

Argyll and Bute Council
Comhairle Earra Ghaidheal agus Bhoid

Customer Services
Executive Director: Douglas Hendry



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

15 October 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, 22 OCTOBER 2014** at **10:45 AM**, 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 24 September 2014 at 10.30 am (Pages 1 - 18)
 - (b) Planning, Protective Services and Licensing Committee 24 September 2014 at 2.00 pm (Pages 19 - 22)
4. **ISLE OF LUING COMMUNITY TRUST: DISCHARGE OF CONDITION - VARIATION OF CONDITION 9 (ROOFING SLATE) OF PLANNING PERMISSION 10/1059/PP: THE ATLANTIC ISLANDS CENTRE, CULLIPOOL, ISLE OF LUING (REF: 14/01018/PP)**
Report by Head of Planning and Regulatory Services (to follow)
5. **MR CHARLES DIXON-SPAIN: RETENTION OF A CABIN FOR OFFICE USE FOR A TEMPORARY PERIOD OF 36 MONTHS (RETROSPECTIVE): DUNANS CASTLE, GLENDARUEL, COLINTRAIVE (REF: 14/01500/PP)**
Report by Head of Planning and Regulatory Services (Pages 23 - 32)
6. **MR CHARLES DIXON-SPAIN: ALTERATIONS TO LISTED BUILDING: DUNANS CASTLE, GLENDARUEL, COLINTRAIVE (REF: 14/01928/LIB)**
Report by Head of Planning and Regulatory Services (Pages 33 - 42)

7. CONSULTATION ON PLANNING CONTROLS, PAY DAY LENDING AND BETTING OFFICES

Report by Executive Director – Development and Infrastructure Services (Pages 43 - 50)

8. UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING APPEAL DECISIONS

Report by Head of Planning and Regulatory Services (Pages 51 - 52)

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 Neil MacIntyre
Councillor Robert Graham MacIntyre	Councillor Donald MacMillan
Councillor Roderick McCuish	Councillor Alex McNaughton
Councillor James McQueen	Councillor Sandy Taylor
Councillor Richard Trail	

Contact: Fiona McCallum

Tel. No. 01546 604392

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 24 SEPTEMBER 2014**

Present: Councillor David Kinniburgh (Chair)

Councillor Gordon Blair	Councillor Donald MacMillan
Councillor Rory Colville	Councillor Roderick McCuish
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: Charles Reppke, Head of Governance and Law
Ross McLaughlin, Development Manager
Peter Bain, Area Team Leader
Sybil Johnston, Senior Planning and Strategies Officer

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Mary Jean Devon.

The Chair advised that Councillor MacMillan would be leaving the meeting to attend the funeral of Angus Gilmour's father in law. On behalf of the Committee he recorded that their thoughts and condolences were with Angus and his family at this time.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. MINUTES

- (a) The Minute of the Planning, Protective Services and Licensing Committee held on 20 August 2014 at 10.15 am was approved as a correct record.
- (b) The Minute of the Planning, Protective Services and Licensing Committee held on 20 August 2014 at 2.00 pm was approved as a correct record.
- (c) The Minute of the Planning, Protective Services and Licensing Committee held on 20 August 2014 at 2.20 pm was approved as a correct record.
- (d) The Minute of the Planning, Protective Services and Licensing Committee held on 20 August 2014 at 2.40 pm was approved as a correct record.
- (e) The Minute of the Planning, Protective Services and Licensing

Committee held on 20 August 2014 at 3.00 pm was approved as a correct record.

- (f) The Minute of the Planning, Protective Services and Licensing Committee held on 20 August 2014 at 3.20 pm was approved as a correct record.
- (g) The Minute of the Planning, Protective Services and Licensing Committee held on 20 August 2014 at 3.40 pm was approved as a correct record.
- (h) The Minute of the Planning, Protective Services and Licensing Committee held on 25 August 2014 was approved as a correct record.

Councillor Donald MacMillan left the meeting at this point.

**4. HOUSES FOR HEROES SCOTLAND AND THE CHRYSTAL TRUST:
ERECTION OF 3 DWELLINGHOUSES AND THE FORMATION OF
VEHICULAR ACCESS: LAND EAST OF SHIRA LODGE, MAIN ROAD,
CARDROSS (REF: 14/01724/PP)**

The Development Manager advised of 10 additional representations that had been received in support of the application and advised that these had been covered in Supplementary Report 1 which had been circulated by email the day before and tabled at the meeting. He advised that all points in Supplementary Report 1 would be covered in his presentation. Supplementary Report 1 also contained information about a representation made by the Chrystal Trust as part of the new Local Development Plan process regarding land at Bloomhill which included and was relevant to the application site.

The Development Manager spoke to the terms of the report advising that planning permission was sought for the erection of 3 dwellinghouses and the formation of a new access on a site adjoining Cardross Old Parish Church and Churchyard. The site is located both within the greenbelt and Cardross Conservation area. The proposed provision is contrary to Policy STRAT DC3 of the approved Argyll and Bute Structure Plan and to Policy LP HOU 1 of the adopted Local Plan which state inter alia that within greenbelt areas encouragement will only be given to very limited and specific categories of countryside based development. A total of 58 emails and letters of representation have been received comprising 38 objectors and 43 supporters. Cardross Community Council has objected and West of Scotland Archaeology Service has raised concern about the impact of the proposal on adjoining listed buildings and scheduled ancient monument. They, however, do not object subject to the provision of an appropriate archaeological condition requiring site investigation and the recovery of any artefacts. Despite the large number of representations received the holding of a pre determination hearing is not recommended as the proposal is contrary to greenbelt policy and there are other robust reasons for refusal. It was recommended that planning permission be refused for the reasons detailed in the report of handling.

Motion

To continue consideration of the application to allow for a site visit and pre-determination hearing.

Moved Councillor Freeman, seconded Councillor Currie.

Amendment

To refuse the application in accordance with the reasons for refusal as outlined in the report by the Head of Planning and Regulatory Services.

Moved Councillor Kinniburgh, seconded Councillor Taylor.

Decision

Following a show of hands vote the Motion was carried by 7 votes to 5 and the Committee resolved accordingly.

(Reference: Report by Head of Planning and Regulatory Services dated 10 September 2014, submitted)

5. HOUSES OF HEROES SCOTLAND AND THE CHRYSAL TRUST: PARTIAL DEMOLITION OF LISTED BOUNDARY WALL TO FACILITATE CONSTRUCTION OF VEHICULAR ACCESS: LAND EAST OF SHIRA LODGE, MAIN ROAD, CARDROSS (REF: 14/01725/LIB)

The Development Manager advised and the Committee noted that this item would be continued and considered in conjunction with the previous item at a pre-determination hearing; as agreed at item 4 of these Minutes.

(Reference: Report by Head of Planning and Regulatory Services dated 9 September 2014, submitted)

6. 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)

The Masterplan Framework Plan and Phase I Design Brief for MAST 1/5 were endorsed by the PPSL Committee on 18 June 2014. The endorsed Framework Plan set out Argyll Estates' overarching vision for the MAST 1/5 and Mixed Use Allocation 3001 designations, but only provided sufficient detail at that time to justify release of land at Barn Park for a Phase 1 housing development. Argyll Estates have subsequently prepared a Phase II Masterplan/Design Brief which has been developed in tandem with proposals for a Class 1 Retail development. The identified Phase II site area is the area of land south of the Inveraray Primary School playing field and which adjoins the Avenue car park. Whilst being located outwith the masterplan area, Phase II submissions acknowledge that the Avenue car park requires to be reconfigured to accommodate a new access route to the masterplan area. The proposals build upon the Key Principles which were established in the Framework Plan and the

nature, scale, layout and built form envisaged for the Phase II development is consistent with the aspiration to provide a high quality, urban environment which respects its location within the historic environment. It was recommended that the Phase II Masterplan/Design Brief be endorsed as an addendum to the previously approved Framework Plan and in this respect be afforded material weighting in the future determination of planning applications within the masterplan boundary, with recognition that such endorsement represents a 'minor departure' to the provisions of the adopted Local Plan at the current stage of the plan making process.

Decision

Agreed to endorse the Phase II Masterplan/Design Brief as an addendum to the previously approved Framework Plan and in this respect be afforded material weighting in the future determination of planning applications within the masterplan boundary, with recognition that such endorsement represents a 'minor departure' to the provisions of the adopted Local Plan at the current stage of the plan making process.

(Reference: Report by Head of Planning and Regulatory Services dated 12 September 2014, submitted)

7. MACLEOD CONSTRUCTION LTD: ERECTION OF CLASS 1 RETAIL STORE, UPGRADE OF ACCESS AND ASSOCIATED LANDSCAPING: LAND SOUTH WEST OF INVERARAY PRIMARY SCHOOL, THE AVENUE, INVERARAY (REF: 14/02020/PP)

The Area Team Leader spoke to the terms of the report advising that the proposal related to development located within the 'Countryside Around Settlement' lying adjacent to the Inveraray 'Settlement area' to which the provisions of STRAT DC 2 set out a presumption in principle against development. This designation is, however, superseded by the uncontested emergent provisions of the Argyll and proposed Local Development Plan which sets out the Council's intent to subsume the current Housing Allocation within a larger Mixed Use Allocation (MU 3001) within which support in principle was afforded for up to 150 dwelling units subject to a masterplan for designation MAST 1/5 having already been endorsed by the Council. An initial Framework for the masterplan area, along with a Phase I development brief was endorsed by PPSL on 18 June 2014. A Phase II masterplan document produced by Argyll Estates has also been endorsed by the PPSL Committee today. This proposal sets out a 'medium scale' retail development of 420sqm gross retail floor space which is intended to be operated by the Co-op as a replacement for their existing town centre store. Whilst the proposal is considered to be contrary to the provisions of policies STRAT DC 2 of the Argyll and Bute Structure Plan 2002 and LP RET 4 of the adopted Argyll and Bute Local Plan 2009 it is considered appropriate at this time to afford greater material weight to the uncontested provisions of the emergent Argyll and Bute proposed Local Development Plan (Feb 2013). It is therefore recommended that planning permission be granted as a 'minor departure' to the provisions of the adopted Local Plan subject to conditions and reasons set out in the report of handling.

Motion

To agree the recommendations as contained within the report by the Head of Planning and Regulatory Services.

Moved Councillor Kinniburgh, seconded Councillor Taylor.

The Chair ruled and the Committee agreed to adjourn for five minutes to allow Councillor Colville to prepare a competent amendment.

Amendment

To continue consideration of the application to allow further discussions to take place between the developer and the Planning Authority in respect of the appearance and design of the building to seek to more closely reflect the character of the conservation area.

Moved Councillor Colville, seconded Councillor Blair.

Decision

On a show of hands vote the Motion was carried by 9 votes to 3 and the Committee resolved as follows -

Agreed to grant planning permission as a 'minor departure' to the adopted Argyll and Bute Local Plan 2009 subject to the following conditions and reasons:-

1. The development shall be implemented in accordance with the details specified on the application form dated 19th August 2014 and the approved drawing reference numbers 1/6 – 6/6 unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

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

2. Notwithstanding the effect of Condition 1, no development shall commence until samples of materials to be used in the construction of external wall finishes, roof coverings, skew/masonry details 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.

3. Notwithstanding the effect of Condition 1, no development shall commence until 1:100 scale plans confirming the position and dimensions of window and door units to be installed in the development, and 1:20 scale plans providing details of the proposed

window and door units, their colour finishes and material have been submitted to and approved in writing by the Planning Authority. Thereafter the development shall be completed in accordance with the approved details or such alternatives as may be agreed in writing with the Planning Authority.

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

4. No development shall commence until details of all rainwater goods to be installed in the development have been submitted to and approved in writing by the Planning Authority. Thereafter the development shall be completed in accordance with the approved details or such alternatives as may be agreed in writing with the Planning Authority.

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

5. Notwithstanding the provisions of Condition 1, the finished ground floor level of the development shall be 5.725m relative to Ordnance Datum unless otherwise agreed in writing by the Planning Authority.

Reason: In order to ensure appropriate mitigation for flood risk and to ensure an acceptable relationship between the development and its surroundings.

6. No development shall commence until a scheme of boundary treatment, surface treatment, landscaping and public realm works has been submitted to and approved in writing by the Planning Authority, in consultation with Roads & Amenity Services. 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) Surface treatment of proposed means of access and hardstanding areas;
- v) Specification of any street furniture to be provided;
- vi) Proposed soft and hard landscaping works including the location, species and size of every tree/shrub to be planted;
- vii) A programme for the timing, method of implementation, completion and subsequent on-going maintenance.

The submission shall include proposals for the provision of public realm improvement works along the eastern edge of the Avenue car park within the application site boundary, and landscape/surface treatment to be applied to the re-aligned section of the Avenue car park.

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.

7. 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.

8. The proposed access shall join the trunk road at a junction which shall be constructed by the applicant to a standard as described in the Department of Transport Advice Note TD 41/95 (Vehicular Access to All-Purpose Trunk Roads) (as amended in Scotland) complying with layout 3. The junction shall be constructed in accordance with details that shall be submitted and approved by the Planning Authority, after consultation with Transport Scotland, as the Trunk Road Authority, before any part of the development is commenced.

Reason: To ensure that the standard of access layout complies with the current standards and that the safety of the traffic on the trunk road is not diminished.

9. Visibility splays shall be provided and maintained on each side of the access onto the A83(T) to the satisfaction of the local Planning Authority, after consultation with Transport Scotland, as the Trunk Roads Authority. These splays are triangles of ground bounded on 2 sides by the first 4.5 metres of the centreline of the access driveway (the set back dimension) and the nearside trunk road carriageway measured 70 metres (the y dimension) in both directions from the intersection of the access with the trunk road. In a vertical plane, nothing shall obscure visibility measured from a driver's eye height of between 1.05 metres and 2.0 metres positioned at the set back dimension to an object height of between 0.26 metres and 1.05 metres anywhere along the y dimension.

Reason: To ensure that vehicles entering or existing the access can undertake the manoeuvre safely and with minimum interference to the safety and freeflow of traffic on the trunk road.

10. Notwithstanding the provisions of Condition 1, 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.

11. Notwithstanding the provisions of Condition 1, the proposed access from the retail store car park onto the prospectively adoptable standard road shall be formed in accordance with the Council's Roads Standard Detail Drawing SD 08/002 Rev a. and visibility splays of 2.4 metres to point X by 42.0 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.

12. Notwithstanding the provisions of Condition 1, the proposed access from the retail store service area onto the prospectively adoptable standard road shall be formed in accordance with the Council's Roads Standard Detail Drawing SD 08/002 Rev a. and visibility splays of 2.4 metres to point X by 42.0 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.

13. The parking and turning areas shall be laid out and surfaced in accordance with the details shown on the approved plans 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.

14. No development shall commence until, a Traffic Management Plan has been submitted for the written approval of the Planning Authority in consultation with the Roads Authority. The Plan shall detail

approved access routes, agreed operational practices (including avoidance of convoy movements, specifying conduct in use of passing places, identification of turning areas, reporting of verge damage) and shall provide for the provision of an appropriate Code of Practice to drivers of construction and delivery vehicles. The development shall be implemented in accordance with the duly approved Traffic Management Plan.

Reason: To address abnormal traffic associated with the development in the interests of road safety.

15. No development or ground breaking works shall commence until an Archaeological Mitigation Strategy has been submitted to and approved in writing by the Planning Authority in accordance with a brief which has been the subject of prior agreement with the West of Scotland Archaeology Service.

The Archaeological Mitigation Strategy shall be prepared by a suitably qualified person and shall provide that all significant archaeological remains are preserved in situ with provision for the recording and recovery of archaeological resources within the development site.

Thereafter the development shall be implemented in accordance with the duly approved Archaeological Mitigation Strategy unless otherwise approved in writing by the Planning Authority in consultation with the West of Scotland Archaeology Service.

Reason: In order to protect archaeological resources.

16. All construction works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Council, shall be carried out only between the hours of 08.00 and 18.00 on Mondays to Fridays and between the hours of 09.00 and 13.00 on Saturdays.

Reason: In order to protect the amenities of the area from noise disturbance.

17. Large goods vehicles shall not enter or leave the application site, nor shall deliveries be transferred between the store and vehicles, except between the hours of 07.00 hours and 18.00 hours Mondays to Saturdays and 10.00 and 16.00 on Sundays.

Reason: In order to protect the amenities of the area from noise disturbance.

18. 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. Lighting proposals shall be designed having regard to the Scottish Executive Guidance Note Controlling Light Pollution and Reducing Light Energy Consumption. 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.

19. 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 12 September 2014, submitted)

8. NHS HIGHLAND: MASTERPLAN IN RELATION TO PROPOSED ARGYLL AND BUTE LOCAL DEVELOPMENT PLAN DESIGNATION MAST 1/8 LOCHGILPHEAD/ARGYLL AND BUTE HOSPITAL MIXED USE/BUSINESS/TOURISM/COMMUNITY FACILITIES: ARGYLL AND BUTE HOSPITAL, BLARBUIE ROAD, LOCHGILPHEAD (REF: 14/01256/MPLAN)

Within the emerging Argyll and Bute proposed Local Development Plan (February 2013) the Council has proposed that the full extent of land associated with the Argyll and Bute Hospital be designated as a Potential Development Area (PDA 3008) for a Mixed use development incorporating a minimum of 25% affordable housing provision. NHS Highland has advised of their immediate requirement to provide a replacement facility for the existing mental health and support services serving Argyll and Bute which are not fit for purpose at this location. A masterplan which seeks to establish that the initial 'Stage 1' release of land, including the rationalisation and re-development of the hospital functions and initial housing development, can be achieved at this location without preventing possible future re-development of the existing built up areas within the hospital estate has been submitted for consideration. The components of the proposed mixed use scheme are generally considered to be compatible with the proposed PDA 3008 and it is recommended that the Masterplan be endorsed as detailed in the report.

Decision

The Committee agreed to:

1. provide full endorsement to the elements of the masterplan as they relate to the release of land for the development of a new mental health unit, relocation of Blarbuie Woodland Trust accommodation, and land identified for housing development (lying adjacent to H3006);

2. endorse in principle the strategic framework set out in the masterplan for Zones 1 – 5 with a caveat that a 'Stage 2' masterplan submission be required for further consideration of the Council in advance of these areas being released for development; and
3. declined at this time to endorse the masterplan proposals for Zone 6 given the potential for new built development at this location to have an adverse impact upon the wider landscape setting of Lochgilphead. It would however remain open to the landowner to seek to satisfactorily address these concerns in any future 'Stage 2' masterplan submission.

(Reference: Report by Head of Planning and Regulatory Services dated 11 September 2014, submitted)

9. NHS HIGHLAND: DEMOLITION OF BUILDINGS, TREE REMOVAL AND GROUND ENGINEERING, ERECTION OF CLINICAL BUILDING, ESTATES BUILDING, SERVICE YARD AND LANDSCAPING WORKS TO CREATE PATIENT GARDENS AND AMENITY SPACE WITH RELATED MASTERPLAN SUBMISSION REFERENCE 14/01256/MPLAN MAST 1/8 LOCHGILPHEAD/ARGYLL AND BUTE HOSPITAL MIXED USE/BUSINESS/TOURISM/COMMUNITY FACILITIES: ARGYLL AND BUTE HOSPITAL, BLARBUIE ROAD, LOCHGILPHEAD (REF: 14/01083/PP)

The Area Team Leader spoke to the terms of the report advising that the proposal related to development within a larger site identified as Area for Action 12/3 within the adopted Argyll and Bute Local Plan. This designation is, however, superseded by the uncontested, emergent provisions of the Argyll and Bute proposed Local Development Plan which set out the Council's intent to subsume the current Area for Action within a larger Mixed Use Potential Development Area (PDA 3008) within which support was afforded to a mixed use re-development of the Argyll and Bute Hospital Estate subject to a masterplan for designation MAST 1/8. NHS Highland put forward a 'Stage 1' masterplan for designation MAST 1/8 which has been endorsed by the PPSL Committee. This proposal sets out a 'large scale' community facility development comprising a new mental health care unit within the grounds of the existing Argyll and Bute Hospital and is intended to replace the existing buildings with a modern facility designed to meet current mental health care requirements for the locality. The reuse of the site for a mental health care facility is consistent with the 'Stage 1' masterplan and the proposed development is of appropriate design, scale and finish having regard to its location and the Council's Sustainable Design Guidance. The proposal requires the felling of a significant area of healthy, mature woodland which provides a significant contribution to the amenity and setting of the locale. The loss of such an area of sustainable, healthy woodland is contrary to the provisions of policy LP ENV 7. However, in this particular instance the anticipated social and economic benefits associated with the hospital re-development, and the ability of the Applicant to provide compensatory planting in the immediate locale are considered to offer sufficient justification to approve planning permission as a 'minor departure' to the

provisions of LP ENV 7 and subject to the conditions and reasons detailed in the report.

The Area Team Leader advised of a typographical error within Section S of the report and Section C of the Appendix where references made to LP ENV 17 should have read LP ENV 7.

Decision

Agreed to grant planning permission as a 'minor departure' to the provisions of policy LP ENV 7 and subject to the following conditions and reasons:-

1. The development shall be implemented in accordance with the details specified on the application form dated 30th April 2014, supporting information and the approved drawing reference numbers 1/14 – 14/14 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. No development shall commence until details of the proposed finished ground floor level of the development relative to an identifiable fixed datum located outwith the application site have been submitted to and approved in writing by the Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: In order to secure an acceptable relationship between the development and its surroundings.

3. Notwithstanding the effect of Condition 1, no development shall commence until samples of materials to be used in the construction of external walls and roof coverings 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.

4. Notwithstanding the effect of Condition 1, no development shall commence until details of colour finish of the window and door units to be installed in the development have been submitted to and approved in writing by the Planning Authority. Thereafter the development shall be completed in accordance with the approved details or such alternatives as may be agreed in writing with the Planning Authority.

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

5. 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.

6. No tree felling, demolition works or development shall commence within the application site 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 5837:2005 "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 amenity and nature conservation.

7. No tree felling, demolition works or development shall commence within the application site until a Detailed Landscape Plan has been submitted to and approved in writing by the Planning Authority and approved by the Planning Authority in consultation with Forestry Commission Scotland.

The Detailed Landscape Plan shall be compliant with the requirements set out within Appendix 1 of the Forestry Commission Scotland's consultation response dated 28th August 2014, and shall inform the design of a Compensatory Planting Plan which shall be included within the submission.

The Compensatory Planting shall be implemented and maintained in accordance with the approved scheme unless otherwise approved in writing by the Planning Authority.

Any trees which within a period of ten years from the completion of the approved Compensatory Planting 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: In order to an appropriate scheme of compensatory planting elsewhere within the locality to mitigate for the loss of sustainable, mature woodland within the development site.

8. No demolition works or development shall commence within the application site until a scheme of boundary treatment, surface treatment and landscaping within the application site 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:
- viii) Existing and proposed ground levels in relation to an identified fixed datum;
 - ix) Existing landscaping features and vegetation to be retained;
 - x) Location design and materials of proposed walls, fences and gates;
 - xi) Proposed soft and hard landscaping works including the location, species and size of every tree/shrub to be planted;
 - xii) 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.

9. No demolition works or development shall commence within the application site until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Planning Authority. The details of the scheme shall include measures for protecting the amenity of nearby residential properties during demolition and construction activities. The CMS shall have regard to BS5228 – Code of Practice for Noise and Vibration Control on Construction Sites, and shall include:
- i) The proposed working hours of demolition and construction works.
 - ii) Details of the plant and machinery to be used.
 - iii) A Noise Management Plan outlining the complaint response procedure to be adopted.
 - iv) Mitigating measures to prevent any dust nuisance.

- v) Mitigating measures to prevent excessive vibration to nearby residential properties.
- vi) Any other information the applicant may deem necessary to demonstrate that the closest sensitive receptors are unlikely to be affected by noise or disturbance.

Demolition and construction works shall thereafter be undertaken in accordance with the approved CMS, unless otherwise agreed in writing with the Planning Authority.

Reason: In order to protect the amenities of the area for noise and dust disturbance.

10. In the event that contamination that was not previously identified is found at any time when carrying out the approved development it must be reported immediately in writing to the Planning Authority. An investigation and risk assessment must be undertaken and where remediation is deemed necessary then a Remediation Scheme must be prepared which is subject to the approval in writing of the Planning Authority.

Following completion of measures identified in the approved Remediation Scheme a verification report must be prepared, which is subject to the approval in writing of the Planning Authority.

Reason: In the interests of public health, as the site may be contaminated as it includes an area of made-up ground of unknown infill material and in order to ensure that any contamination is removed appropriately.

11. The development and demolition works shall be implemented having full regard to the recommendations set out in sections 6.1 and 6.2 of the Protected Species Survey (dated February 2014).

Reason: In order to ensure demolition works / construction activity is undertaken in a manner which does not compromise European Protected Species.

12. The road geometry, parking and turning area shall all be laid out and surfaced in accordance with the details shown on the approved plans 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.

13. Notwithstanding the provisions of Condition 1, the proposed southern access to the shall be formed with visibility splays of 2.4 metres to point X by 42.0 metres to point Y from the centre line of the proposed access. Prior to work starting on site 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 visibility splays

shall be maintained clear of all obstructions thereafter.

Reason: In the interests of road safety.

14. No demolition works or development shall commence within the application site until, a Traffic Management Plan has been submitted for the written approval of the Planning Authority in consultation with the Roads Authority. The Plan shall detail approved access routes, agreed operational practices (including avoidance of convoy movements, specifying conduct in use of passing places, identification of turning areas, reporting of verge damage) and shall provide for the provision of an appropriate Code of Practice to drivers of construction and delivery vehicles. The development shall be implemented in accordance with the duly approved Traffic Management Plan.

Reason: To address abnormal traffic associated with the development in the interests of road safety.

15. No demolition works shall commence until a schedule of items to be reclaimed from the site during or prior to demolition has been drawn up in consultation with, and approved in writing by the Planning Authority. These materials and items shall be satisfactorily set aside, stored and/or used in a manner which shall first be agreed with by the Planning Authority, prior to any demolition taking place.

Reason: In order to protect and save materials and items which can reasonably be retrieved and reused, in the interests of the historical and architectural qualities of the building to be demolished.

16. No development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by the West of Scotland Archaeology Service, and approved by the Planning Authority. There after the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development is undertaken to the satisfaction of the Planning Authority in agreement with the West of Scotland Archaeology Service.

Reason: In order to protect archaeological resources.

(Reference: Report by Head of Planning and Regulatory Services dated 10 September 2014, submitted)

The Chair ruled and the Committee agreed to take item 11 of the agenda before item 10 of the agenda to allow the Senior Planning and Strategies Officer to speak to her item and then leave the meeting.

**10. PROPOSED ARGYLL AND BUTE LOCAL DEVELOPMENT PLAN:
SUPPLEMENTARY GUIDANCE CONSULTATION: GREEN NETWORK
MAPS**

A report advising the Committee of the further development of Supplementary Guidance to support the Local Development Plan was considered. This proposed Supplementary Guidance related to Green Network mapping which accompanied the Green Network Supplementary Guidance already agreed.

Decision

1. Noted the proposed Supplementary Guidance as contained in Appendix 1 to this report and agree to it being issued for public consultation for a period of 6 weeks;
2. Agreed that at the end of this consultation a report be submitted to the PPSL. The report will summarise the issues raised by any representations received on this Supplementary Guidance and will provide recommendations for consideration by the PPSL; and
3. Noted the process for adoption of the Supplementary Guidance.

(Reference: Report by Executive Director – Development and Infrastructure Services dated 26 August 2014, submitted)

11. PLANNING PERFORMANCE FRAMEWORK 2013/14

Consideration was given to the 2013/14 Planning Performance Framework (PPF) Annual report as required by the Scottish Government Planning Reform Agenda.

Decision

1. Endorsed the Planning Performance Framework (PPF) 2013/14 subject to the minor amendments as agreed by the Committee;
2. Agreed for the submission of the PPF to Scottish Government before 26th September 2014;
3. Noted the new financial penalties for poor PPF outcomes enacted by the Scottish Government and shall contribute to next year's PPF 2014/15; and
4. Noted that an update report shall be submitted detailing Scottish Government feedback at the appropriate time in December 2014 or January 2015.

(Reference: Report by Executive Director – Development and Infrastructure Services dated 10 September 2014, submitted)

12. UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING APPEAL DECISIONS

A report advising of a recent appeal decision by the Scottish Government Directorate for Planning and Environmental Appeals relative to enforcement case was considered.

Decision

Noted the contents of the report.

(Reference: Report by Head of Planning and Regulatory Services dated 15 September 2014, 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 2 items of business on the grounds that it was likely to involve the disclosure of exempt information as defined in Paragraph 13; and 13 respectively of Part 1 of Schedule 7A to the Local Government (Scotland) Act 1973.

13. AMENITY NOTICE - 12/00043/ENAMEN

Consideration was given to Amenity Notice case reference 12/00043/ENAMEN.

Decision

Agreed the recommendations detailed in the report.

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

14. AMENITY NOTICE - 12/00176/ENAMEN

Consideration was given to Amenity Notice case reference 12/00176/ENAMEN.

Decision

Agreed the recommendations detailed in the report.

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

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 24 SEPTEMBER 2014**

Present: Councillor David Kinniburgh (Chair)

Councillor Rory Colville	Councillor Roderick McCuish
Councillor Robin Currie	Councillor Alex McNaughton
Councillor George Freeman	Councillor James McQueen
Councillor Alistair MacDougall	Councillor Richard Trail
Councillor Robert G MacIntyre	

Attending: Charles Reppke, Head of Governance and Law
Kate Connelly, Trainee Solicitor
Joy MacGillivray, Applicant
Jane MacLeod, Applicant's Agent

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Gordon Blair, Mary Jean Devon and Donald MacMillan.

2. DECLARATIONS OF INTEREST

There were no declarations of interest intimated.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF TAXI OPERATORS LICENCE (K J CARS, LOCHGILPHEAD)

The Chair welcomed all those present to the meeting, outlined the procedure that would be followed during the meeting and introductions were made.

The Chair invited Mrs Jane MacLeod, applicant's agent to speak in support of the application for a taxi operator's licence for K J Cars, Lochgilphead.

Mrs MacLeod advised that K J Cars was a partnership of Mrs Joy MacGillivray and Mr Kenny MacGillivray. She advised that Mr and Mrs MacGillivray had stayed in Mid Argyll for many years and in that time had run 2 hotels; the Kilmartin Hotel and the Argyll Arms Hotel in Ardrishaig; and had also run a guest house. Mr and Mrs MacGillivray had moved from Mid Argyll and Lossiemouth where they had run a further hotel. She advised that they now wished to move back to Mid Argyll to be close to their 3 grandchildren and daughters. Mrs MacLeod told the Committee that Mr MacGillivray currently held a taxi drivers licence for a Mercedes C180 car and also held a taxi drivers licence issued by Moray Council. Mrs MacLeod highlighted that due to their experience Mr and Mrs MacGillivray had a good awareness of both taxi licensing and liquor

licensing law which she believed would be an asset to them as taxi operators. She added that Mr MacGillivray had no history of accidents, convictions or penalty points.

Mrs MacLeod advised the Committee that the intention would be to run a 24 hour taxi service which provided longer runs to places such as Glasgow airport and the hospitals in Glasgow. She added that currently there was no other 24 hour service in Lochgilphead and unmet demand at the taxi stance; there was no taxi service beyond 10pm at night. If granted the service would go towards meeting this unmet demand. Mrs MacLeod informed the Committee that the taxi service would be available by telephone for immediate and pre-bookable pick ups as well as making use of the taxi stance at the front green. She indicated that if the business proved successful then they had advised that they would purchase a larger vehicle with wheelchair access.

Mrs MacLeod concluded by saying that she commended the application and asked that the Committee gave their approval.

The Chair invited Members of the Committee to pose questions to the applicant's agent.

Councillor Freeman questioned why the figures for Lochgilphead in the table at 4.4 in the Halcrow report were all 0. He asked if this was because Lochgilphead had not been included in the survey. Mr Reppke advised that the figures were 0 because during the period the stance in Lochgilphead was observed there were no cars available on the stance. Councillor Freeman asked what the difference was between a private hire and a taxi licence and Mr Reppke replied that private hire were called by telephone and that their cars did not sit on the stance.

Councillor Kinniburgh enquired as to how long it would be before K J Cars looked into the purchase of a wheelchair accessible car. Mrs MacLeod replied that if there was an immediate need then they would look into this immediately but they would not know until the business was up and running whether there would be a demand for the service.

Councillor MacIntyre asked whether the three existing businesses had a wheelchair accessible car to which Mrs MacLeod replied she did not know.

Councillor Colville asked for clarification over why Mr MacGillivray held both a taxi drivers licence in Moray and in Lochgilphead. Mrs MacLeod informed him that Mr and Mrs MacGillivray still had to sell a house in Moray and would allow Mr MacGillivray to work in Moray for another operator if need be. Councillor Colville asked how the 24 hour service would operate with only Mr MacGillivray as the driver. Mrs MacLeod clarified that the 24 hour service meant that the taxi would be pre-bookable over a 24 hour period and that Mr MacGillivray would carry out a job and rest as appropriate. Councillor Colville asked if a private hire licence would be more suitable to which Mrs MacLeod replied that it would not as K J Cars wished to make use of the taxi stance.

Councillor Kinniburgh asked if it was their intention to make use of the rank as a major part of the business to which Mrs MacLeod replied that it would not be a major part of the business but they certainly intended to make use of it.

This concluded the questions by Members and the Chair invited Mrs MacLeod to sum up.

Mrs MacLeod commended the applicants and highlighted their experience running businesses in Mid Argyll. She highlighted that there were only 3 other taxi businesses in Mid Argyll, none of which operated after 10pm; and that there was a demand for a long distance taxi service and for one which served evening functions. She concluded by commending the application and recommending it for approval by the Committee.

The Chair asked Mrs MacLeod if she felt she had received a fair hearing to which she confirmed that she had.

The Chair invited Members to debate the application.

Councillor Currie moved that the application be granted and Councillor Freeman seconded this.

Councillor McCuish stated that demand could not be measured accurately when there was no service there and advised that he agreed with his colleagues.

Decision

The Committee agreed to grant the application for a taxi operator's licence to K J Cars, Lochgilphead on the basis that there appeared to be some latent demand for a 24 hour service in Mid Argyll.

(Reference: Report by Head of Governance and Law dated September 2014, submitted)

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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 2013 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 14/01500/PP

Planning Hierarchy: Local

Applicant: Mr Charles Dixon-Spain

Proposal: Retention of a cabin for office use for a temporary period of 36 months (retrospective)

Site Address: Dunans Castle, Glendaruel, Colintrave PA22 3AD

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Retention of a cabin for Class 4 office use for a temporary period of 36 months (retrospective).

(ii) Other specified operations

- Installation of foul water drainage connection to existing septic tank;
 - Connection to private water supply.
-

(B) RECOMMENDATION:

It is recommended that Planning Permission be granted as a 'minor departure' to development plan policy subject to the conditions set out below.

(C) HISTORY:

00/01900/DET - Planning Permission granted on 7th February 2001 for the erection of a shed on land to the north east of the castle. This permission was not implemented.

02/01861/DET - Planning Permission granted on 16th December 2002 for the erection of a timber building for residential, storage and workshop use. Condition 3 of this permission required the residential use of the building to cease by 16th December 2004 unless further consent was granted.

05/00028/VARCON - Application received on 7th January 2005 for an additional 24-month occupancy of the temporary building. This application was withdrawn on 23rd February 2005 as it had been established that two additional timber buildings had been erected at the site without Planning Permission.

05/00396/DET - Permission granted on 5th September 2005 for repairs and alterations to house attached to castle ruin; erection of a steel clad roof for a temporary period over the link from house to castle ruin to allow dry rot treatment; erection of steel clad roof over castle ruin for a temporary period to provide protection; formation of new vehicular access from A886 road; formation of access track with passing places; and erection of temporary store for construction purposes.

05/00398/LIB - Listed Building Consent granted on 5th September 2005 for repairs and alterations to house attached to castle ruin; erection of a steel clad roof for a temporary period over the link from house to castle ruin to allow dry rot treatment; erection of steel clad roof over castle ruin for a temporary period to provide protection.

05/00463/DET - Application received on 2nd March 2005 for the retention of the additional buildings and further 24-month occupancy of the original temporary building. It transpired during the processing of this application that the original timber building had not been erected in accordance with the details approved under permission 02/01861/DET and that new foul drainage arrangements required to be installed. This application was, therefore, withdrawn on 18th May 2005.

05/01175/DET - Permission granted on 4th August 2005 for the temporary retention of site office and storage building; the amendment to planning permission 02/01861/DET (in terms of layout and design of timber building); the variation of condition 3 of planning permission 02/01861/DET (to allow the continued residential use of timber building for a further 24 month period); and the installation of septic tank and soakaway.

06/01334/NMA - Application for amendment to Planning Permission 05/00396/DET incorporating revised position timber boardwalk was approved on 14th May 2007.

10/01793/PP- Retention of temporary accommodation, replacement of mineral felt roof covering with box profile metal sheeting and provision of septic tank (Retrospective) was approved 4 May 2012

14/01928/LIB – Application for alterations to listed building – appears elsewhere on the agenda.

The presence of two additional timber outbuildings was brought to the Council's attention in 2011. A retrospective application (13/00797/PP) to retain these was withdrawn in January 2014. In the absence of a revised application, an enforcement notice (12/00062/ENOTH2) was served on 22 May 2014 requiring the removal of a timber outbuilding used as an office.

An appeal against the enforcement notice was upheld on 3 September 2014. The Reporter concluded that a thorough and professional scheme of restoration is planned and considered that a much longer period for compliance was justified. He considered that any disadvantage to the public is minimal, as the timber building is simple and comparatively unobtrusive and hardly likely to be noticed as affecting the setting of the castle for as long as restoration works are in progress. He varied the enforcement notice to give a compliance period of 3 years, i.e. until 3 September 2017.

(D) **CONSULTATIONS:** None.

(E) **PUBLICITY:** The proposal has been advertised (expired 1 August 2014).

(F) **REPRESENTATIONS:**

One letter of objection has been received from Mr R Creelman, Stronardron, Glendaruel (letter dated 8 July 2014) on the following grounds:

- The application is misleading as it is a commercial office in support of Dunans Castle Ltd, giving rise to substantial numbers of visitors to the Dunans and grounds.

Comment: The log cabin is evidently used commercially by Dunans Castle Ltd – a business wholly owned by the applicant. The business offers investors the opportunity to acquire an honorary title of Laird. The business, which appears to be largely internet based, is owned by the applicant.

The applicant and one other full-time staff member use the log cabin building to deal with the administrative aspects of the business. The office is equipped to accommodate three persons and has toilet and washing facilities including a shower, but currently no facilities for food preparation. The building was previously used as a site office on another part of the site temporarily sited under planning permission 05/01175/PP. The building remained on site in breach of the planning permission until it was re-sited to its current position during 2010.

- The submitted plans do not show other existing timber buildings. The plethora of shacks would remove what little visual amenity exists for this listed building.

Comment: The Planning Authority has registered and validated the application in an attempt to address the objector's repeated complaints about breaches of planning and listed building control at this location. While there may be some deficiencies in the description or draughtsmanship, given that the application is retrospective in nature the siting, size and characteristics of the building are self-evident.

- There are only two visitor parking spaces at the main road entrance to Dunans. Visitors can grossly exceed this capacity with visitors parking on the objector's property. Passing places on the access drive were required in connection with a previous application at Dunans steading but have not been provided. A new access road has not been provided.

Comment: There is adequate parking within the site for staff engaged in this building. Development at Dunans steading has not been implemented and the permission has lapsed.

(G) **SUPPORTING INFORMATION**

Has the application been the subject of:

- (i) **Environmental Statement:** No

- (ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
 - (iii) **A design or design/access statement:** No
 - (iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No
-

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: No

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

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

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

Argyll and Bute Structure Plan 2002

STRAT DC 5 – Development in Sensitive Countryside
STRAT DC 7 – Nature Conservation and Development Control
STRAT DC 9 – Historic Environment and Development Control

Argyll and Bute Local Plan 2009

Policy LP ENV 1 – Development Impact on the General Environment.
Policy LP ENV 8 – Development Impact on Local Nature Conservation sites.
Policy LP ENV 13(a) – Development Impact on Listed Buildings
Policy LP BUS 2 - Business and Industry Proposals in the Countryside Development Control Zones.

- (ii) List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009.**

Argyll and Bute Council Proposed Local Development Plan 2013
Scottish Historic Environment Policy (December 2011)
Planning History
Representation
e-mails from applicant dated 1 and 12 September 2014
Dunans Castle Conservation Plan dated 1 March 2014

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

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

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

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

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

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

The main building at Dunans is Listed, category B. It suffered fire damage in 2001 and the current applicant purchased the property and proceeded to reinstate a wing of the building as his principal residence following grant of planning permission and Listed Building Consent. However, a large part of the building remains derelict. The process of reinstatement and refurbishment has been protracted. The applicants have, over a period of years, invested piecemeal in the refurbishment of the house as budget allowed.

The applicant's Dunans Castle Conservation Plan advises that:

"The headline conservation policy for Dunans is to restore the castle to a sustainable use, possibly as a mixture of uses including a visitor / education centre and small scale conference facility, and high quality holiday accommodation. The restoration and enhancement of the landscape will need to be part of the project. This will clearly be a long term project with a number of phases which will require the support and encouragement of a wide range of stakeholders and authorities. If successful, however, it has the potential to yield considerable benefits for Scotland's heritage and the local area."

Whilst these proposals are embryonic and have yet to be the subject of planning and listed building applications, they may be regarded, in principle, as according with Policy LP ENV 18 (Protection and Enhancement of Buildings) of the adopted Local Plan

The applicants obtained previous permissions to site temporary buildings and stores to allow the redevelopment operations to progress. This included planning permission to erect a temporary accommodation building (02/01861/DET) that has now been extended on two occasions (05/01175/DET and 10/01793/PP).

This application relates to the retention of a timber building within the curtilage of Dunans Castle and situated 60 metres to the north east of the castle itself. There is a larger timber outbuilding in the intervening space and a smaller timber log store adjacent. The building, measuring 4.5 x 5.5 metres with a shallow pitched roof, is chalet like in appearance with two doorsets and two windows. The building has a small awning on the north east elevation and is equipped with water, electricity and drainage to a septic tank shared with Dunans. The building is equipped with a shower room and wood burner.

The applicant has advised (e-mail dated 1 September 2014) that the office is used to administer and project manage the restoration of Dunans Castle and Bridge and to carry out various commercial activities which support the restoration. The office provides 3

desk spaces but the applicant intends to build a more permanent office within 24 months to provide 8 desk spaces, following which the present building will no longer be required.

The application site sits within Sensitive Countryside in the adopted Local Plan. As such, the application falls to be considered primarily against Policy LP BUS 2 which allows small-scale development in the sensitive countryside where the applicant can demonstrate a clear operational need, subject to consistency with other policies. However, although a need has been demonstrated, Structure Plan policy STRAT DC 5 would normally require an Area Capacity Evaluation (ACE) to be undertaken. No such ACE has been carried out in this case as it is not considered that an ACE would add significantly to assessment of this very small building which is only required for a temporary period and which only has localised consequences upon its surroundings.. In such circumstances, the proposal can be accepted as a 'minor departure' from these policies

The application site also sits within a Local Nature Conservation site. However, the application does not affect the pockets of Ancient Woodland embraced by that designation. The proposal does not therefore conflict with Policy LP ENV 8.

Notwithstanding that this building is sited some 60 metres from Dunans Castle, the department had concerns regarding the proliferation of outbuildings, some installed without planning permission, within the curtilage of this listed building. The cumulative impact of these outbuildings was considered to adversely affect the building's setting. This building was, therefore, considered not to accord with Policy LP ENV 13(a) of the Local Plan in the absence of firm proposals for rationalising the presence of outbuildings within the site. Accordingly, it was considered expedient to serve an enforcement notice requiring the building's removal within 9 months.

However the applicant elected to lodge an appeal against the service of that notice which was in the event allowed by the Reporter. Given that the appeal decision allows the building to remain until September 2017, no purpose would be served by refusing this application to retain the building for 36 months, as requested.

(Q) Is the proposal consistent with the Development Plan: No

(R) Reasons why Planning Permission should be granted

Although the proposal broadly accords with Policy LP BUS 2 of the Argyll and Bute Local Plan, retention of this building would be contrary to LP ENV 13(a) of the Argyll and Bute Local Plan in the absence of firm proposals to rationalise the presence of outbuildings in close proximity to Dunans Castle. However, following the service of an enforcement notice, retention of the building until September 2017 has been allowed on appeal and no purpose would be served by the refusal of permission to retain the building for 36 months, as requested.

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

Although the proposal broadly accords with Policy LP BUS 2 of the Argyll and Bute Local Plan, retention of this building would be contrary to LP ENV 13(a) of the Argyll and Bute Local Plan in the absence of firm proposals to rationalise the presence of outbuildings in

close proximity to Dunans Castle. However, following the service of an enforcement notice, retention of the building until September 2017 has been allowed on appeal and no purpose would be served by the refusal of permission to retain the building for 36 months, as requested.

Structure Plan policy STRAT DC 5 would normally require an Area Capacity Evaluation (ACE) to be undertaken. Although no such ACE has been carried out in this case, it is not considered that an ACE would add significantly to assessment of this very small building which is only required for a temporary period and which only has localised consequences upon its surroundings.

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

Author of Report: Steven Gove

Date: 3 October 2014

Reviewing Officer: David Eaglesham

Date: 9 October 2014

Angus Gilmour
Head of Planning & Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF: 14/01500/PP

1 The development shall be implemented in accordance with the approved drawings:

- 1:10000 Location Office
- 1:2500 Location Office
- 1:500 Location Office
- 1:50 Plan view
- 1:100 Northeast and southwest elevations
- 1:100 Southeast and northwest elevations

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.

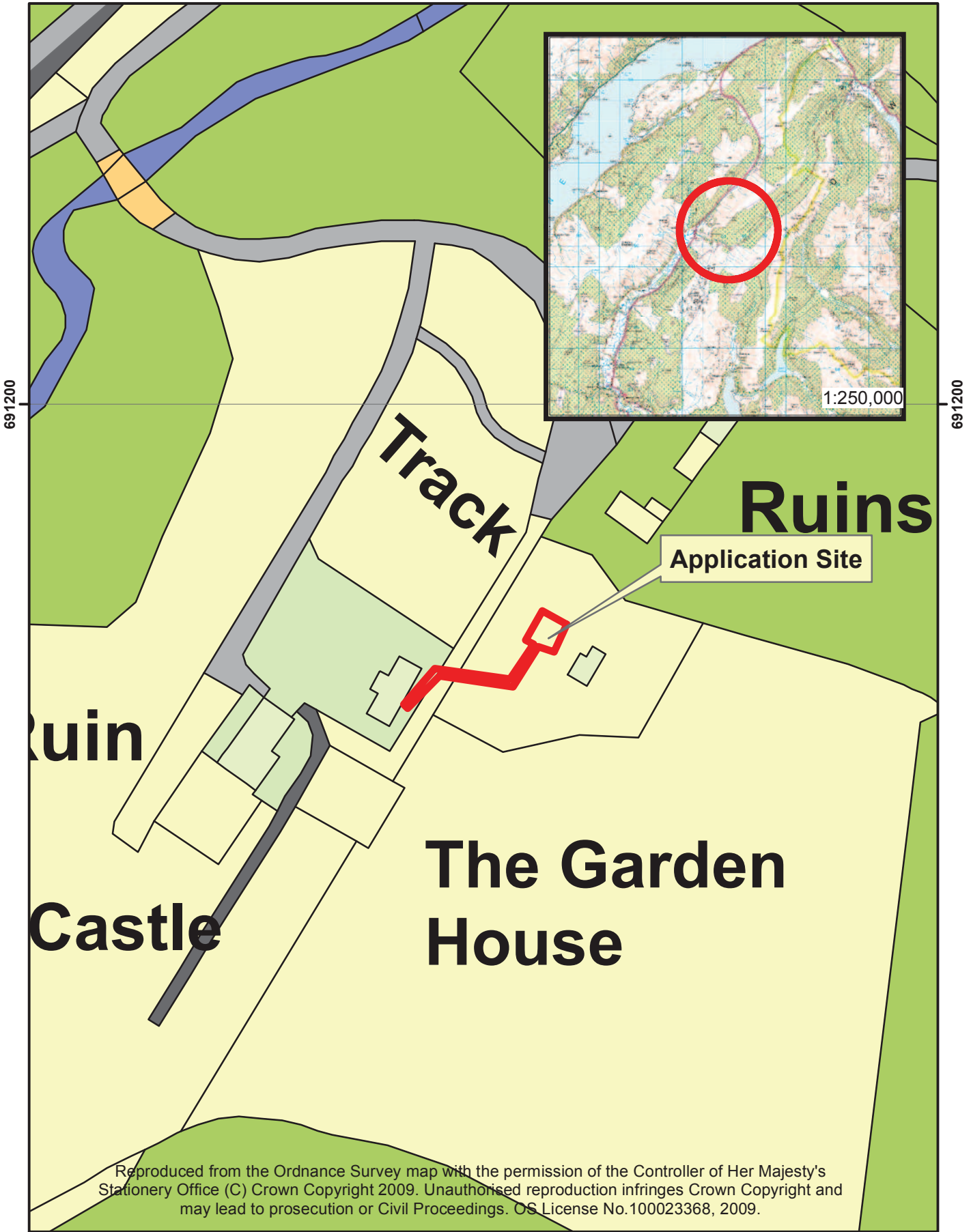
Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.

2. This permission shall cease on or before 31 August 2017 and immediately thereafter the building hereby permitted shall be removed from the site and the land restored to an equivalent condition to that of the land surrounding the development site.

Reason: To safeguard the long term setting of the Category B listed building, Dunans Castle

3. Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended), the building shall be used solely for administrative purposes associated with the management and restoration of Dunans Castle and for no other business related purposes.

Reason: To underpin the locational need accepted in the granting of this temporary permission.



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**Location Plan relative to
Application Ref: 14/01500/PP**

Date: 08.10.14

Scale: 1:1,250



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Argyll and Bute Council
Development & Infrastructure Services

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 14/01928/LIB
Planning Hierarchy: Local
Applicant: Mr Charles Dixon-Spain
Proposal: Alterations to Listed Building
Site Address: Dunans Castle, Glendaruel

DECISION ROUTE

Local Government (Scotland) Act 1973

(A) THE APPLICATION

(i) Development Requiring Listed Building Consent

East Elevation

- Removal of wallhead chimney;
- Installation of rooflights;
- Installation of triangular window;
- Erection of garden room with insulated steel roof.

North Elevation

- Erection of door on small extension with different design;
- Installation of door instead of window on ground floor.

(ii) Other specified operations

- None
-

(B) RECOMMENDATION:

It is recommended that, subject to clearance from Historic Scotland, Listed Building Consent be granted subject to the conditions and reasons below.

(C) HISTORY:

00/01900/DET - Planning Permission granted on 7th February 2001 for the erection of a shed on land to the north east of the castle. This permission was not implemented.

02/01861/DET - Planning Permission granted on 16th December 2002 for the erection of a timber building for residential, storage and workshop use. Condition 3 of this permission required the residential use of the building to cease by 16th December 2004 unless further consent was granted.

05/00028/VARCON - Application received on 7th January 2005 for an additional 24-month occupancy of the temporary building. This application was withdrawn at the request of the applicants on 23rd February 2005 as it had been established that two additional timber buildings had been erected at the site without Planning Permission.

05/00396/DET - Permission granted on 5th September 2005 for repairs and alterations to house attached to castle ruin; erection of a steel clad roof for a temporary period over the link from house to castle ruin to allow dry rot treatment; erection of steel clad roof over castle ruin for a temporary period to provide protection; formation of new vehicular access from A886 road; formation of access track with passing places; and erection of temporary store for construction purposes.

05/00398/LIB - Listed Building Consent granted on 5th September 2005 for repairs and alterations to house attached to castle ruin; erection of a steel clad roof for a temporary period over the link from house to castle ruin to allow dry rot treatment; erection of steel clad roof over castle ruin for a temporary period to provide protection.

05/00463/DET - Application received on 2nd March 2005 for the retention of the additional buildings and further 24-month occupancy of the original temporary building. It transpired during the processing of this application that the original timber building had not been erected in accordance with the details approved under permission 02/01861/DET and that new foul drainage arrangements required to be installed. This application was, therefore, withdrawn at the applicant's request on 18th May 2005.

05/01175/DET - Permission granted on 4th August 2005 for the temporary retention of site office and storage building; the amendment to planning permission 02/01861/DET (in terms of layout and design of timber building); the variation of condition 3 of planning permission 02/01861/DET (to allow the continued residential use of timber building for a further 24 month period); and the installation of septic tank and soakaway.

06/01334/NMA - Application for amendment to Planning Permission 05/00396/DET incorporating revised position timber boardwalk was approved on 14th May 2007.

10/01793/PP- Retention of temporary accommodation, replacement of mineral felt roof covering with box profile metal sheeting and provision of septic tank (Retrospective) was approved 04.05.2012

The presence of two additional timber outbuildings was brought to the Council's attention in 2011. A retrospective application (13/00797/PP) to retain these was withdrawn in January 2014. In the absence of a revised application, an enforcement notice (12/00062/ENOTH2) was served on 22 May 2014 requiring the removal of a timber outbuilding used as an office. An appeal against the notice was upheld on 3 September 2014 and the notice varied to give a compliance period of 3 years, i.e. until 3 September 2017.

An application (ref: 14/01500/PP) for the retention of the timber outbuilding being used as an office was registered on 25th June 2014. This application appears elsewhere on the agenda.

(D) CONSULTATIONS: None.

(E) **PUBLICITY:** Subject of advertisement (expired 12th September 2014)

(F) **REPRESENTATIONS:**

Two representations have been received from Mr Robin Creelman, Stronardron, Glendaruel which relate to application 14/01500/PP as well as this proposal. The first e-mail dated 18th August 2014 stated the following:

"I have received neighbour notification regarding the above. I consider that the plan that was attached to be grossly misleading. There are several large timber sheds on the site, not represented on the plan, which must be considered in terms of visual amenity of a listed building. I would be grateful to receive an accurate plan".

A response was provided on 20th August 2014 as follows:

"The purpose of the plan attached to the Neighbour Notice is to identify the site with a red line so that the notified neighbour knows which property the application refers to. In the case of this particular application, they can then decide either to view the plans on the Council's Public Access System or at the Post Office in Tighnabruaich or at Milton House, Dunoon. The plan is not intended to be a definitive record of the site.

You may be aware that there is no requirement for neighbours to be notified in association with applications for Listed Building Consent. In this particular case, however, given your previous interest in this property, we decided to inform you of the application."

Mr Creelman's response (e-mail dated 21st August 2014) was that the Council's response was its opinion and that people decide whether or not to object to any particular development based on the information supplied which, in this case, is incomplete.

The Council wrote to the agent, Robin Kent Architecture and Conservation, on 20th August 2014 and, *inter alia*, asked for the submission of a revised Site Plan which clearly identified the timber outbuilding that is being used for temporary residential purposes; the timber building that is being used in conjunction with office duties; and the timber building that is being used as a stable/store.

In response, Mr Kent advised in a letter dated 29th September 2014 that he does not have a survey showing the timber outbuildings and they are not part of the application for Listed Building Consent.

Whilst it would have been useful to have a Site Plan showing all of the outbuildings, given that the application relates only to works to the building itself, it is not considered reasonable to delay the determination of the application for Listed Building Consent for this reason.

(G) **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 9 – Historic Environment and Development Control

Argyll and Bute Local Plan 2009

LP ENV 13(a) – Development Impact on Listed Buildings

- (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 2013

Scottish Historic Environment Policy (December 2011)

Representation

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

(I) Assessment and summary of determining issues and material considerations

The main building at Dunans is a Category B Listed Building which suffered fire damage in 2001. The current applicant subsequently purchased the property and proceeded to reinstate a wing of the building as his principal residence following grant of planning permission (ref: 05/00396/DET) and listed building consent (ref: 05/00398/LIB) in September 2005. However, a large part of the building remains derelict and the process of reinstatement and refurbishment has been protracted. The applicant has, over a period of years, invested piecemeal in the refurbishment of the house, as budget allowed.

The principal reason for the current application is that certain works undertaken to the building have not been in accordance with listed building consent 05/00398/LIB. These changes are as follows:

East Elevation

- Removal of wallhead chimney;
- Omission of various rooflights;
- Installation of smaller rooflights;
- Installation of triangular window;
- Proposed erection of garden room with insulated steel roof.

North Elevation

- Erection of door on small extension with different design;
- Installation of door instead of window on ground floor.

The majority of the amendments (rooflights; triangular window; and doors/windows) are minor in nature and are negligible in terms of their impact upon the character of the Listed Building. The main issues relate to the loss of the wallhead chimney on the east (rear) elevation and the revised garden room.

In terms of the chimney, it is considered that this was a lesser component of the overall chimney features on the house part of the building. There are three other chimneys which are larger in scale and much more visible, whilst the chimney that has been

removed did not contribute significantly to the character of the building. In addition, the roof has been successfully slated over with no adverse effect upon the fabric of the structure.

Regarding the garden room, the previous scheme in 2005 showed the erection of a conservatory-type structure at this location. The Committee report at the time stated:

“there is evidence on the building that a glasshouse previously existed at this location (also archive drawings of the Castle from 1972). The proposed conservatory is relatively simple in design and modest in scale; in essence, it would not detract from the character of the building.”

Whilst the current proposal projects 1m farther from the rear elevation and will have a solid standing seam stainless steel roof with conservation-type rooflights, it remains modest in scale and appropriate in design. A condition will be attached to ensure further details are provided regarding finishes.

It is understood that the stainless steel roof is being proposed in terms of its maximum life expectancy, minimum maintenance, low weight and resistance to corrosion. The construction of the sheeting in vertical bands and its reflectivity when viewed at an angle on a pitched roof will offer similar appearance and reflectivity to that which would have resulted from the use of a glazed roof. It would establish the garden room as a modern replacement for a previous glasshouse feature on the building. As this structure is on the rear of the building rather than a principal elevation it is not considered that the proposed roof covering would not unduly dominate.

There is a relatively small extension on the east (rear) elevation of the building and this is being used as a study. Whilst it is in use, it has not been fully completed externally but the agent has confirmed that it will eventually be implemented in accordance with the originally approved plans.

Finally, there was a document produced at the time of the previous application entitled *“Dunans Castle & House Planning and Listed Building Consent Notes”* which addressed many of the fine details of the proposal at the time. Given that much of the work has already taken place, these notes do not have the same significance although the current agent has confirmed (e-mail dated 9th October 2014) that these specifications remain unchanged. A condition is proposed reflecting this understanding.

On the basis of the foregoing, the works are considered to be acceptable and to accord with the relevant Development Plan policies.

(J) Is the application consistent with the Development Plan: Yes

(K) Reasons why Listed Building Consent should be granted

The proposal accords with policies STRAT DC 9 of the Argyll and Bute Structure Plan 2002 and LP ENV 13(a) of the Argyll and Bute Local Plan 2009. The proposal respects the character and appearance of the listed building raises no other material consideration which would justify refusal of listed building consent.

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

N/A

(M) Need for notification to Scottish Ministers or Historic Scotland: Yes

Author of Report: Steven Gove

Date: 9/10/2014

Reviewing Officer: David Eaglesham

Date: 9/10/2014

Angus Gilmour
Head of Planning & Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF: 14/01928/LIB

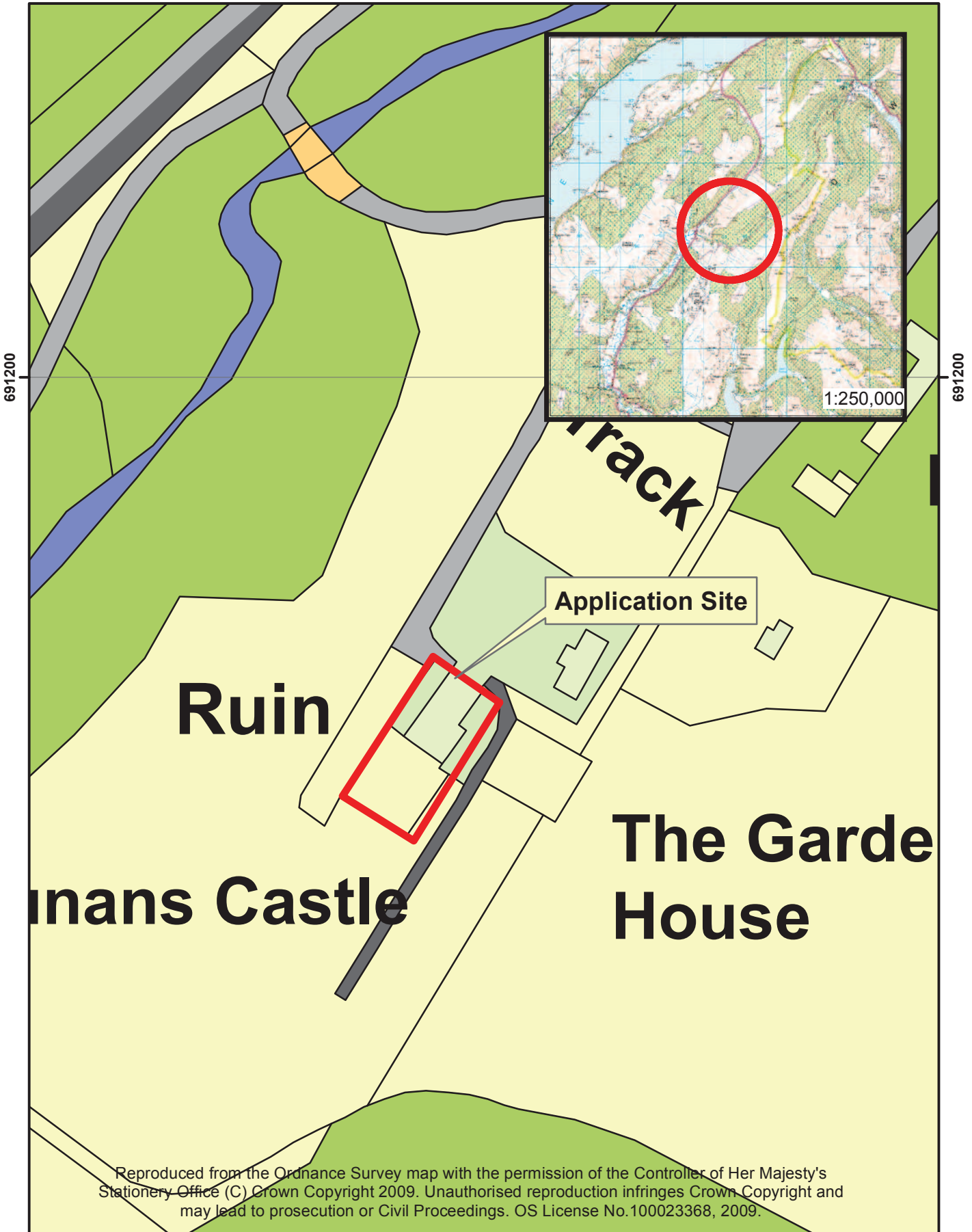
1. Prior to the erection of the garden room, full details (including samples) of its roof covering and the dimensions and profile of the frames to be used in its construction (which shall be timber) shall be submitted to and approved in writing by the Planning Authority. The garden room shall be constructed using the approved details unless the prior written consent of the Planning Authority is obtained for variation.

Reason: In the interests of visual amenity in order to protect the character of Dunans Castle as a listed building.

2. Unless otherwise agreed in writing with the Planning Authority, all other alterations to the building shall be undertaken in accordance with the document entitled "*Dunans Castle & House Planning and Listed Building Consent Notes*" which was produced and approved in association with the previous Listed Building Consent ref: 05/00398/LIB.

Reason: In the interests of visual amenity in order to protect the character of Dunans Castle as a listed building.

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**Location Plan relative to
Application Ref: 14/01928/LIB**

Date: 08.10.14

Scale: 1:1,250



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ARGYLL AND BUTE COUNCIL**PPSL****Development and Infrastructure****22nd October 2014**

CONSULTATION ON PLANNING CONTROLS, PAY DAY LENDING AND BETTING OFFICES

1.0 EXECUTIVE SUMMARY

- 1.1 The main purpose of this report is to advise the PPSL of the consultation exercise being undertaken by the Scottish Government regarding the possible extension of Planning controls on Betting Offices and Pay Day Lenders.
- 1.2 The report outlines the proposed response to the Scottish Government on this consultation exercise.
- 1.3 Recommendations are that Members:-
 - Agree that reference to betting shops should be removed from Class 2, and included in the list of uses which are outwith a particular use class (*Sui Generis*). This would then require an application for planning permission to be submitted for any new betting shop.
 - Agree that change of use from a betting shop to either a Class 1 retail use or a Class 2 Financial, Professional or other services to visiting members of the public, should not require submission of a formal planning application and changes of use in this direction should continue to be permitted development
 - Object to any amendment to Class 2 in order to address the issue of Pay Day Lenders, on the basis that pay day lending cannot clearly be distinguished in land use planning terms from many other businesses in the financial services sector. The proposal to limit the definition of financial services to banks, building societies or other regulated “deposit takers” could mean that a wide range of other businesses offering financial services, such as money transfer, cheque cashing or bureaux de change services.
 - Raise concerns that pay day lenders provide a function which in land use planning terms is indistinguishable from many other services which are considered suitable in town centre locations in terms of transport and parking provision, hours of operation and frequency and duration of customer visit, and that the land use planning system should not be used to regulate activities which are more appropriately controlled by the Financial Conduct Authority or other regulatory bodies.

CONSULTATION ON PLANNING CONTROLS, PAY DAY LENDING AND BETTING OFFICES

2.0 INTRODUCTION

- 2.1 Concerns have been expressed in recent years about the levels of problem gambling and personal indebtedness and the prevalence of betting shops and premises selling high interest short term loans – often referred to as pay day lending (PDL).
- 2.2 The Scottish Government is consulting on possible changes to the planning legislation to address concerns about the negative impact overprovision or clustering of betting shops and pay day lenders on the character and amenity of town centres. The possible legislative changes relate to the requirement for applications for planning permission for change of use to betting shops or pay day lenders. Any legislative change would not apply retrospectively so existing pay day lender or betting shop premises would not be affected.

3.0 RECOMMENDATIONS

That Members:-

- 3.1 Agree that reference to betting shops should be removed from Class 2, and included in the list of uses which are outwith a particular use class (*sui generis*).
- 3.2 Recommend that changes of use from betting shops to Class 1 (Retail) or Class 2 (Financial Professional and other services) continue to be permitted development.
- 3.3 Object to proposed amendments to Class 2 in order to address the issue of Pay Day Lenders, on the basis that the proposals could extend the requirement to apply for planning permission to many other businesses in the financial services , professional or other services sectors, which are considered appropriate to the role and function of town centres, and the use of premises for PDL in planning terms is indistinguishable from other premises offering financial services.

4.0 DETAIL

- 4.1 The planning system generally seeks to control material changes in use, however, the Town and Country Planning (Use Classes) (Scotland) Order 1997 (UCO) groups similar uses together into use classes. This removes the need to make planning applications for a range of uses which have broadly similar planning implications. Further flexibility is provided by the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (GPDO) which grants a general planning permission for a range of development. These permitted development rights include planning permission for certain changes of use (between use classes).
- 4.2 Currently betting shops and PDL premises are within use class 2, financial, professional or other services (including use as a betting office) which it is appropriate in a shopping area, and where services are provided principally to visiting members of the public. Premises selling pay day loans are not specifically mentioned in the UCO, but are clearly providing financial services. The GPDO grants planning permission for changes of use from class 3 (Food and Drink) and hot food takeaways to class 2 (Financial, Professional, and other services), and from class 2 to Class 1 (Shops). These changes are one way i.e. it is not possible to change from Class 1 to Class 2 or then Class 3 without a formal planning application being made.
- 4.3 The consultation document proposes to remove reference to betting shops in class 2 and add them to the list of uses which do not fall within any of the use classes, currently, amusement arcades; public houses; theatres and hot food takeaways, are included within this unclassified use. The GDPO would then be amended so that change from use as a betting office to other uses (e.g. class 1, or 2) would remain permitted development. This amendment would act like a one way street, in that changes from a betting shop to a class 2 office use or to a class 1 retail shop would not require a formal application for planning permission to be made, but any movement the other way would. Use of premises as a betting shop is a clearly distinguishable use, and had in previous use class orders been identified as a *sui generis* use. They may be distinguished from other class 2 uses, in that they may be open outwith normal business hours, and also typically can have customers spending longer periods of time in them watching sporting events and placing bets on them. They therefore provide a type of entertainment or leisure function which has greater similarities other *sui generis* uses such as public houses or amusement arcades, than other class 2 uses where financial, professional or other services are provided to visiting members of the public.
- 4.4 The position with pay day lending is somewhat more complicated, in that this is not specifically referred to in the UCO, and there is no single agreed definition. PDL can be offered from a variety of premises,

including ones which might specialize in such lending, or others which offer it as part of a range of products or services like pawn broking, cheque cashing, money transfers and other financial services or a combination of these. PDL may therefore only form a limited part of a range of financial services and may only form a very small part, of the overall use of the premises. However, it clearly falls within the remit of use class 2 (Financial, Professional and other services) at present.

- 4.5 The Financial Conduct Authority's definition of a PDL relates to high cost short term credit where: APR is equal to or higher than 100%, credit is provided for any period up to 12 months; and it is not secured by a mortgage, charge or pledge. While this definition is useful, this may not help in extending planning controls to PDL, as slight changes to loan terms might avoid controls. In order to achieve additional planning controls over changes of use within the financial services sector, a wider range of services would have to be removed from Class 2 of the UCO. Two options are proposed: The first would seek to identify and exclude from Class 2 the sorts of businesses likely to offer PDL and which are likely to cluster in shopping areas, undermining the character or amenity of the area or the wellbeing of communities. The second would be to replace the general reference to financial services with references to specific financial activities, and thereby include: "Accountancy services", "Insurance Services", and "Deposit takers" including; banks, building societies, credit unions, and friendly societies.
- 4.6 This approach would not include explicit exemptions for "professional services" or "other services" who may be engaged in some "financial services" as part of an overall package of services, e.g. estate agents' or solicitors' offices. As with other mixed uses, it would be for the planning authority in individual cases to consider whether the extent of any financial services provided by such premises was material change of use requiring planning permission. While this has the advantage of applying control to a wider range of uses of premises that might also offer PDL services, it is likely to mean that more financial services activities that are not of concern would in future require planning permission.
- 4.7 The consultation document recognizes that PDL can be offered from a variety of premises, and by businesses which may offer it as part of a range of products or services like pawn broking, cheque cashing, money transfers. There is some difficulty in making a distinction between the activities of a PDL and other financial lending institutions, where in practical terms the only distinction may be the period of the loan and the rate of interest or charges which such a facility might incur. In land use planning terms pay day lenders provide a function which is indistinguishable from many other services which are considered suitable in town centre locations in terms of transport and parking provision, hours of operation and frequency and duration of customer visit. The land use planning system should not be used to regulate

activities which are more appropriately controlled by the Financial Conduct Authority or other regulatory bodies.

5.0 CONCLUSION

- 5.1 PPSL approval is sought for the responses as detailed in the appendix to this report to be sent to the Scottish Government as the Councils response to the consultation on the possible changes to the Use Classes Order in order to deal with the perceived proliferation of Betting Shops and Pay Day Lenders.

6.0 IMPLICATIONS

- 6.1 Policy This stage is for consultation purposes only. If the proposed changes are to be implemented then the Councils Local Development Plan policies for town centres will have to be reviewed, in order to provide an appropriate policy response to applications for change of use which might be engendered as a result of changes to the Use Classes and General Permitted Development Orders.
- 6.2 Financial None arising from this report
- 6.3 Legal None arising from this report.
- 6.4 HR None arising from this report
- 6.5 Equalities Equality impact Assessment screening has been undertaken; this shows that gambling is most prevalent amongst younger men, and the likelihood of problem gambling is 11.6 times higher among men than women. Gambling is least prevalent amongst Muslims.
- 6.6 Risk None to the Council

Executive Director of Development and Infrastructure Services

Pippa Milne

6/10/2014

For further information contact: Mark Lodge 01546 604280

APPENDIX

The consultation document seeks the answer to the following questions:

Q1. Do you agree with this approach to dealing with betting offices? If not, please specify why not.

Yes. Use of premises as a betting shop is a clearly distinguishable use, and had in previous use class orders been identified as a sui generis use. They may be distinguished from other class 2 uses, in that they may be open outwith normal business hours, and also typically can have customers spending longer periods of time in them watching sporting events and placing bets on them. They therefore provide a type of entertainment or leisure function which has greater similarities other sui generis uses such as public houses or amusement arcades, than other class 2 uses where financial, professional or other services are provided to visiting members of the public.

Q2. Do you consider there to be a more effective approach to changes around betting offices? If so, please describe the approach.

The proposal to remove reference to betting shops in class 2 and include them in the list of uses which are sui generis would appear to be a reasonable approach. There are unlikely to be any significant implications for town centres in Argyll and Bute, where most town centres have two or three betting shops, and where there has been no discernible trend, regarding increase or clustering. Change of use from Betting shop to a Class 2 or Class 1 use should continue to be “permitted development”.

Q3. Do you believe that a specific definition of PDL, similar to the FCA’s definition in paragraph 23 above, should form part at least of the exclusion of uses from the UCO? If so what should the definition be?

If PDL are to be excluded from Class 2 then it should be on the basis of their definition by FCA only. However it is considered that, in land use planning terms, pay day lenders provide a function which is indistinguishable from many other services which are considered suitable in town centre locations in terms of transport and parking provision, hours of operation and frequency and duration of customer visit. The land use planning system should not be used to regulate activities which are more appropriately controlled by the Financial Conduct Authority or other regulatory bodies.

Q4. Do you agree that Class 1 (Shops) should be excluded from any changes regarding PDL? If not, why not?

Yes

Q5. Do you think this (option 1) would represent an effective and proportionate approach to addressing the concerns about clustering and over provision of pay day lenders? If not, why not?

This approach is dependent on a satisfactory definition of a PDL, and there may be too much scope for PDL to alter their business practice slightly to fall out of such a definition. PDL is not a significant problem in many of Argyll and Bute's town centres. The majority of premises within town centres are Class 1 retail shops anyway, and therefore a formal application for planning permission is already required if such premises are to be used for PDL or other Class 2 use.

Q6. What other activities which might be involved in PDL should be added to the exclusions? Please explain why and provide any examples.

There are too many other activities which could be developed in association with PDL, and which could in fact blur the lines between PDL, pawn broking, and second hand goods sellers, all of which can make a valid contribution to the vitality and viability of town centres. Premises offering PDL should therefore continue to remain in Class 2

Q7. What other exceptions to the exclusion of financial lending should be included (i.e. alongside "deposit takers")? Please explain why and provide examples.

Pay Day Loan shops and other financial services such as banks provide very similar functions in planning terms, the only difference being the terms and conditions attached to loans. These and other Class 2 activities are all appropriate town centre functions and can make a contribution to the overall vitality and viability of town centres. Class 2 financial services should therefore remain unaltered, and some other (non planning) mechanism such as licensing or regulation by Financial Conduct Authority employed to regulate PDL.

Q8. Do you think this would represent an effective and proportionate approach to addressing the concerns about clustering and over provision of PDL? If not, why not?

The wholesale reclassification of uses within use class 2 is not considered proportionate. PDL is not a significant problem in many of Argyll and Bute's town centres. In many instances PDL may only be one part of a business model, determining whether a change of use occurs would be hard to ascertain from observation/visiting premises. The majority of premises within town centres are Class 1 retail shops anyway, and therefore a formal application for planning permission is already required if such premises are to be used for PDL or other Class 2 use. The Adopted Argyll and Bute Local Plan already has policies which seek to restrict change of use from Class 1 retail uses within defined core areas of town centres.

Q9. Should the exclusions from the UCO be extended beyond those described in this option? If so please explain and provide examples.

No

Q10. What other exceptions to the exclusion of financial services should be included (i.e. alongside “deposit takers” etc.)? Please explain and provide examples.

None are proposed as it is considered that the existing definitions of use class 2 (with the exception of betting shops) are appropriate, and PDL should be controlled by the financial regulation authorities rather than planning authorities, as in land use terms, this activity is indistinguishable from other financial services.

Q11. Which approach would you prefer, Option 1 or Option 2? Please explain your answer.

While neither option is preferred for the reasons outlined above, option 1 would be more preferable than option 2, in that the only implications would be the removal of PDL (subject to a satisfactory definition of what constitutes a PDL being established), rather than complete redefinition of various types of financial services being attempted.

Q12. Do you have any other comments or suggestions? Please elaborate.

None

Q13. BRIA – Can you identify likely costs and benefits associated with the potential changes discussed in this paper which should be covered in the BRIA?

None

Q14. EqIA – Please provide details of any specific issues for any of the equality groups (including race, disability, age, sexual orientation, gender or religion and belief) which you think may arise in relation to the potential changes discussed in this paper.

None

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

PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE - 22 October 2014

UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING APPEAL DECISIONS

A) INTRODUCTION

This report advises of a recent appeal decision by the Scottish Government Directorate for Planning and Environmental Appeals relative to the case set out below.

B) RECOMMENDATION

Members are asked to note the contents of the report.

C) DETAILS OF APPEAL DECISIONS

**PLANNING APPEAL DECISION – PPA-130-2044
INSTALLATION OF GROUND-MOUNTED PHOTOVOLTAIC ARRAY (RETROSPECTIVE)
THE ANCHORAGE, MINARD, BY INVERARAY
DATE OF DECISION 3 OCTOBER 2014**

Retrospective planning permission was refused by Committee in June this year for a solar panel array within the front garden of a dwelling fronting the A83 at Minard. An enforcement notice requiring the dismantling and removal of the array was issued at the same time. An appeal was lodged against the Council's decision to refuse planning permission, although no appeal was lodged against the service of the accompanying enforcement notice.

The planning appeal was dismissed by the Reporter who considered that the panels were an incongruous feature in the context of their surroundings with adverse visual amenity implications for adjoining properties and the surrounding area. He was not persuaded that the planting of a hedge to screen the panels would render them acceptable, given that one of sufficient height would in itself represent a discordant feature given the generally open nature of front gardens, and the prospect that it would impede visibility at the egress point to the trunk road from the driveway, contrary to the interests of road safety. He did not consider that hedging could screen views of the rear of the panels from adjacent property, which in his view was a particularly unattractive facet of the development. In reaching his conclusions, he paid due regard to the general support for micro-renewables expressed by national and development plan policy, but concluded that the disbenefits to the surrounding area outweighed any advantages in terms of renewable electricity generation.

As the accompanying enforcement notice has been served, not been appealed and has taken effect, it is available to oblige the householders to remove the panels should they not elect to do so voluntarily in response to this decision.

D) IMPLICATIONS

Policy: None.

Financial: None
Personnel: None
Equal Opportunities: None

Author and Contact Officer: Richard Kerr (Tel: 01546 604845)

Angus J Gilmour
Head of Planning & Regulatory Services
10 October 2014