NSA. The site lies within local plan designated 'Very Sensitive Countryside' subject to the effect of Structure Plan Policy STRAT DC 6, which is tolerant of renewable energy related development in appropriate locations. The provisions of Policy STRAT DC 7 of the Structure Plan and Local Plan Policies LP ENV 1 - 6 set out the Council's position in respect to nature conservation and the protection of habitats and species. In summary, these set out a general presumption against development which would be likely to have a significant adverse impact upon nature conservation interests.

Overall, it is concluded that impacts upon protected species will be acceptable subject to identified mitigation measures. In particular, onshore works will require to avoid disturbance in the eagle breeding season. Despite landscape mitigation measures, including land re-contouring, tree planting, and careful use of colours, the proposal will extend the influence of development into a hitherto largely undeveloped location in 'Very Sensitive Countryside'. Accordingly, there will be an element of

intrusion in transient views from the ferry arriving at and departing from Port Askaig, although foreground ground modelling, extension of the adjacent tree cover and the presence of a massive backdrop will help reduce this. Views from within the NSA on Jura are more distant than the route of the ferry and tend to be more panoramic along the length of the Sound. They are also already influenced by the presence of significant development on the coast of Islay, including the group of buildings at Port Askaig and the distillery at Caol Ila.

## E. CONSULTATIONS

The proposal has led to consultations with the following Council interests and their responses are detailed below:

Area Roads Engineer (02.06.14) – no objection but conditions recommended to address abnormal construction usage of the public road between the A846 at Ballygrant and the junction with the estate access serving the sub-station site.

Environmental Health Officer (03.06.14) – no anticipated problems associated with operational noise. Construction activities may have the potential to cause disturbance at unsocial hours along the access route so a condition controlling vehicle movements would be prudent. No anticipated issues with artificial lighting given the identified need to avoid this in the interests of not disturbing nearby eagles.

Marine & Coastal Manager (28.05.14) - The revised ES is a comprehensive investigation of the environmental impacts of the proposed development, and the assessments of individual impacts and the mitigation proposed are acceptable in relation to the both marine and coastal elements of the development. Despite an improved assessment on the predicted impacts on marine mammals there remains a degree of uncertainty. It is therefore considered appropriate that the applicants continue their commitment to employ a 'deploy and monitor' strategy in agreement with Marine Scotland and SNH to allow the significance of collision risk to be assessed and if required, appropriate collision mitigation implemented. In terms of shipping, although the clearance above the turbines has decreased slightly this will not have implications for predicted navigation requirements with the mitigation proposed. Onshore parts of the development are now out with the National Scenic Area and sited in a location with existing road access and overhead 33kV lines.

- Biodiversity Officer (04.06.14) - no objection subject to the provision of a Construction Method Statement for both onshore and offshore elements, the implementation of the Environmental and Mitigation Plan as set out in the Environmental Review Report and measures to avoid disturbance to nesting golden eagle .

In addition, to the above responses, Marine Scotland has consulted directly with a range of other bodies and the following have made initial comments available to the Council:



Scottish Natural Heritage (02.06.14) – In terms of the marine works Marine Scotland should undertake an ‘appropriate assessment’ of the likely effects of the proposal on the South-east Islay Skerries SAC, but with recommended conditions, the proposal is unlikely to affect the integrity of the site. In view of the relationship of the onshore works with an eagle nest site, a Construction Method Statement should be required by condition to address disturbance issues. In view of potential disturbance, displacement and collision risk for cetaceans, an Environmental Management Plan and a Vessel Management Plan should be required by condition. Predicted seal collision rates remain low and unlikely to have a significant effect on harbour or grey seals in the area management unit. However, given the uncertainty as to behaviour in response to the presence of the array it is recommended that a monitoring programme be implemented to improve understanding of the consequences of tidal energy developments. Collision risk for diving seabirds is unquantified but SNH has concluded that this is unlikely to be significant at the national level for black guillemot or shag. A pre-commencement survey for otter will be required in respect of the onshore works. In terms of landscape, the proposal introduces development into a sensitive and undeveloped area visible from the Sound and from the Jura NSA. A landscape assessment has been provided by the applicants which is a well-considered response to this context. In addition to its conclusions consideration should be given to the potential impact of lighting (which if inappropriate could significantly alter the assessment of development impact) and the finish of the compound fencing, in order to avoid reflectivity.

Royal Society for the Protection of Birds (02.06.14) - support the project in principle. Given the siting of the onshore works in the vicinity of an eagle nest it will be important to ensure that the mitigation identified by the applicants is required by way of condition. In particular restrictions on vehicle usage and construction activity during the breeding season will be important in order to avoid disturbance other than in circumstance where there has been an unsuccessful breeding attempt.

Scottish Environment Protection Agency (04.06.14) – have lodged a holding objection with Marine Scotland on the grounds of a lack of information on potential adverse impacts of the onshore development on peatland and/or wetland. They have indicated this could potentially be overcome by the submission of additional survey information and possible micro-siting to avoid areas of deep peat. In the event of an approval conditions requested in terms of water course crossings, flood risk and a requirement for a site specific construction environmental management plan.

## **F. CONCLUSION**

This is an important project related to the development of a means of exploiting tidal energy in Scotland. It builds upon device development work carried out elsewhere and the relatively sheltered nature of the site enables device deployment which will provide a test bed from more ambitious offshore projects in more exposed locations. At 10MW installed capacity this is a significant renewables project in its own right, as well as providing production scale experience to further the development of the tidal energy sector.

The marine element of the proposal remains broadly similar to that consented in 2010 other than for the employment of a modified device, some repositioning and a different method of installation. The onshore element avoids the need for development in the Jura NSA but proposes a location set back from and up from the coast of Islay. This is one of the only practicable locations along this coastline given the rocky nature of the coast, the presence of watercourses and native woodland, and the general absence of level areas suited to development. Fortuitously, this coincides with location where the electricity supply reaches the island via Jura, which is a benefit to the proposal in terms of connection to the grid, lack of need for extensive underground cabling and availability of an existing access route capable of improvement.

With identified mitigation in place, the proposal will not significantly affect navigation, commercial fishing, benthic ecology, water quality, marine mammals, fish or seabirds. Potential eagle disturbance during the breeding season can be avoided by the timing of construction works. The only residual issue of concern is the visual intrusion of development in views from ferry traffic along the Sound, and to a lesser degree from more distant locations on Jura. It is considered that foreground land re-modelling, extension of the adjacent native woodland around the development and careful selection of colours for the building and fencing will mitigate this to a degree which is acceptable in the light of an infrastructure project of this importance. Although SEPA have indicated the potential requirement for micro-siting of the control building (suggested to be of the order of 25 -50 m) to avoid deep peat, should the prove necessary following further site investigation it could be achieved by some localised repositioning and reconfiguration of the layout of the compound without any significant consequences for the extent of the visual implications of the development.

## **G. RECOMMENDATION**

It is recommended that:

- a) no objection be raised to the principle of the project as a whole or the details of the marine component of the scheme;
- b) no objection be raised to the issuing of a Direction that deemed planning permission be granted to the onshore elements of the proposal, subject to the imposition of suitably worded conditions (having regard also to views expressed by other consultees), in order to secure *inter alia* those matters listed in the appendix to this report;
- c) Marine Scotland be notified accordingly, with a request that draft conditions be the subject of further consultation with officers prior to the issuing of any consent, having regard to the fact that those conditions will become the responsibility of the Council to enforce.

**Author of Report:** Richard Kerr

Date: 5<sup>th</sup> June 2014

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

**APPENDIX A**

**RECOMMENDED MATTERS TO BE SECURED BY CONDITION IN THE EVENT DEEMED PLANNING PERMISSION IS GRANTED**

1. Development to be implemented in accordance with Mitigation and Monitoring measures identified in the applicant's Environmental Report April 2014.
2. Ecological Clerk of Works to be employed for the duration of the construction of the sub-station and the access thereto.
3. No access improvement or access construction, no vehicular access to the site, and no construction works in respect of the sub-station site to be undertaken between the beginning of January and the end of August in any year unless otherwise agreed in advance with Scottish Natural Heritage. Outwith this period access and construction works should be compliant with a Construction Method Statement.
4. Hours of any vehicular movements to and from the sub-station site to be limited to 0730 to 1800 hours Monday to Fridays and 0800 to 1300 hours Saturdays only (excluding public holidays), other than with the prior written agreement of the Planning Authority.
5. Removal and reinstatement of the temporary construction compound following the commissioning of the development.
6. Details of improvement works to the existing access route from the public road and construction of the extension thereto to be submitted and agreed in advance, including details of construction, surfacing, watercourse crossings and means of reinstatement of excavated margins.
7. Details of the proposed finished level of sub-station compound relative to an identifiable fixed datum outwith the application site, with verification to be supplied by a suitably qualified surveyor in advance of construction proceeding on the control building or the installation of any of the electrical equipment within the compound.
8. Details of the proposed design and colour of the proposed perimeter fencing to the compound.
9. Samples and or full details of the proposed external materials including the roofing material of the sub-station building.
10. Submission of proposed contours of the ground re-modelling along the front of the sub-station compound, including a cross-section(s) demonstrating the relationship with the proposed finished level of the sub-station compound and the height of the building and external structures within the compound.
11. Proposed tree planting scheme including species, sizes, numbers, locations, planting distances, ground preparation, timing of planting, monitoring during establishment period and replanting in the event of failures.
12. Details of the means for reinstating those areas disturbed by the laying of underground cabling.

13. No external lighting to be installed during the construction, operational or decommissioning phases of the development without prior approval.
14. Removal of the sub-station building and all external equipment and reinstatement of the land in the event electricity generation was to cease for more than 18 months.
15. A requirement for a decommissioning programme at the end of the consent period providing for removal of the sub-station building and all external equipment and reinstatement of the land.
16. Submission of a Traffic Management Plan and Method Statement indicating the means of delivery of components to and the construction traffic associated with the development, operation and decommissioning of the substation site.
17. A pre-commencement video/photographic survey of the section of public road between the A846 at Ballygrant and the estate road access to the sub-station site along with a report on areas vulnerable to traffic loading, including an assessment of culverts and other structures, and a programme of weekly inspections during the construction period to ensure that the carriageway remains in a safe condition.
18. Proposals for carriageway widening and the provision/improvement of passing places and the reinstatement of any temporary works required in respect of the section of public road between the A846 at Ballygrant and the estate road access to the sub-station site.

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