

**Argyll and Bute Council**  
**Comhairle Earra-Ghàidheal Agus Bhòid**

*Executive Director: Douglas Hendry*



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16 November 2020

**NOTICE OF MEETING**

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held **BY SKYPE** on **MONDAY, 23 NOVEMBER 2020** at **10:30 AM**, which you are requested to attend.

Douglas Hendry  
Executive Director

**BUSINESS**

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST**
3. **BUTE ISLAND FOODS LTD: ERECTION OF FOOD PRODUCTION FACILITY AND ASSOCIATED WORKS (REVISED PROPOSAL RELATIVE TO PLANNING APPLICATION REFERENCE 20/00333/PP TO INCORPORATE REMOVAL OF NEW ACCESS ONTO BARONE ROAD, USE OF EXISTING ACCESS ONTO MEADOWS ROAD FOR ALL VEHICLES AND INCREASE IN NUMBER OF OFF-STREET PARKING SPACES TO 78): FORMER GAS NETWORK SITE, MEADOWS ROAD, ROTHESAY, ISLE OF BUTE (REF: 20/01441/PP)**

Report by Head of Development and Economic Growth (Pages 3 – 54)

**Planning, Protective Services and Licensing Committee**

Councillor Gordon Blair	Councillor Rory Colville (Vice-Chair)
Councillor Mary-Jean Devon	Councillor Lorna Douglas
Councillor Audrey Forrest	Councillor George Freeman
Councillor Kieron Green	Councillor Graham Hardie
Councillor David Kinniburgh (Chair)	Councillor Donald MacMillan BEM
Councillor Roderick McCuish	Councillor Jean Moffat
Councillor Alastair Redman	Councillor Sandy Taylor
Councillor Richard Trail	

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**Argyll and Bute Council  
Development and Economic Growth**

**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**

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<b>Reference No:</b>	20/01441/PP
<b>Planning Hierarchy:</b>	Local
<b>Applicant:</b>	Bute Island Foods Ltd
<b>Proposal:</b>	Erection of Food Production Facility and Associated Works (Revised Proposal Relative to Planning Application Reference 20/00333/PP to Incorporate Removal of New Access onto Barone Road, Use of Existing Access onto Meadows Road for all Vehicles and Increase in Number of Off-Street Parking Spaces to 78)
<b>Site Address:</b>	Former Gas Network Site, Meadows Road, Rothesay, Isle of Bute

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## **SUPPLEMENTARY REPORT NO. 1**

### **1.0 INTRODUCTION**

The attention of Members is drawn to the main Report of Handling dated 9<sup>th</sup> October 2020 that is currently before them for consideration in respect of the above application.

Since the writing of this report, expressions of support have been received from the following six sources:

Stephen Greenshields, Flat 1, 31 Gallowgate, Rothesay (e-mail received 13<sup>th</sup> October 2020)  
Isobel Strong, Lilybank, Glebelands Road, Rothesay (e-mail dated 13<sup>th</sup> October 2020)  
John McBride, 32 Roslin Crescent, Rothesay (e-mail received 13<sup>th</sup> October 2020)  
Mrs Nile Lawrence, 24 Hillview Walk, Rothesay (e-mail received 14<sup>th</sup> October 2020)  
Craig McAlister, Kerrytonlia Farm, Kingarth (e-mail received 14<sup>th</sup> October 2020)  
Sean Lawrence, 23 Argyle Terrace, Rothesay (e-mail received 14<sup>th</sup> October 2020)

In addition to these individual e-mails, a letter dated 12<sup>th</sup> October 2020 has been received from Mrs Angela Callaghan, '*Bute Oasis*', 6 Argyle Street, Rothesay. Mrs Callaghan explains her support for the proposal in the letter and she has attached a petition from people who are in favour of the planned factory.

The additional six pages contain a total of 100 signatures with addresses and telephone numbers. None of the pages contain any statements that set out what the signatures relate to.

These most recent contributions have resulted in the following figures:

Those <b>objecting</b> to the proposal	–	74
Those <b>supporting</b> the proposal	–	33
Number of signatories to petition <b>in favour</b> of the proposal	–	100

## 2.0 SUMMARY OF POINTS RAISED

The main points raised by the most recent contributors can be summarised as follows:

- Bute Island Foods have listened to the concerns of local residents by withdrawing the original proposal and submitting a new application showing different access arrangements and increased off-street parking
- Bute Island Foods has a great reputation for its specialist products internationally. They are a major island employer and, in the current troubling economic environment, their intention to provide even more jobs through the proposed expansion is a significant positive for Bute
- Secure and stable employment is needed to retain young people on Bute
- Other local businesses will benefit from the proposal as Bute Island Foods uses local tradesmen to carry out work at their premises and local bakers provide food for the canteen

**Comment:** These issues have been raised by other supporters and are addressed in the main Report on Handling that is currently before Members for consideration.

Note: Full details of these expressions of support can be viewed on the Council's website: [www.argyll-bute.gov.uk](http://www.argyll-bute.gov.uk)

## 3.0 RECOMMENDATION

The points made have been raised by other supporters and do not alter the recommendation contained in the main Report of Handling dated 9<sup>th</sup> October 2020; namely, that the application be **granted** subject to a discretionary local hearing and to the conditions, reasons and informative notes contained therein.

**Author of Report: Steven Gove**

**Date: 20<sup>th</sup> October 2020**

**Reviewing Officer: Sandra Davies**

**Date: 20<sup>th</sup> October 2020**

**Fergus Murray**  
**Head of Development and Economic Growth**

**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**

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**Reference No:** 20/01441/PP  
**Planning Hierarchy:** Local  
**Applicant:** Bute Island Foods Ltd  
**Proposal:** Erection of Food Production Facility and Associated Works (Revised Proposal Relative to Planning Application Reference 20/00333/PP to Incorporate Removal of New Access onto Barone Road, Use of Existing Access onto Meadows Road for all Vehicles and Increase in Number of Off-Street Parking Spaces to 78)  
**Site Address:** Former Gas Network Site, Meadows Road, Rothesay, Isle of Bute

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**DECISION ROUTE**

**Local Government (Scotland) Act 1973**

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**(A) THE APPLICATION**

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

- Erection of food production facility
- Formation of vehicle parking spaces
- Installation of SuDS storage system

**(ii) Other specified operations**

- Connection to existing public water supply and public sewerage system
  - Use of existing vehicular access onto Meadows Road
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**(B) RECOMMENDATION:**

It is recommended that Planning Permission be **granted** subject to a discretionary local hearing and to the conditions, reasons and informative notes attached to the end of this report.

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**(C) HISTORY:**

An application (ref: 01/93/0577/COU) submitted by British Gas PLC Scotland for a proposed showroom on part of the application site was withdrawn on 23<sup>rd</sup> August 1993.

An application for Planning Permission (ref: 16/02387/PP) for the construction of a road into the site from the existing vehicular access from Meadows Road and the installation of drainage infrastructure was withdrawn on 26<sup>th</sup> March 2018.

An application for Planning Permission (ref: 20/00333/PP) was withdrawn in August 2020 as a result of material changes to the proposal, in particular the removal of the new access onto Barone Road; the use of the existing access onto Meadows Road for all vehicles and the increase in the number of off-street parking spaces to 78.

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**(D) CONSULTATIONS:**

**SEPA** (letter dated 25<sup>th</sup> August 2020)

No objections – detailed and regulatory advice set out for the applicant.

**Biodiversity Officer** (letter dated 26<sup>th</sup> August and e-mail dated 7<sup>th</sup> September 2020)

Bat and Otter Surveys have been carried out. The Otter Survey followed accepted protocols and found that there was no evidence of otter holts, resting places or field signs within the site or the wider study area and, as such, no further mitigation is required within these areas.

The Bat Surveys also followed accepted protocols and the recommendations to facilitate and create additional opportunities (through enhanced landscape planting) for the biodiversity interest on the site are accepted.

**Area Roads Engineer** (report dated 3<sup>rd</sup> September 2020)

No objections subject to conditions in respect of the following:

- a. The continuation of the Barone Road footway onto the vehicle entrance to the site
- b. The surfacing of the access in a bituminous sealed surface that would be 5.5 metres wide
- c. The formation of the requisite sightlines onto Meadows Road of 42 metres x 2.4 metres x 1.05 metres. All sightlines and walls within the visibility splays must be maintained at height not greater than 1 metre above the road.
- d. The provision of the 78 off-street parking spaces

It is commented that waiting restrictions may be required in the vicinity of the junction of Barone Road and Meadows Road as there is currently a trend for vehicles to be parked in this area. A Road Opening Permit will be required for all works on the road corridor.

**JBA Consulting – Flood Risk Management Observations** (report dated 4<sup>th</sup> September 2020)

It is recommended that a condition is attached to any permission that is granted which ensures that detailed design calculations, a drainage statement, a method statement for construction and a SuDS maintenance regime are submitted at the appropriate time. In addition, details should be submitted of investigations into the existing culvert located at the north east boundary of the site (flowing in a westerly direction from Mill Lade) and into the sinkhole that revealed a collapsed culvert to the north of this area, which was found during the undertaking of the topographic survey. The surface water drainage

should be designed in accordance with SuDS manual CIRIA C753 and Sewers for Scotland 4th edition.

**Environmental Health Service** (e-mails dated 16<sup>th</sup> September, 2<sup>nd</sup> October and 8<sup>th</sup> October 2020)

Having considered the reports submitted on behalf of the applicant in terms of noise and odour, no objection subject to conditions regarding a Noise Management Plan; the movement of HGV's on and off site; an Odour Management Plan; and external lighting.

A condition is recommended that would provide suitable mitigation in terms of the potential contaminated land on the site.

**Bute Community Council** (e-mail from Johanna Schofield, Minute Secretary dated 21<sup>st</sup> September 2020)

Bute Community Council is in favour of the application as the benefit to the Isle of Bute as a whole is greater than the negative effect of a change in environment to the people living in the neighbourhood.

The Community Council is pleased to see that, in this new application, the various objections regarding parking, smell and vehicle movements have been taken into consideration to mitigate these problems. This project is on a site within an industrial zone and it is a very positive move to see this being developed, especially in these difficult times.

### **Scottish Water**

Scottish Water have not commented on the current application but, in their letter dated 27<sup>th</sup> May 2020 in association with the previous application (ref: 20/00333/PP), they confirmed that they had no objection; however, they advised that this did not confirm that the proposed development could currently be serviced.

They had carried out a capacity review and confirmed the following:

- The proposed development will be fed from Dhu Loch Water Treatment Works. Unfortunately, they are unable to confirm capacity currently so to allow them to fully appraise the proposals, they suggested that the applicant completes a Pre-Development Enquiry (PDE) Form and submits it directly to Scottish Water via their Customer Portal or contact Development Operations
- There is currently sufficient capacity for a foul only connection in the Rothesay Waste Water Treatment Works to service the development. However, they noted that further investigations might require to be carried out once a formal application had been submitted to them.

The applicant should be made aware that Scottish Water is unable to reserve capacity at their water and/or waste water treatment works for the proposed development. Once a formal connection application is submitted to them after full planning permission has been granted, they will review the availability of capacity at that time and advise the applicant accordingly.

### **Access and Core Paths Section**

No comments have been received.

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**(E) PUBLICITY:**

Neighbour notification (closing date: 8<sup>th</sup> September 2020); Setting of Listed Building Advert (closing date: 18<sup>th</sup> September 2020); and Setting of Listed Building Site Notice (closing date: 16<sup>th</sup> September 2020).

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**(F) REPRESENTATIONS:**

**Objection**

Expressions of objection have been received from the following 74 sources:

Elizabeth McHugh, Meadow Cottage, Meadows Road, Rothesay (e-mails dated 21<sup>st</sup> August and 14<sup>th</sup> September 2020)  
Theresa Jordan, 25 Barone Road, Rothesay (e-mail received 25<sup>th</sup> August 2020)  
Irma Den Ouden, 23 Barone Road, Rothesay (e-mail dated 25<sup>th</sup> August 2020)  
Maureen Wilkinson, 19 Mount Pleasant Road, Rothesay (e-mail dated 28<sup>th</sup> August 2020)  
Jenna McFarlane (letter received 31<sup>st</sup> August 2020)  
Alexander Davey, 32 Ballochgoy Road, Rothesay (e-mail received 31<sup>st</sup> August 2020)  
Kevin Booth, Brandane, 9 Barone Road, Rothesay (e-mail dated 31<sup>st</sup> August 2020)  
Samantha Booth, Brandane, 9 Barone Road, Rothesay (e-mail dated 31<sup>st</sup> August 2020)  
Dolores Irving, 29 Barone Road, Rothesay, Isle of Bute (letter dated 1<sup>st</sup> September 2020)  
Eileen Rae, 12 The Terrace, Ardbeg Road, Rothesay (letter dated 1<sup>st</sup> September 2020)  
Pauline McConnell, 27 Barone Road, Rothesay (e-mail dated 2<sup>nd</sup> September 2020)  
Martin Ferguson, 27 Barone Road, Rothesay (e-mail dated 2<sup>nd</sup> September 2020)  
Irene Jordan, 19 Auchnacloch Road, Rothesay, Isle of Bute (e-mail received 7<sup>th</sup> September 2020)  
Yordi McFie, 23 Barone Road, Rothesay (e-mail dated 7<sup>th</sup> September 2020)  
J MacCallum, No Address Given (e-mail dated 7<sup>th</sup> September 2020)  
H MacCallum, No Address Given (e-mail dated 7<sup>th</sup> September 2020)  
Mario Scicluna 23 Barone Road Rothesay (e-mail dated 11<sup>th</sup> September 2020)  
Laura Hayes, 3 Gowanfield Terrace, Rothesay (e-mail dated 11<sup>th</sup> September 2020)  
David Hayes, 3 Gowanfield Terrace, Rothesay (e-mail dated 11<sup>th</sup> September 2020)  
James Steel, 40 Columshill Street, Rothesay (e-mail received 11<sup>th</sup> September 2020)  
Michael McHugh, Meadow Cottage, Meadows Road, Rothesay (e-mail dated 14<sup>th</sup> September 2020)  
Agnes Dunn, 2 Bellevue Road, Rothesay (letter received 15<sup>th</sup> September 2020)  
A Scicluna, 23 Barone Road, Rothesay (letter received 15<sup>th</sup> September 2020)  
Maria Van Oostende, Flat Left 2/2, 15 Castle Street, Port Bannatyne (e-mail dated 18<sup>th</sup> September 2020)  
George Ross, 2 Bellfield, Gowanfield Terrace, Rothesay (e-mail dated 20<sup>th</sup> September 2020)  
Catherine Ross, 2 Bellfield, Gowanfield Terrace, Rothesay (e-mail dated 20<sup>th</sup> September 2020)  
Blane Colman, 15 Wallace Avenue, Rothesay, Isle of Bute (letter received 22<sup>nd</sup> September 2020)  
Name Unknown, 23 Mount Pleasant Road, Rothesay, Isle of Bute (letter received 22<sup>nd</sup> September 2020)  
Billy McGregor Holyrood Gowanfield Terrace Rothesay (letter received 22<sup>nd</sup> September 2020)  
Andrew McGregor Holyrood Gowanfield Terrace Rothesay (letter received 22<sup>nd</sup> September 2020)  
Gillian Laughlan, 13A Barone Road, Rothesay (letter received 22<sup>nd</sup> September 2020)



John Tierney, 1 Holyrood, Gowanfield Terrace, Rothesay (letter received 22<sup>nd</sup> September 2020)  
Heather A Henry, 1 Holyrood, 1 Gowanfield Terrace, Rothesay (letter received 22<sup>nd</sup> September 2020)  
R Henry, No Address Given (letter received 22<sup>nd</sup> September 2020)  
Taylor J Macmillan, 4 Holyrood, Gowanfield Terrace, Rothesay (letter received 22<sup>nd</sup> September 2020)  
Brenda Hughes, C/o 4 Holyrood, Gowanfield Terrace, Rothesay (letter received 22<sup>nd</sup> September 2020)  
Mrs A Hughes, 4 Holyrood, Gowanfield Terrace, Rothesay (letter received 22<sup>nd</sup> September 2020)  
Lindsay Tierney, 1 Holyrood, Gowanfield Terrace, Rothesay (letter received 22<sup>nd</sup> September 2020)  
Signature Unclear, c/o Loyds (letter received 22<sup>nd</sup> September 2020)  
Signature Unclear, 24 Bush Avenue, Rothesay (letter received 22<sup>nd</sup> September 2020)  
J H Clark, 73 Barone Road, Rothesay (letter received 22<sup>nd</sup> September 2020)  
M Clark, 73 Barone Road, Rothesay (letter received 22<sup>nd</sup> September 2020)  
T Currie, 73 Barone Road, Rothesay (letter received 22<sup>nd</sup> September 2020)  
Signature Unclear, 13A Barone Road, Rothesay (letter received 22<sup>nd</sup> September 2020)  
Angela Black, 34 Ardmory Road, Rothesay (letter received 22<sup>nd</sup> September 2020)  
Irene Ross, Solway, Serpentine Road, Rothesay (letter received 22<sup>nd</sup> September 2020)  
Signature Unclear, 22 Roslin Crescent, Rothesay (letter received 22<sup>nd</sup> September 2020)  
Stewart McKellar, Bellfield, Gowanfield Terrace, Rothesay (letter received 22<sup>nd</sup> September 2020)  
Elizabeth McKellar, Bellfield, Gowanfield Terrace, Rothesay (letter received 22<sup>nd</sup> September 2020)  
P Hemsall, Flat 1/1, 27 Columshill Street, Rothesay (letter received 22<sup>nd</sup> September 2020)  
Donna M Varney, 15 Mansefield Place, Rothesay (letter received 22<sup>nd</sup> September 2020)  
Olivia Kell, 15 Mansefield Place, Rothesay (letter received 22<sup>nd</sup> September 2020)  
Signature Unclear, 6 Bush Avenue, Rothesay (letter received 22<sup>nd</sup> September 2020)  
Signature Unclear, 8 Wyndham Road, Rothesay (letter received 22<sup>nd</sup> September 2020)  
Signature Unclear, 9 Caledonia Walk, Rothesay (letter received 22<sup>nd</sup> September 2020)  
James McKellar, 7 Eaglesham Terrace, Rothesay (letter received 22<sup>nd</sup> September 2020)  
J McKellar, 7 Eaglesham Terrace, Rothesay (letter received 22<sup>nd</sup> September 2020)  
Shaun Kernaghan, 7 Eaglesham Terrace, Rothesay (letter received 22<sup>nd</sup> September 2020)  
Signature Unclear, 33 Roslin Crescent, Rothesay (letter received 22<sup>nd</sup> September 2020)  
S Bennett-White, No Address Given (letter received 22<sup>nd</sup> September 2020)  
Steven Booth, 11 Bush Avenue, Rothesay (letter received 22<sup>nd</sup> September 2020)  
Mrs J Booth, 11 Bush Avenue, Rothesay (letter received 22<sup>nd</sup> September 2020)  
Mr Bolton, 15 Barone Road, Rothesay (letter received 30<sup>th</sup> September 2020)  
Mrs Bolton, 15 Barone Road, Rothesay (letter received 30<sup>th</sup> September 2020)  
Isla Crawford, Stuck Farm, Rothesay (letter received 30<sup>th</sup> September 2020)  
Eilidh Middleton, 21 Barone Road, Rothesay (letter received 30<sup>th</sup> September 2020)  
Karen Hilton 21 Barone Road Rothesay (e-mail dated 30<sup>th</sup> September 2020)  
Margaret Currie, Upper Flat, 21 Barone Road, Rothesay (letter received 30<sup>th</sup> September 2020)  
Rab Dawes, Gowanfield Terrace, Rothesay (letter received 6<sup>th</sup> October 2020)  
Mrs Dawes, Gowanfield Terrace, Rothesay (letter received 6<sup>th</sup> October 2020)  
Signature Unclear, Kames Terrace, Port Bannatyne (letter received 6<sup>th</sup> October 2020)  
J Morrison, 8 Kames Terrace, Port Bannatyne (letter received 6<sup>th</sup> October 2020)  
H Morrison, 2 Caledonia Walk, Rothesay (letter received 6<sup>th</sup> October 2020)  
C Moffatt, 46 Ladeside Place, Rothesay (letter received 6<sup>th</sup> October 2020)

A summary of the key issues raised by the objectors is provided below and individual comments are available in full for review on the Planning file available to view in Public Access.

- i. There is a recognition that it is vital for Bute to have a major employer on the island but it is considered that the application site is not the most suitable place for the current proposal. It is contended that there must be a more suitable site than placing an industrial-sized factory in the centre of town. The island has a growing amount of empty farms, with excellent infrastructure to and from the ferry, even just outside Rothesay and Port Bannatyne. It is also pointed out that the applicant's ownership of the Barone Road site should not be a reason for approval.

**Comment:** The issue of the acceptability of the site will be addressed in the assessment contained in Appendix A of this report. The potential for other sites to be used for the proposal is not under consideration and it is understood that the owner of the site is Highlands and Islands Enterprise.

- ii. Concern is expressed that the proposed production facility would generate an unacceptable level of odour and air pollution in a residential area. It is contended that the applicant's previous site at Columshill Street (another residential area) emitted a very pungent and ever-present odour.

Those objectors who work beside the applicant's current site at Townhead contend that they experience odour pollution regularly.

**Comment:** This issue will be addressed in the assessment contained in Appendix A of this report.

- iii. Bute Island Foods (the applicant) own website states – *"We are fortunate enough to live and work in the beautiful surroundings of the Isle of Bute, on the west coast of Scotland. Stunning beaches with sea vistas, walks through glorious countryside and a historic Royal Burgh"*.

Concern is expressed that the proposed building would visually dominate the area, given that its height that would equal the roofline of many of the houses on Barone Road. It would be in close proximity to a Conservation Area (Sheriff's Croft) and to Bute Fabrics, which is a Listed Building. Furthermore, the residential properties on Barone Road are of Victorian build and should be viewed as a valuable continuation of the Conservation Area.

**Comment:** This issue will be addressed in the assessment contained in Appendix A of this report.

- iv. According to the Local Development Plan, the land to be used for the proposal is classed as an *"Established Business and Industry Area"*; however, it has not been used as such for over 25 years.

It is contended that Argyll & Bute Council had previously earmarked the allotment area and Meadow Cottage as a business park in the Bute Local Plan. There was a large inquiry at the time and it was decided that this whole area should be designated as green belt and shouldn't have any development on it.

**Comment:** This issue will be addressed in the assessment contained in Appendix A of this report.

- v. The application site is adjacent to an "*Open Space Protection Area*" comprising well-utilised allotments, which are a quiet haven for the 18 plot holders and also for wildlife, especially birds. It is contended that these would all be severely impacted by the erection of a factory next door.

At present there is a line of established trees including sycamore, holly and hawthorn between the allotment and the site and concerns have been expressed that this will be removed or replaced, which would have an impact on the environment. It provides a wind break and screening and is home to many species of birds and animals. The applicant mentioned retaining trees "*where possible*" on the west side of the site but no mention of the existing tree line on the south side.

**Comment:** These issues will be addressed in the assessment contained in Appendix A of this report.

- vi. It is presumed that the proposed food production unit would be operating 24 hours a day and concern is expressed that the car park would be lit up all through the night, thereby causing disturbance to residents.

**Comment:** At the recommendation of the Environmental Health Officer, a condition will be attached ensuring that any lighting units used within the site shall be operated, positioned and angled to prevent any glare or light spillage out with the boundary of the site, having regard to the Institute of Lighting Engineer's Guidance.

- vii. Concern is expressed that the noise generated by refrigeration units and extraction fans and the change of shifts with people arriving and leaving the premises, etc. between 6:00 - 20:00 hrs would be an ever-present source of nuisance to surrounding residential properties.

**Comment:** This issue will be addressed in the assessment contained in Appendix A of this report.

- viii. St Andrews Primary School is in very close proximity to the site and Barone Road, Gowanfield and Bellevue Road are all used by children and parents to access the school; there is also a Bus Stop opposite the proposed new access road on Barone Road, which is used by the schoolchildren.

Concern is expressed that the increase in activity associated with the proposal could pose a significant safety risk at Meadows Road for those who frequent the public park and use the allotments; for the children and young adults who attend their sports club activities; and for residents at the lower side of Auchnacloch Road.

The proposed access onto Meadows Road is in a very dangerous position and will cause accidents and will impact on the lives of residents due to noise, pollution, traffic congestion and light pollution.

It is considered that Barone Road and Meadows Road are not suitable for the capacity of traffic proposed: 1 HGV per day -- expanding to 3 HGV's per day and cars for 60 staff – possibly expanding to 200.

There is very limited residential parking in the area and any increase in traffic would make this a very dangerous road both for users and pedestrians. There are also no pavements on this road which itself will bring accidents. Many

families use this as a route to school due to the traffic issues the other factory has created with little parking for their staff.

**Comment:** These issues will be addressed in the assessment contained in Appendix A of this report.

- ix. Concern is expressed that the area has been prone to flooding, with historic flooding events at Bute Fabrics and flood prevention measures being taken downstream of the proposed site.

It is pointed out that, just last month, the Shinty Clubhouse suffered damage due to flooding. SEPA noted – *“The proposed development is designated for the site to be utilised for commercial purposes. SEPA mapping suggests that the site is at risk from fluvial (river) flooding ..... Notwithstanding this, a residual risk of flooding remains to the site should a river bank or reservoir embankment fail or be overtopped during a more severe event. As a result, measures of flood mitigation should be considered as part of the development to ensure that any residual risk to the development is managed”*.

It is mentioned that the Kirk Dam overtopped in 2012 with severe flooding to the Meadows, Shinty Park & clubhouse and damage to the Kirk Dam itself.

The Lade, which runs parallel along the length of the site to the east, is currently in a very poor state with "canalised" banks that are also in poor condition, and the Lade itself is very heavily silted, posing further threats to flooding.

**Comment:** These issues will be addressed in the assessment contained in Appendix A of this report.

- x. Concern is expressed that there is a very real possibility of polluted/waste water from the proposed factory entering the Lade, which runs directly into the sea at a different exit point.

**Comment:** The proposal identifies connection to the public wastewater system that is adopted by Scottish Water and such connection would be implemented in accordance with their standards. The issue of surface water drainage will be addressed in the assessment contained in Appendix A of this report.

- xi. The ground for the proposed building is also contaminated with various dangerous materials including asbestos and cyanide, and while it can be removed by suitably equipped professionals, what about the airborne particles which will occur if this takes place? How is this to be managed?

**Comment:** This issue will be addressed in the assessment contained in Appendix A of this report.

- xii. It is pointed out that there are various public paths and rights of ways around the land.

**Comment:** This issue will be addressed in the assessment contained in Appendix A of this report.

- xiii. There is abundant and diverse wildlife in the area, including but not limited to deer, owls, wood pigeon, frogs, toads, bats, herons and slow worms with many mature trees. It is contended that it would be very hypocritical of a Vegan food producer to sacrifice all these animals and habitats for their own private gain.

The Applicants website also claims that “*We’re helping people lower their carbon footprint and protect the environment in turn*”.

**Comment:** This issue will be addressed in the assessment contained in Appendix A of this report.

- xiv. This business does not use any local products and is very environmentally damaging as all the ingredients are shipped from very remote global suppliers.

**Comment:** This issue does not have a material bearing upon the Planning assessment of the application.

- xv. It is acknowledged that the factory would create a lot of jobs but the question is raised as to why there seems to be a very high turnover of staff.

**Comment:** This issue does not have a material bearing upon the Planning assessment of the application.

- xvi. Concern is expressed that having a factory next to Meadow Cottage would greatly devalue this property.

**Comment:** The issue of the potential effect of a proposed development on the value of a property does not have a material bearing upon the Planning assessment of the application.

### **Support**

Expressions of support have been received from the following 26 sources:

Mark Nelson, Kerryfean Cottage, Rothesay (e-mail received 25<sup>th</sup> August 2020)  
Andy Francis-Mackie, 4 Westwood, Argyle Terrace, Rothesay (e-mail received 31<sup>st</sup> August 2020)  
Janet O’Sullivan, Rhoda, Hydro Road, Port Bannatyne (e-mail received 3<sup>rd</sup> September 2020)  
Cesare Milani, 15 High Road, Port Bannatyne (e-mail received 25<sup>th</sup> September 2020)  
Tracey Guy, 27 Wallace Avenue, Rothesay (e-mail received 27<sup>th</sup> September 2020)  
Craig Guy, 27 Wallace Avenue, Rothesay (e-mail received 28<sup>th</sup> September 2020)  
Adam Guy, 27 Wallace Avenue, Rothesay (e-mail received 28<sup>th</sup> September 2020)  
Tracey More, 8 Caledonia Walk, Rothesay (e-mail received 28<sup>th</sup> September 2020)  
Zsolt Kulcsar, 8 Auchnacloch Road, Rothesay (e-mail received 28<sup>th</sup> September 2020)  
Margaret Finlayson, 48 Crichton Road, Rothesay (e-mail received 28<sup>th</sup> September 2020)  
Marsali Finlayson, 48 Crichton Road, Rothesay (e-mail received 28<sup>th</sup> September 2020)  
John Graham, Lower Flat, Elderslie, Serpentine Road, Rothesay (e-mail received 28<sup>th</sup> September 2020)  
Liam Gaillard, 13 Caledonia Walk, Rothesay (e-mail received 28<sup>th</sup> September 2020)  
Margaret Strachan, 5 St Johns Drive, Rothesay (letter dated 28<sup>th</sup> September 2020)  
Anne Smith, 53 High Street, Rothesay (letter dated 29<sup>th</sup> September 2020)  
Rhiannon Gallacher, 32 Roslin Crescent, Rothesay (e-mail received 29<sup>th</sup> September 2020)  
Councillor Jim Findlay, Ward 8, Isle of Bute (e-mail dated 29<sup>th</sup> September 2020)  
Suzi Fisher, 30 Eden Drive, Rothesay (e-mail received 1<sup>st</sup> October 2020)  
R Tyler, Seahaven, Eastlands Road, Rothesay (letter dated 2nd October 2020)  
A Reeves, Eastlands Road, Rothesay (letter dated 2nd October 2020)  
Catherine Bell, 95 Barone Road, Rothesay (e-mail received 3<sup>rd</sup> October 2020)  
Alistair Bell, 95 Barone Road, Rothesay (e-mail received 3<sup>rd</sup> October 2020)  
Mairi Welsh, 23 Argyle Terrace, Rothesay (e-mail received 3<sup>rd</sup> October 2020)  
Iona Buick, Shalunt Farm, Rothesay (e-mail received 5th October 2020)

Laszlo Gero, Flat 2/2, Toward View, 31 Ardbeg Road Rothesay (e-mail received 5th October 2020)

Thomas Strachan, 5 St Johns Drive, Rothesay (letter dated 2<sup>nd</sup> July 2020 and received on 7<sup>th</sup> October 2020) A summary of the key issues raised by the supporters is provided below and individual comments are available in full for review on the Planning file available to view in Public Access.

- It is understandable that homeowners in the immediate area of this development would have concerns. It is a sign of good faith on behalf of Bute Island Foods that the original proposal has been withdrawn, amended and resubmitted after deliberations on the views of residents most affected by the plans.
- Bute Island Foods has a great reputation for its specialist products internationally. They are a major island employer and will provide even more jobs through this expansion. They are bringing back to use a derelict industrial site and every support should be given to this application and the future development of this local business.
- The continued growth of a stable employer who manufactures a sustained plant-based food product (with little global competition) to a growing truly global market where vegan and plant-based diets are become a choice for many is to be welcomed. Bute branding on supermarket shelves in addition to the disposable income benefit of those in employment in the local community cannot be underestimated.
- According to the latest Highlands and Islands Enterprise report on Rothesay (not including the rest of Bute), approximately 10% of the economically active population are unemployed and approximately 26% are part-time employed. The same report states that, based on the unemployment claimant numbers, Rothesay has consistently had a Claimant Count rate well above Argyll and the Islands, Highlands and Islands, and Scotland Rates (almost double). In the age range 16 to 24, this was also high at 10%. In short, secure and stable employment is needed to retain young people on Bute and to continue to build on the desires of Argyll and Bute Council to bring economic prosperity to the Council area.
- Bute Island Foods are a well-established company on the island and has a worldwide reputation for its specialist products. During the lockdown pandemic that everyone has experienced, they made huge contributions to small local companies on the island to allow for the vulnerable, elderly, children, and other individuals to allow them to have food and Bute Island Foods own products in their homes to get through this.
- Bute Island Foods are also sponsoring sporting football events on the Island so that the grass roots can keep going and to allow the kids/adults of all age groups to have these activities to keep their minds active.
- Information on shift patterns, i.e. the number of people arriving and leaving the factory was provided by the agent of Bute Island Foods and many employees will be able to walk or cycle to work given the location and access via a footbridge over The Lade from the east. The area is also better served by public transport than the Townhead factory. Overall, the use of cars could fall which is consistent with Council Policy.
- It is understood that the business/manufacturing model of Bute Island Foods is such that only one truck per day is desirable as the raw materials arrive at the factory and the finished product leaves the factory and travels onwards from Bute

to the company's warehouse facility in Staffordshire. Indeed, for reasons of efficiency and to maintain haulage movements to a minimum, it is understood that the applicant is in the process of working with their local haulier to design a new trailer style.

### **Representation**

A representation has been received from the following source:

David Poole, 17A Barone Road, Rothesay, Isle of Bute (e-mail dated 22<sup>nd</sup> September 2020)

Mr Poole states his preference that any tree loss to the north and west boundaries of the site and also to the pedestrian path in the north-eastern corner should be minimised as far as possible referred to. He also considers that it would be helpful if the path could be limited in width to 1.5 metres.

**Comment:** The issue of the impact of the proposed development on tree cover will be addressed in the assessment contained in Appendix A of this report.

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## **(G) SUPPORTING INFORMATION**

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

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

Pentadel Project Management, acting as agent for the application, have produced a Design and Access Statement (dated 14<sup>th</sup> August 2020). This document can be viewed on the Council's website at <https://www.argyll-bute.gov.uk/planning-and-environment/find-and-comment-planning-applications>.

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

### **Flood Risk Assessment**

A Flood Risk Assessment (FRA) dated January 2019 has been prepared by RSK, which has been accompanied by an FRA Checklist dated 12<sup>th</sup> March 2020 as stipulated by SEPA.

### **Ecological Appraisal**

A Preliminary Ecological Appraisal (report dated 28<sup>th</sup> November 2019) has been undertaken for the site by Cairn Ecology with a subsequent '*Preliminary Roost Assessment and Otter Survey Report*' (28<sup>th</sup> July 2020) and '*Bat Activity Survey Report*' (25<sup>th</sup> August 2020).

### **Contaminated Land Assessment**

A '*Report on Site Investigations*' was prepared by the Geo-Environmental Consultants, Mason Evans, in October 2014 and an updated report has been submitted in October 2020.

**Odour**

A survey has been carried out by Mabbett & Associates Ltd that has informed the formulation of an Odour Management Plan (OMP) dated 6<sup>th</sup> August 2020.

**Noise**

A survey has been carried out by Mabbett & Associates Ltd that has informed the formulation of a '*Preliminary Noise Impact Assessment*' dated 9<sup>th</sup> September 2020.

**Impact on Daylighting and Sunlighting**

LightSIM was commissioned to assess daylight, sunlight and overshadowing levels for the existing residential property at No. 5 Sheriff's Croft in Rothesay with the introduction of the proposed development. Their report of September 2020 has been submitted in support of the proposal.

**The contents of the above documents will be used as part of the assessment of the relevant issues in Appendix A below.**

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**(H) PLANNING OBLIGATIONS**

(i) **Is a Section 75 obligation required:** No

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

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

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

Argyll and Bute Local Development Plan 2015

- LDP STRAT 1 – Sustainable Development
- LDP DM1 –Development within the Development Management Zones
- LDP 3 – Supporting the Protection, Conservation and Enhancement of Our Environment
- LDP 5 – Supporting the Sustainable Growth of Our Economy
- LDP 9 – Development Layout, Setting and Design
- LDP 10 – Maximising our Resources and Reducing our Consumption
- LDP 11 – Improving our Connectivity and Infrastructure

Supplementary Guidance 2016

- SG LDP ENV 1 – Development Impact on Habitats, Species and our Biodiversity
- SG LDP ENV 2 – Development Impact on European Sites
- SG LDP ENV 6 – Development Impact on Trees / Woodland
- SG LDP ENV 13 – Development Impact on Areas of Panoramic Quality
- SG LDP ENV 16(a) – Development Impact on Listed Buildings
- SG LDP Sustainable Siting and Design Principles



SG LDP BUS 1 – Business and Industry Proposals in Existing Settlements and Identified Business and Industry Areas  
SG LDP BUS 5 – Economically Fragile Areas  
SG LDP BAD 1 – Bad Neighbour Development  
SG LDP SERV 1 – Private Sewage Treatment Plants and Wastewater (i.e. drainage) Systems  
SG LDP SERV 2 – Incorporation of Natural Features/Sustainable Drainage Systems (SuDS)  
SG LDP SERV 4 – Contaminated Land  
SG LDP SERV 5(b) – Provision of Waste Storage and Collection Facilities within New Development  
SG LDP SERV 7 – Flooding and Land Erosion – The Risk Framework for Development  
SG LDP CC 1 – Climate Change and Sustainable Buildings  
SG LDP TRAN 1 – Access to the Outdoors  
SG LDP TRAN 2 – Development and Public Transport Accessibility  
SG LDP TRAN 4 – New and Existing, Public Roads and Private Access Regimes  
SG LDP TRAN 6 – Vehicle Parking Provision

**(ii) List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 3/2013.**

Scottish Planning Policy (2014)  
Consultee Responses  
Third Party Representations  
Circular 4/1998 '*The Use of Conditions in Planning Permissions*'  
Planning Advice Note 33: Development of Contaminated Land  
Planning Advice Note 61: Sustainable Urban Drainage Systems  
Planning Advice Note 1/2011: Planning and Noise  
Planning Advice on Flood Risk (2015)

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

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

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

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

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**(O) Requirement for a hearing: Yes**

The proposal has generated a significant number of objections, primarily local residents, and there have been a number of expressions of support, albeit considerably fewer. In these circumstances, it is considered that value would be added to the determination process by Members being afforded the opportunity to consider the matters raised by objectors having regard to the characteristics of the site and the design and layout proposed.

Therefore, it is recommended by Officers that a hearing be agreed by Members in this instance.

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

The application site is located adjacent to the junction of Barone Road and Meadows Road in the south-western part of Rothesay. It extends to approximately 1.17 Hectares and was formerly used for the storage of Liquefied Natural Gas although it has been vacant for a considerable number of years.

The proposal involves the erection of a food production facility by Bute Island Foods who, with its product Sheese, has established itself as a market leader of manufacturing vegan and dairy free cheese. It produces a large range of award winning dairy free vegan alternatives.

In addition to the erection of the main building, the proposal identifies the upgrading of the existing access onto Meadows Road to accommodate all traffic; the continuation of the existing footway on Barone Road along the south-western corner of the site and on to the upgraded access; and the provision of a total of 78 parking spaces within the site.

The proposal has attracted 74 objectors and 26 supporters and a number of issues have required examination, including the following:

- Visual Impact
- Road and Pedestrian Safety
- Vehicle Parking
- Flood Risk and Surface Water Management
- Noise and Odour Impact
- Contaminated Land
- Biodiversity
- Outdoor Access
- Impact on Daylight and Sunlight

Having received a number of consultant's reports on many of these issues, it is considered that sufficient information has been assembled to properly consider the proposal. The outcome of the assessment is that the proposal is consistent with the relevant LDP Policies and Supplementary Guidance and can be supported subject to the attaching of suitably worded conditions.

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

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

The development would be located within an established business and industry area located in the Main Town of Rothesay. It would result in the re-use of a site that has

been vacant for a considerable time and would allow the much-needed provision of a new food production facility in relation to the expansion of Bute Island Food's already successful operations.

The scale, massing and design of the proposed building are considered appropriate in the context of the wider townscape. The road and pedestrian safety issues can be successfully addressed through the imposition of suitably-worded conditions. Given the nature of the proposed operations and the reports that have been submitted relating to noise and odour, it is considered that the privacy and amenity of the nearest residential properties would not be adversely affected to a significant degree.

Other issues such as flood risk, biodiversity and contaminated land have been examined and found to be acceptable subject to suitably-worded conditions.

On the basis of the foregoing, the proposal accords with the following:

Argyll and Bute Local Development Plan 2015

LDP STRAT 1 – Sustainable Development  
LDP DM1 –Development within the Development Management Zones  
LDP 3 – Supporting the Protection, Conservation and Enhancement of Our Environment  
LDP 5 – Supporting the Sustainable Growth of Our Economy  
LDP 9 – Development Layout, Setting and Design  
LDP 10 – Maximising our Resources and Reducing our Consumption  
LDP 11 – Improving our Connectivity and Infrastructure

Supplementary Guidance 2016

SG LDP ENV 1 – Development Impact on Habitats, Species and our Biodiversity SG  
LDP ENV 2 – Development Impact on European Sites  
SG LDP ENV 6 – Development Impact on Trees / Woodland  
SG LDP ENV 13 – Development Impact on Areas of Panoramic Quality  
SG LDP ENV 16(a) – Development Impact on Listed Buildings  
SG LDP Sustainable Siting and Design Principles  
SG LDP BUS 1 – Business and Industry Proposals in Existing Settlements and Identified Business and Industry Areas  
SG LDP BUS 5 – Economically Fragile Areas  
SG LDP BAD 1 – Bad Neighbour Development  
SG LDP SERV 1 – Private Sewage Treatment Plants and Wastewater (i.e. drainage) Systems  
SG LDP SERV 2 – Incorporation of Natural Features/Sustainable Drainage Systems (SuDS)  
SG LDP SERV 4 – Contaminated Land  
SG LDP SERV 5(b) – Provision of Waste Storage and Collection Facilities within New Development  
SG LDP SERV 7 – Flooding and Land Erosion – The Risk Framework for Development  
SG LDP CC 1 – Climate Change and Sustainable Buildings  
SG LDP TRAN 1 – Access to the Outdoors  
SG LDP TRAN 2 – Development and Public Transport Accessibility  
SG LDP TRAN 4 – New and Existing, Public Roads and Private Access Regimes  
SG LDP TRAN 6 – Vehicle Parking Provision

The proposal raises no other material consideration which would justify refusal of permission.

N/A

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

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**Author of Report: Steven Gove**

**Date: 9<sup>th</sup> October 2020**

**Reviewing Officer: Howard Young**

**Date: 9<sup>th</sup> October 2020**

**Fergus Murray**  
**Head of Development and Economic Growth**

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REF: 20/01441/PP**

1. The development shall be implemented in accordance with the details specified on the application form dated 17<sup>th</sup> August 2020; supporting information; and the approved drawings listed in the table below 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.

Plan Title.	Plan Ref. No.	Version	Date Received
<b>Location Plan (Scale 1:1250)</b>	<b>Plan 1 of 1</b>		<b>18/08/2020</b>
<b>Existing Site Plan</b>	<b>Drawing No. PPM-1928-P-A-002</b>	<b>P1</b>	<b>18/08/2020</b>
<b>PR Site Plan</b>	<b>Drawing No. PPM-1928-P-A-003</b>	<b>P1</b>	<b>18/08/2020</b>
<b>Proposed Block Plan</b>	<b>Drawing No. PPM-1928-P-A-004</b>	<b>P1</b>	<b>18/08/2020</b>
<b>Proposed Ground &amp; First Floor Plan</b>	<b>Drawing No. PPM-1928-P-A-005</b>	<b>P1</b>	<b>18/08/2020</b>
<b>Proposed Roof Plan</b>	<b>Drawing No. PPM-1928-P-A-006</b>	<b>P1</b>	<b>18/08/2020</b>
<b>Proposed Site Sections</b>	<b>Drawing No. PPM-1928-P-A-007</b>	<b>P1</b>	<b>18/08/2020</b>
<b>Proposed Elevations</b>	<b>Drawing No. PPM-1928-P-A-008</b>	<b>P1</b>	<b>18/08/2020</b>
<b>Proposed Entrance Layout</b>	<b>Drawing No. PPM-1928-P-A-009</b>	<b>P1</b>	<b>18/08/2020</b>

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

2. Unless the prior written consent of the Planning Authority is obtained for variation, the following works shall be undertaken prior to the food production facility hereby approved coming into use:
- i. Sightlines of 42 metres in each direction, measured a distance of 2.4 metres back from the edge of the public carriageway at the centre point of the access, shall be cleared of all obstructions above a height of 1.05 metres from the level of road and thereafter maintained as such in perpetuity;
  - ii. The first 5 metres back from the edge of the public carriageway as it meets the vehicular access to the site shall be finished with a sealed bituminous surface;
  - iii. The hatched area of ground referred to in Drawing No. PPM-1928-P-A-004 Revision P1 as '*pathway to be reinstated*' shall be finished with a sealed bituminous surface and thereafter be retained in perpetuity for such a dedicated purpose;

- iv. The parking spaces shown on Drawing No. PPM-1928-P-A-003 Revision P1 and Drawing No. PPM-1928-P-A-004 Revision P1 shall be fully constructed and capable of use, and thereafter be retained in perpetuity for such a dedicated purpose.

Reason: In the interests of road safety.

3. Prior to the commencement of the development (or such other suitable timescale as may be agreed in writing with the Planning Authority), a finalised Noise Management Plan shall be submitted to and approved in writing by the Planning Authority.

The Noise Management Plan shall:

- a) Confirm the measures that will be taken to mitigate the adverse noise impact identified at the Noise Sensitive Receptors from the identified external noise sources associated with the development
- b) Review and revise the BS4142 assessment calculations based on these mitigation measures (see (a) above), so as to demonstrate the effectiveness of these measures in mitigating any adverse noise impacts

The food production facility hereby approved shall not be brought into use until the measures detailed in the approved Noise Management Plan have been implemented in full.

Reason: In order to avoid noise nuisance in the interest of amenity.

4. Unless otherwise agreed in writing with the Planning Authority, the movement of Heavy Goods Vehicles into or off the site shall be limited to:
  - No earlier than 07:00 hours on a weekday or 08:00 hours on a Saturday
  - No later than 19:00 hours on a weekday or a Saturday

There shall be no movement of Heavy Goods Vehicles into or off site on a Sunday or Bank Holiday.

Reason: In order to avoid noise nuisance in the interest of amenity.

5. Unless otherwise agreed in writing with the Planning Authority, the food production facility hereby approved shall be operated in full compliance with the terms of the Odour Management Plan prepared by Mabbett and Associates (Third Issue dated 6th August 2020).

Reason: In order to avoid odour nuisance in the interest of amenity.

6. Prior to the commencement of the development (or such other suitable timescale as may be agreed with the Planning Authority), full details of any external lighting to be used within the site shall be submitted to and approved in writing by the Planning Authority. Such details shall include the location, type, angle of direction and wattage of each light which shall be so positioned and angled to prevent any glare or light spillage outwith the site boundary having regard to the Institute of Lighting Engineer's Guidance.

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.

7. Notwithstanding the effect of Condition 1 above, prior to the commencement of the development (or such other suitable timescale as may be agreed in writing with the Planning Authority), full details of the means by which rainwater and surface water are to be managed at the site shall be submitted to and approved in writing by the Planning Authority. Such details shall include detailed design calculations, a drainage statement, a method statement for construction and a SUDS maintenance regime. The surface water drainage shall be designed in accordance with SuDS manual CIRIA C753 and Sewers for Scotland 4<sup>th</sup> edition.

The details shall also include the results of investigations into the existing culvert located at the north east boundary of the site (flowing in a westerly direction from Mill Lade) and into the sinkhole that revealed a collapsed culvert to the north of this area, which was found during the undertaking of the topographic survey.

The rainwater and surface water drainage shall be constructed in accordance with all of the approved details and 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 rainwater and surface water drainage system and to prevent flooding in accordance with Policy LDP 10 and Supplementary Guidance policies SG LDP SERV 2 and SG LDP SERV 7 of the adopted Argyll and Bute Local Development Plan 2015.

8. Notwithstanding the effect of Condition 1 above, the development shall be implemented in accordance with the recommendations set out in the Flood Risk Assessment prepared by RSK (ref: 881048-R2(01)-FRA) and submitted in support of the development.

Reason: In order to ensure appropriate mitigation for flood risk.

9. Prior to the commencement of the development (or such other timescale as may be agreed in writing with the Planning Authority), a report on previous site investigations and ground gas monitoring shall be undertaken and submitted to and approved in writing by the Planning Authority. The report shall also contain a risk assessment based on current guidance and include recommendations for any further investigation, remediation or the installation of ground gas protection measures.

Reason: In order to ensure that contamination issues on the site have been fully investigated and remediated.

10. Prior to the commencement of the development (or such other suitable timescale as may be agreed in writing with the Planning Authority), a scheme of boundary treatment, surface treatment and landscaping shall be submitted to and approved in writing by the Planning Authority. The scheme shall comprise a planting plan and schedule which shall include details of:
- i. Existing and proposed ground levels in relation to an identified fixed datum;
  - ii. Existing landscaping features and vegetation to be retained;
  - iii. Location, design and materials of proposed walls, fences and gates;
  - iv. Proposed soft and hard landscaping works including the location, species and size of every tree/shrub to be planted;
  - v. A programme for the timing, method of implementation, completion and subsequent on-going maintenance.

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

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

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

11. Prior to the commencement of the development (or such other suitable timescale as may be agreed in writing with the Planning Authority), a scheme for the retention and safeguarding of trees during construction shall be submitted to and approved in writing by the Planning Authority. The scheme shall comprise:
  - i) Details of all trees to be removed and the location and canopy spread of trees to be retained as part of the development;
  - ii) A programme of measures for the protection of trees during construction works which shall include fencing at least one metre beyond the canopy spread of each tree in accordance with BS 5837:2012 'Trees in Relation to Design, Demolition and 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.

12. Unless otherwise agreed in writing with the Planning Authority, no development works shall take place on the site within the bird breeding season (April – August inclusive). The Planning Authority shall be informed in writing should any development be proposed within the site during the breeding bird season and confirmation shall be provided that a Suitably Qualified Ecologist (SQE) shall be employed to search the site for evidence of nesting birds immediately prior to works occurring, with a re-check undertaken for any works that are delayed for longer than 48 hours.

Should a nest be recorded, a suitable working buffer should be put in place until young have successfully fledged the nest.

Reason: In the interests of protecting bird species within the site.

13. Prior to the commencement of the development (or such other suitable timescale as may be agreed in writing with the Planning Authority), a detailed Outdoor Access Plan of public access across the site (as existing, during construction and following completion) shall be submitted to and approved in writing by the Planning Authority. The plan shall include details showing:
  - i) All existing access points, rights of access and other routes within and adjacent to the application site;
  - ii) Any diversion of paths, tracks or other routes temporary or permanent, proposed as part of the development (including details of mitigation measures, diversion works, duration and signage)



The approved Outdoor Access Plan, and any associated works, shall be implemented in full prior to the first coming into use of the food production facility hereby approved or as otherwise may be agreed within the approved plan.

Reason: In order to safeguard public access both during and after the construction phase of the development.

14. Prior to the commencement of the development (or such other suitable timescale as may be agreed with the Planning Authority), details of those works that are to be undertaken within the site during construction works to protect the water course that is located to the immediate east of the development site shall be submitted to and approved in writing by the Planning Authority.

Unless otherwise agreed in writing, the protection works shall be undertaken in accordance with the approved details.

Reason: In order to protect the water course in the interests of amenity and nature conservation.

15. Prior to the commencement of construction works on the building or other structures within the site (or such other timescale as may be agreed in writing with the Planning Authority), details of the proposed finishes of the external walls, roof covering, doors and fenestration of the building and all other structures shall be submitted to and approved in writing by the Planning Authority. Unless otherwise agreed in writing with the Planning Authority, the building shall be constructed using the approved materials.

Reason: In the interests of visual amenity and for the avoidance of doubt.

**NOTES TO APPLICANT**

1. **Length of permission:** This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]
2. In order to comply with Section 27A(1) of the Town & Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
3. In order to comply with Section 27B(1) of the Town & Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was complete.
4. The Council's Roads Engineer has made the following comments:
  - Waiting restrictions may be required in the vicinity of the junction of Barone Road and Meadows Road as there is currently a trend for vehicles to be parked in this area.
  - A Road Opening Permit will be required for all works on or adjacent to the public road network

Please contact Mr Paul Farrell (tel: 01369 708613 or at [paul.farrell@argyll-bute.gov.uk](mailto:paul.farrell@argyll-bute.gov.uk)) to discuss the above requirements.

5. The developer is advised that, in terms of construction noise, the Council's Environmental Health Service can use powers under the Control of Pollution Act 1974 to control the noise from such work. It is envisaged that, in order to comply with the above controls, any construction activities within the site shall be restricted to the hours of 0800 to 1900 Monday to Friday, 0800 to 1300 on Saturday. No construction activities (excluding internal finishing work) should take place on Sundays or Public Holidays.

The following advice is also applicable:

- The best practicable means (as defined in Section 72 of the Control of Pollution Act 1974) shall be employed to reduce noise to a minimum at all times
- Regard shall be paid to BS 5228-1: 2009 "*Code of Practice for Noise and Vibration Control on Construction and Open Sites: Part 1 – Noise*" which gives guidance and recommendations on how to minimise noise from construction works
- All plant and machinery in use shall be properly maintained in accordance with the manufacturer's instructions so as to minimise noise
- Any temporary lighting shall be positioned and angled so as to prevent glare/light pollution to nearby residents
- A contact number for emergency use shall be given to the Council prior to the commencement of construction activities

- If conditions or circumstances change and do not allow for the method of working to be continued then notification shall be given to the Council as soon as possible to discuss alternative methods of working

Please contact Richard Gorman, Environmental Health Officer (tel. 01700 501366 or at richard.gorman@argyll-bute.gov.uk) directly upon these matters.

6. The attention of the applicant/developer is drawn to the contents of the following letters and e-mails that are documents associated with this permission as listed in the Council's Public Access System:
  - Letter dated 25<sup>th</sup> August 2020 from SEPA
  - Letter dated 26<sup>th</sup> August 2020 from the Council's Biodiversity Officer
  - Report from JBA Consulting dated 4<sup>th</sup> September 2020 and titled 'Flood Risk Management – Observations on Planning Application'
  - E-mail dated 7<sup>th</sup> September 2020 from Council's Biodiversity Officer
7. The attention of the applicant/developer is drawn to the contents of the letter dated 27<sup>th</sup> May 2020 from Scottish Water that is a document associated with the withdrawn application (ref: 20/00333/PP) as listed in the Council's Public Access System.

**APPENDIX A – RELATIVE TO APPLICATION NUMBER: 20/01441/PP**

**A. SETTLEMENT STRATEGY**

The site is located within the boundaries of the Main Town of Rothesay as designated under the Argyll and Bute Local Development Plan (LDP) 2015.

Under Policy LDP DM 1 of the LDP, up to large-scale development is encouraged on appropriate sites within the Main Towns. **In view of this, it is considered that the principle of the proposal is consistent with the provisions of Policies LDP STRAT 1 and LDP DM 1 of the Argyll and Bute Local Development Plan 2015.**

**B. LOCATION, NATURE AND DESIGN OF PROPOSED DEVELOPMENT**

**Site Description**

The application site is located adjacent to the junction of Barone Road and Meadows Road in the south-western part of Rothesay. It extends to approximately 1.17 Hectares and the 'Report on Site Investigations' produced by Mason Evans in October 2014 provides the following narrative on the history of the site:

*"The site would appear to have remained largely undeveloped until at least 1965. From around 1975-1978, four unspecified buildings were recorded on site. Previous reporting indicated the structures to be concrete bunds containing Liquefied Natural Gas (LNG) storage vessels and a vaporiser slab with a control office located in the south. By 2006, the site was indicated to have been cleared of all structures except the office building.*

*The surrounding area was subject to industrial development from at least 1865. Beyond the Mill Lade to the east, a sawmill was recorded in 1896 and replaced by three gasometers from 1924. A railway line was recorded 150 metres to the west and throughout the mid-twentieth century residential development was recorded to the south-east and nurseries to the north. By 1985/1990, only one gasometer remained and by 1995, this area to the east of the site had been cleared."*

In 2014, Mason Evans reported that the site itself had a gentle slope downward to the north with the western part being slightly higher than the east. Two gas regulating structures were noted in the west and a small office building was present in the south. The remaining site area comprised various areas of hardstanding and demolition debris with soft landscaping to the east and west.

In the intervening period, the site has become significantly more overgrown with the areas of hardstanding now covered in greenery.

To the immediate north of the site is Sheriff's Croft, which is a small residential development consisting of a terrace of four dwellinghouses (Nos. 1 – 4) and a detached dwelling (No. 5); to the north-east are the buildings associated with Bute Fabrics; to the east and south-east are Council yards and the rear of McKirdy's Haulage yard; to the south are allotments and Meadows Road; and to the west is Barone Road.

**Details of Proposal**

Bute Island Foods, with its product Sheese, has established itself as a market leader of manufacturing vegan and dairy free cheese. It produces a large range of award winning dairy free vegan alternatives.

The principal element of the proposed development relates to the erection of a building that will incorporate the main production factory on the ground floor with reception, office and welfare

facilities in a partial upper floor. A gross floorspace of approximately 3900 square metres will be created and the external dimensions of the building would be 63 metres in length x 43 metres in width x 12 metres in height (ground floor level of building to ridge level of building).

As described in the '*Design Statement*', the construction system would be typical to food-safe production facilities and would be a steel frame with a metal-clad insulated panelling. The windows have been carefully positioned to relate to the internal rooms whilst a translucent band of cladding runs the full length of the elevation to allow diffused daylight throughout the first floor spaces. The image in the '*Design Statement*' indicates that green will be the basis for the colour scheme but it also advises that specific tones and colours would be subject to the applicant's confirmation of samples.

### **Assessment of Visual Impact**

In approaching the application site from the north, one travels along Mill Street and then Barone Road. There is a clear distinction in terms of land usage and townscape when moving in a westerly and then south-westerly direction – the areas to the north and west of the road are almost exclusively residential whilst the areas to the east and south are more industrial in nature. As one moves closer to the site at road level, there is a substantial stone boundary wall, immediately behind which is a significant belt of trees. The combination of wall and woodland render the application site visually inconspicuous from the level of the road.

The site is more visible on the approach along Meadows Road from the south and, from the east, views can be obtained from a pedestrian footpath albeit this is relatively overgrown at the present time.

The south-western boundary of the Rothesay Conservation Area ends approximately 80 metres to the north of the application site and none of the business and industrial land in the vicinity is within the Conservation Area. A former Cotton Mill (currently occupied by Bute Fabrics) that dates from the late 18<sup>th</sup>/early 19<sup>th</sup> century is located to the north-east of the application and this is the only Listed Building (Category B) in the vicinity of the site. This building is viewed in two different contexts – from the east, it is directly adjacent to a large, modern factory unit whilst, from the west, it is set in a visually attractive arrangement where it looks onto the terrace of four dwellings and one detached dwelling that comprises Sheriff's Croft. It is considered that the proposed building would be of a sufficient distance that it would not have an adverse impact on this setting.

Whilst acknowledging that the proposed building will provide a purpose-built working environment internally, it is very much a case of "*form following function*" in terms of its scale, massing and external design. Site sections have been provided that show the height of the building in relation to the residential buildings across Barone Road together with its distance from the road itself.

In the context of the site's location within a wider business and industrial area; the presence of a substantial stone boundary wall and tree belt along its northern and western boundaries; and its distance from the Rothesay Conservation Area and nearest Listed Building, it is considered that the proposal would have a neutral effect thereby maintaining the visual amenity of this part of Rothesay.

**On the basis of all of the foregoing, and subject to suitably-worded conditions, the proposal is considered to accord with Policies LDP 3 and LDP 9 and Supplementary Guidance policies SG LDP ENV 13, SG LDP ENV 16(a) and SG LDP Sustainable Siting and Design Principles of the Argyll and Bute Local Development Plan 2015.**

### C. ECONOMIC AND BUSINESS IMPACT

The site is located within an 'Established Business and Industry Area' within which, under Policy LDP 5 (*Supporting the Sustainable Growth of Our Economy*) of the LDP 2015, priority is given to new business and industry development. In addition, Supplementary Guidance policy SG LDP BUS 1 (*Business and Industry Proposals in Existing Settlements and Identified Business and Industry Areas*) aims to promote well ordered, sustainable industrial and business development in all existing settlements subject to certain criteria.

The site is also within a wider Area for Action referred to in the LDP Written Statement as AFA 1/4 (Rothesay – Barone Road/High Street). The LDP explains that AFAs are areas which, subject to resource availability during the plan-period, will be the focus for partnership or community action. In this particular case, the remit is local in scale and relates to regeneration and environmental enhancement.

Rothesay is also termed an "Economically Fragile Area" in the LDP and such areas are characterised by factors including declining population, scarcity of economic opportunities, proportionately fewer young people, geographical and transport challenges, and below average income levels. Supplementary Guidance Policy SG LDP BUS 5 stresses the importance of supporting development in these areas that would have significant economic and social impact, assist businesses and social enterprises to generate growth and social impacts, and contribute to community resilience.

The proposed food production unit would fall within Class 4 (Business) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended) and this type of use comes within the definition of "*business and industry development*" contained in the LDP. Bute Island Foods are clearly a great economic success story on the island and their Design Statement explains that the company's existing production facility at Townhead is reaching capacity with the consequence that this new premises will enable the company to continue to expand whilst remaining on the Isle of Bute.

The supporting information estimates the provision of 60 new jobs within 12 months of the opening of the new unit and a planned rise to 200 jobs within 3 years allowing for additional upskilling and promotional opportunities for the area.

The relevant LDP Policies and Supplementary Guidance relating to business and the economy recognise that the other potential impacts of a proposal (such as on road and pedestrian safety; residential amenity; etc.) must be examined fully and such examination is carried out elsewhere in this report. Purely from an economic perspective, however, the principle of facilitating the continued expansion of a successful Bute company should be fully supported.

**On the basis of the foregoing, the proposal is considered to accord with Policy LDP 5 and Supplementary Guidance policies SG LDP BUS 1 and SG LDP BUS 5 of the Argyll and Bute Local Development Plan 2015.**

### D. ROAD NETWORK, PARKING AND ASSOCIATED TRANSPORT MATTERS

Whilst the application site has not been in active use for a significant number of years, there is an existing vehicular access onto Meadows Road, approximately 50 metres to the south-east of its junction with Barone Road.

The previous application (ref: 20/00333/PP) identified the formation of a new vehicular access onto Barone Road for traffic other than HGVs, predominantly employees. HGVs were to enter and exit via the upgraded existing access onto Meadows Road. A total of 30 car parking spaces were identified to the west of the building.

In his comments on the above arrangements, the Area Roads Engineer stated the following:

- i. The proposed new access onto Barone Road was too close to Gowanfield Terrace, given the size of the currently proposed employee/visitor car park. It was recommended that a new access should be located at least 25 metres from an existing junction
- ii. Supplementary Guidance policy SG LDP TRAN 6 of the Argyll and Bute Local Development Plan (LDP) 2015 provides advice on the level of off-street car and vehicle parking that should be associated with new developments. The Argyll and Bute Minimum Parking Standard for new Class 4 (Business) developments is 1 space per 50 square metres of gross floor area (GFA). Given the GFA in this particular case is approximately 3,900 square metres, there would be a requirement for a minimum of 78 spaces using this standard. Given the number of off-street parking spaces that was proposed in this original scheme, there was a shortfall of 48 spaces
- iii. The level of parking must be sufficient to prevent vehicles parking outwith the site on the adjacent road network where available parking is already at a premium

These comments were very similar to those submitted by objectors.

The applicant revised the proposal in light of these comments and these amendments prompted the submission of the new application. The new arrangement identifies the upgrading of the existing access onto Meadows Road to accommodate all traffic; the continuation of the existing footway on Barone Road along the south-western corner of the site and on to the upgraded access; the provision of a total of 78 parking spaces within the site by utilising areas to the south and west of the building; and the creation of a pedestrian footpath from Barone Road into the northern part of the site.

The Area Roads Engineer has expressed no objections to these proposed arrangements, subject to the following conditions:

- The surfacing of the access in a bituminous sealed surface that would be 5.5 metres wide
- The formation of the requisite sightlines onto Meadows Rd of 42 metres x 2.4 metres x 1.05 metres. All walls, sightlines and walls within the visibility splays must be maintained at height not greater than 1 metre above the road.

He has commented that waiting restrictions may be required in the vicinity of the junction of Barone Road and Meadows Road as there is currently a trend for vehicles to be parked in this area. A Road Opening Permit will be required for all works on the road corridor.

Whilst the changes identified in this second application have resolved some of the adverse comments previously submitted, many objectors have now expressed concerns regarding the impact upon road and pedestrian safety along Meadows Road. These objections are detailed in Part (viii) of Section (F) earlier in this report.

It is acknowledged that the proposal would result in an increase in the amount of vehicular traffic using that part of Meadows Road between its junction with Barone Road and the upgraded existing access into the site (approximately 50 metres in length).

In assessing the extent of the increase, the agent has provided the following shift starting and ending times:

Early shift is between 06:00-12:30 and involves 20 people  
Main shift is between 06:30-16:30 and involves 40 people  
Late shift is between 12:00 -18:00 and involves 20 people

Hygiene is between 17:00 -01:00 and involves 10 people

He has also reiterated that, due to the close proximity of the existing Townhead site to Rothesay centre, the majority of employees are able to walk, cycle or take the bus to work. It is assumed that, as the new facility will be located closer to the centre of Rothesay, the number of employees not using cars will increase.

Whilst it is recognised that there will be a certain number of other vehicles entering and leaving the premises at various times during the day, the shift workers will be entering and departing at specific parts of the day. Based upon the information submitted by the agent, in the scenario where every shift worker drives a car to their work (which is unlikely), the most number of vehicles driving in the vicinity of the site would be 40 in the lead-up to 06:30 and 40 after 16:30.

Meadows Road is in a '*Twenty's Plenty*' zone where vehicle speeds should be lower and motorists should be adapting their driving to the conditions. Providing that suitable sightlines are provided from the upgraded access (these are achievable) and there is a footway linking the access with Barone Road, the Area Roads Engineer is satisfied.

Given all of the above, it is considered that the revised access and parking arrangements have satisfactorily addressed the previous concerns of the Council's adviser on road and pedestrian safety.

**On the basis of the foregoing, and subject to suitably-worded conditions, the proposal is considered to accord with Policy LDP 11 and Supplementary Guidance policies SG LDP TRAN 4 and SG LDP TRAN 6 of the Argyll and Bute Local Development Plan 2015.**

## **E. INFRASTRUCTURE**

The development is to be connected into the public water supply and public sewerage system. At the time of the previous application for the site (ref: 20/00333/PP) in May 2020, Scottish Water advised that they had carried out a capacity review. This stated that the proposed development would be fed from Dhu Loch Water Treatment Works but they could not confirm the current capacity. To allow Scottish Water to fully appraise the proposals, the applicant is advised to complete a Pre-Development Enquiry (PDE) Form and submit it directly to them via their Customer Portal or contact Development Operations.

Scottish Water also confirmed that there is currently sufficient capacity for a foul only connection in the Rothesay Waste Water Treatment works to service the development. However, they noted that further investigations might require to be carried out once a formal application had been submitted to them.

Notwithstanding the above comments, Scottish Water did not object to the proposal and there is no evidence to suggest that there would be a fundamental issue associated with connection to public infrastructure, which is preferred route for developments within the main settlements.

**On the basis of the foregoing, the proposal is considered to accord with Policy LDP 10 and Supplementary Guidance policy SG LDP SERV 1 of the Argyll and Bute Local Development Plan 2015.**

## **F. FLOOD RISK AND SURFACE WATER MANAGEMENT**

A Flood Risk Assessment (FRA) dated January 2019 has been prepared by RSK, which has been accompanied by an FRA Checklist dated 12<sup>th</sup> March 2020 as stipulated by SEPA. Given the size of this document, it is considered appropriate to set out the conclusions and recommendations, as follows:



This FRA complies with the NPF3 and SPP and demonstrates that flood risk from all sources has been considered in the proposed development. It is also consistent with the Local Planning Authority requirements with regards to flood risk. SPP sets out a Risk Framework, which provides specific information regarding suitability of development within areas at different levels of risk.

The FRA has concluded that:

- The proposed development is located within a medium to high risk area in accordance with the SEPA flood mapping; notwithstanding this, following a flood modelling exercise on Mill Lade, the results show that the site should not be impacted by the 200 year flood event. However, due to the nature of the site and the adjacent watercourse, a residual risk of flooding remains at the site. As a result, provided that the relevant mitigated measures are put in place (the raising of the finished floor levels of any proposed development and the potential inclusion of flood resilient construction measures), the development should not be precluded as a result of flooding
- The site is sufficiently removed from the coast and elevated above sea level to state that it is at low risk from tidal sources
- Flood risk from surface water is considered medium at the site, with a potential flow path present on site aligned between the steep slopes in the eastern and western sections of the site flowing in a northerly direction
- Flood risk from groundwater is considered low; however, it is recommended that the groundwater levels are monitored during site investigations or groundworks phase in order to confirm
- The risk from sewers is considered to be low to moderate as there are sewers on and surrounding the site. Should surcharging of these systems occur, any surcharged flow would likely continue in a northerly direction away from the site or be retained within the adjacent highway network
- It is advised that the culvert / Mill Race in the northern section of the site be further assessed to confirm its route, capacity and condition
- There will be an increase in surface water runoff; however, a full surface water drainage strategy should be developed to mitigate this increase
- The proposed development will alter the impermeable area therefore increasing the surface water runoff and a drainage strategy should be undertaken for the site.

SEPA has accepted the FRA and has no objections to the proposal.

The Council's Flood Risk Adviser has recommended that a condition is attached to any permission that is granted which ensures that detailed design calculations, a drainage statement, a method statement for construction and a SuDS maintenance regime are submitted at the appropriate time. In addition, details should be submitted of investigations into the existing culvert located at the north east boundary of the site (flowing in a westerly direction from Mill Lade) and into the sinkhole that revealed a collapsed culvert to the north of this area, which was found during the undertaking of the topographic survey. The surface water drainage should be designed in accordance with SuDS manual CIRIA C753 and Sewers for Scotland 4th edition.

**On the basis of the foregoing, it is considered that, subject to suitably-worded conditions, the proposal is in accordance with Policy LDP 10 and Supplementary**

**Guidance policies SG LDP SERV 2 and SG LDP SERV 7 of the Argyll and Bute Local Development Plan 2015.**

**G. WASTE COLLECTION**

Supplementary Guidance Policy SG LDP SERV 5(b) requires that developments should make effective land use and layout provision for the storage, separation, recycling, composting and collection of waste. In the case of a large-scale development such as is proposed in the current application, details of the arrangements for the storage, separation and collection of waste from the site or roadside collection point should be submitted, including provision for the safe pick-up by refuse collection vehicles.

The application form states that “*waste and recycling will be consolidated internally and collected via the organised waste collection*”. In the ground floor plan, a waste collection route is identified at the south-western corner of the building and given, the established nature of Bute Island Foods and their facility at Townhead, there is no evidence to suggest that there are any issues associated with waste collection.

**On the basis of the foregoing, the proposal is considered to accord with Supplementary Guidance policy SG LDP SERV 5(b) of the Argyll and Bute Local Development Plan 2015.**

**H. ODOUR IMPACT ASSESSMENT**

Having regard to food production at the proposed facility and the comments of objectors, the Environmental Health Officer (EHO) requested that an assessment was carried out on the potential impact of the odour produced by the operation of the proposed development on nearby residential properties.

Using the findings of the assessment, an Odour Control Scheme would be produced that detailed the planned odour control measures required to mitigate any potential adverse effects of odour for the occupiers of nearby residential properties.

The applicant commissioned Mabbett & Associates to undertake the odour assessment and their report dated 6th August 2020 identified three main areas of potential odour during day-to-day operations, as follows:

- The production air handling unit stack discharge
- The washroom extract discharge
- The waste storage area

In addition, the report identified abnormal/exceptional conditions that could lead to increased odour including generation of large quantities of waste, a blockage of onsite drains and adverse weather conditions. An external assessment of the existing site at Townhead, involving sniff tests, was undertaken during which no odour was detected beyond the site boundary.

The report stated that odour from the facility can be controlled by implementing odour control/mitigation measures, including waste minimisation, waste disposal, training of staff and daily external checks. Additional control/mitigation measures are detailed for foreseeable abnormal conditions.

In his comments on the report, the EHO advised that the Environmental Health Service has not received complaints of odour from nearby residents during the period which the existing business has operated at the Townhead site and previously in Columshill Street in Rothesay. Based on this, and in light of the findings of the Mabbett & Associates report, it is not considered

likely that the proposed food production facility would have an adverse impact on the occupiers of nearby residential properties provided that the applicant implements and maintains the control measures identified in the Odour Management Plan dated 6th August 2020.

In light of these comments, a condition is recommended ensuring that the operations at the site are carried out in accordance with the Odour Management Plan.

**In terms of odour control, it is considered that, subject to a suitably-worded condition, the proposal is in accordance with Supplementary Guidance policy SG LDP BAD 1 of the Argyll and Bute Local Development Plan 2015.**

## **I. NOISE IMPACT ASSESSMENT**

Having regard to the nature of certain noise-generating activities at the proposed facility and the comments of objectors, the Environmental Health Officer (EHO) requested that an assessment be carried out of the potential impact of the noise/vibration generated by the operation of the proposed development on nearby residential properties. The assessment was to be carried out by a competent person using the methodology detailed in BS4142:2014 "*Methods for Rating and Assessing Industrial and Commercial Sound*".

Using the findings of this assessment, a Noise Management Plan would be produced detailing the measures needed to mitigate any potential adverse effects of noise/vibration for the occupiers of nearby residential properties.

The applicant commissioned Mabbett & Associates to undertake the noise assessment and its preliminary assessment carried out in July identified two main noise sources that might have the potential to impact on residents living nearby, namely the refrigeration trailer located in the loading bay on the western façade of the main building and the external fans on the eastern façade of the main building. Based on the results of a BS4142 assessment, it was determined that the external noise emissions from these sources may result in low impact during daytime hours at all three noise sensitive residential receptors (NSR's) but an adverse impact during night-time hours at all three NSR's.

The report stated that attenuation measures would be required to reduce the noise emissions from these sources to an acceptable level. In Section 4 of the report, a number of noise management options were suggested for both the refrigeration trailer (Section 4.2) and the external fan array (Section 4.3). A further amended report was submitted dated 9<sup>th</sup> September with additional notes regarding these proposed mitigation measures.

In addition, the report recommended the adoption of basic operational procedures to control noise emissions including limiting HGV movements to and from the site. This included the avoidance of HGV movements during evening and night-time periods.

Having considered the reports, the EHO recommended that a condition should be attached requiring the submission of a finalised noise management plan that would confirm the noise mitigation measures that had been chosen together with BS4142 assessment calculations to support the chosen measures.

He also recommended a condition limiting the movement of HGV's on and off the site to certain times of the day.

From a Planning perspective, guidance on noise as a material consideration can be found in '*Planning Advice Note 1/2011: Planning and Noise*'. This states that applications that raise significant noise issues can be greatly assisted by a Noise Impact Assessment (NIA). It refers to the identification of proportionate and reasonable mitigation measures, including the following possibilities:

- Engineering – the reduction of noise at the point of generation (e.g. by using quiet machines and/or quiet methods of working) and the containment of noise generated (e.g. by insulating buildings which house machinery and/or providing purpose-built barriers around the site)
- Operational - limiting the operating time of the source and/or restricting activities allowed on the site and specifying an acceptable and reasonable noise limit. However, the implications of restricting hours of operation for the economic efficiency and operational capacity of a business over the longer term will need to be considered;
- Off-site road traffic noise – the restriction of lorry movements to particular times or particular routes
- Equipment selection – the setting of noise limits for specific items of plant and equipment, e.g. those with certain tonal noise characteristics.

As mentioned above, the possible noise mitigation measures in this case relate to the refrigeration trailer (its position within the site; the use of an acoustic hood; or the erection of acoustic barrier fencing); the external fan array (installation of a low-noise fan set; installation of fan silencer units or acoustic enclosures; or deployment of variable speed drives to control the fan motor speed to the required duty at any given time); and HGVs (limitation of movements to/from the site and avoidance of movements during evening and night-time periods).

It is considered that the noise mitigation measures that are being considered in relation to the current application fall within the type of options mentioned in Planning Advice Note 1/2011 and that the conditions recommended by the EHO would meet the six tests contained in Circular 4/1998 '*The Use of Conditions in Planning Permissions*'.

**In terms of noise control, it is considered that, subject to a suitably-worded condition, the proposal is in accordance with Supplementary Guidance policy SG LDP BAD 1 of the Argyll and Bute Local Development Plan 2015.**

## **J. CONTAMINATED LAND ASSESSMENT**

A document titled '*Report on Site Investigations*' and dated October 2014 was submitted as part of the supporting information relative to the previous application for the site (ref: 20/00333/PP). This had been prepared by Mason Evans, whom Highlands and Island Enterprise had commissioned to undertake a ground study in advance of the site being developed.

Having looked at this report, the Environmental Health Officer (EHO) recommended that arrangements should be made for a competent person to carry out the following:

- i. Review the submitted and previous reports to determine the validity of the views and conclusions within it in terms of current knowledge and standards. In particular, re-evaluate the ground gas testing undertaken and associated gas protection measures identified as necessary
- ii. Identify any further need for investigation and assessment bearing in mind the proposed end use

It was stressed that that there was no requirement for a further site investigation if a competent person could justify the case that the previous investigations in 2014 were adequate and could then confirm in writing that the results obtained were valid in terms of current knowledge and standards. This should include a review of the ground gas regime in accordance with contemporary standards and the gas protection measures identified as necessary in the report for an industrial development of this type.

In making these recommendations, the EHO referred to the document titled '*Land Contamination and Development*' that was published by Environmental Protection Scotland in 2019.

A decision was taken that Mason Evans would undertake a fresh report involving a new site visit and a copy of this latest study has been submitted.

Having examined the new documents, the EHO notes that the report has reviewed the results of previous site investigations in accordance with current guidance and standards and it concludes that no source-pathway-receptor links are present in relation to human health. He points out, however, that previous ground gas monitoring in 2014 prompted a recommendation that Characteristic Situation 2 protection measures would be required if the site was developed and, in this context, he acknowledges that further ground gas monitoring is currently being undertaken but has yet to be completed and reported.

He considers it possible, therefore, that in the elapsed time since the earlier report, and following reference to results of current monitoring exercise and contemporary guidance, a different conclusion on the Characteristic Situation 2 protection measures may be reached. In these circumstances, he feels that it would be appropriate for a final report to be formulated that included details of the completed ground gas monitoring exercise and, as such, he is recommending that a suitably worded condition be attached to the Planning Permission, if granted.

In terms of assessing the proposal in the context of the information that is now available, attention is drawn to the Environmental Protection Scotland document '*Land Contamination and Development*', which includes the following statements:

*"The applicant needs to satisfy the Planning Authority that unacceptable risks from contamination have been successfully addressed through remediation actions and with the land being 'suitable for use'." (Paragraph 17)*

*"Land contamination issues can be addressed either as a part of the development planning application or by conditioned requirements. In either approach, the planning application must meet the necessary reporting requirements to ensure that the new development is suitable for use." (Paragraph 18)*

Planning Advice Note PAN 33 '*Development of Contaminated Land*' (which is mentioned in the EPS report) provides detail on how the Development Management process should assess contaminated land as a material planning consideration. It sets out the type of investigation and assessment that should be undertaken (although it was published in 2000) but, for the present purposes of deciding upon the extent of information required to make an informed recommendation, it makes the following statement:

*"Applications need not, however, be delayed pending an investigation by the developer unless there is good reason to suppose that the land is actually contaminated. Moreover, where there is potentially only slight contamination, Planning Permission may be granted on condition that development will not be permitted to start until a site investigation and assessment has been carried out and that the development itself will incorporate measures shown in the assessment to be necessary."*

It is of importance that the new study produced by Mason Evans has satisfied the EHO that the current guidance and standards have been applied properly. The results of the further ground gas monitoring that is currently being undertaken will inform the precise detail of the gas protection measures but there is nothing to suggest that there are any fundamental risks associated with the development of the site from a contaminated land perspective.

**In terms of contaminated land, it is considered that, subject to a suitably-worded condition, the proposal is in accordance with Policy LDP 10 and Supplementary Guidance policy SG LDP SERV 4 of the Argyll and Bute Local Development Plan 2015.**

## **K. BIODIVERSITY ASSESSMENT**

A Preliminary Ecological Appraisal (report dated 28th November 2019) has been undertaken for the site by Cairn Ecology and the 'Discussion and Recommendations' section of the report can be summarised as follows:

### **Nature Conservation Sites**

The Central Lochs SSSI sites are located some distance from the site and are designated for non-breeding populations of graylag geese (*Anser anser*), and importance for other wildfowl. The site is surrounded by urban areas and the habitat isn't optimal for geese or other wildfowl, as such the site was considered to have no impact or effects pathway to it and as such was not considered further.

### **Habitats**

#### Broadleaved Plantation Woodland

The most ecological valuable habitat features noted during the field survey were the broadleaved plantation woodland located in the western side of the site, the immature woodland on the southern boundary and the mature trees present within the 30m buffer on the eastern boundary. These areas were considered likely to provide suitable habitat to urban mammal and bird species for both foraging, commuting and resting and, furthermore, could provide potential for roosting bats. It was recommended that, where possible, these areas of mature and semi mature trees were retained as part of the development.

To facilitate this, it was considered that it might be necessary to undertake a tree condition survey in particular within the site to identify which trees would be impacted.

### **Fauna**

#### Birds

The woodland, hedgerow and trees identified within the Site and buffer area have the potential to provide nesting habitat to lowland bird species. As such, in order to ensure compliance with the Wildlife and Countryside Act 1981 (as amended) that affords protection to all birds (whilst actively nesting), their nests and eggs, it was recommended that any development works should be completed outside of the bird breeding season (April – August inclusive). However, should any development of the site need to take place during the breeding bird season, it was recommended that a Suitably Qualified Ecologist (SQE) was employed to search the Site for evidence of nesting birds immediately prior to works, with a re-check undertaken for any works delayed longer than 48 hours.

Should a nest be recorded, a suitable working buffer should be put in place until young have successfully fledged the nest.

#### Bats

It was felt that the trees within the Site and buffer area might have the potential to support roosting bats. As such, it was recommended that a Preliminary Roost Assessment was undertaken of all trees and buildings to be impacted either through destruction or disturbance as part of the development.

## Otter

The watercourse recorded in the eastern buffer area of the site could provide suitable resting, commuting and foraging habitat for otter. If this habitat was to be disturbed through the process of development, it might be necessary to carry out an otter survey to identify the possible presence of otter within this area prior to works commencing.

## **Biodiversity Enhancement**

### Landscape Planting

A native, non-invasive plant schedule should be considered for inclusion in any development of the site. Native planting throughout the development could be beneficial and often improve the biodiversity of an area by encouraging many nectivorous invertebrates (e.g. butterflies, moths and bumblebees) and provide shelter and food for larvae, adult insects and flying insects, which in turn, may encourage small mammals, bats and birds into the site. Species which encourage nocturnal insects (such as honeysuckle) could also be valuable for bats and by incorporating native, edible fruit and berry bearing plant species this would encourage further use of the site by birds, small mammals, badger and invertebrates.

The feedback from the Council's Biodiversity Officer to this initial document recommended that both an Otter Survey and a Bat Survey should be undertaken prior to the determination of the application. These surveys were subsequently carried out and the associated reports were submitted during the processing of this revised application.

### **Otter Survey**

The Biodiversity Officer commented that the Otter Survey followed accepted protocols and, on the basis that no evidence of otter holts or resting places, or field signs within the site or the otter study area were found, no further mitigation was required within the site and associated 30 metre study area.

### **Bat Surveys**

A Preliminary Roost Assessment (PRA) was carried out in early August and the associated report advised that, of the 12 trees and one structure located within the site or 30 metre study area, 4 trees were found to have moderate roost potential along with the flat-roofed structure. It was, therefore, recommended that further survey work be undertaken through activity surveys to confirm the presence of bats in line with best practice guidance.

The report on the follow-up survey advised that no bat roosts had been identified within the 4 trees and building surveyed and that no impacts to bat roosts were predicted as a result of the development.

The Biodiversity Officer noted the outcome of these reports and drew attention to a comment in the PRA that, if any of *'the identified additional trees on the north west corner and eastern side of the site with low roost potential'* required felling, that this would be undertaken as a *'soft fell'* as it is possible that bats may opportunistically roost in suitable features. She found this proposal to be acceptable.

She also noted that the majority of bat activity recorded during the survey efforts was associated with commuting, foraging and social behaviour amongst the riparian woodland located within the eastern 30m study area. She recommended that, if possible, this habitat was retained as part of the development and included in the Landscape Design Planting Plan.

She welcomed the advice on lighting in relation to reducing the effects on bat activities i.e. type of lighting, timing of use and provision for dark areas especially along the border, tree lined water-course on the eastern site boundary.

Overall, she was satisfied with the results of the survey and the recommendations to facilitate and present additional opportunities (enhanced landscape planting) for the biodiversity interest on the site.

In drawing all of the above together, a set of conditions are recommended dealing with the following:

- The submission of a Landscape Design Planting Plan identifying those trees within the site that are to be retained and those areas of new planting. This might also potentially show the proposals for the large hedge (consisting of holly, ornamental hedge, conifer and rhododendron) located within the 30m buffer study area on the southern side of the site. The objective would be to retain as much of this as possible with any species in poor condition being removed and replacement planting being introduced to ensure continuity
- The submission of a Tree/ Shrub Protection Plan identifying the measures that will take place during construction works
- The retention of the stone wall that is covered in moss and fern and located along the western boundary of the site on Barone Road. Stone walls are, in themselves, a recognised habitat for a number of species, insects, birds and bats
- The carrying out of development work outside of the bird breeding season (April – August inclusive) with the identification of a suitable methodology for any situation where any works needed to take place during the breeding bird season, it was recommended that a Suitably Qualified Ecologist (SQE) was employed to search the Site for evidence of nesting birds immediately prior to works, with a re-check undertaken for any works delayed longer than 48 hours
- Details of the protection during construction of the water course (approximately two to three metres wide) that flows south to north and is situated in the 30m buffer of the study area in order to avoid introducing any silt or other debris. The actual water course is not within the application site but a condition can reasonably be attached to detail those protection works that would take place within the site

**On the basis of the foregoing, and subject to the suitably-worded conditions referred to, the proposal is considered to accord with Policy LDP 3 and Supplementary Guidance policies SG LDP ENV 1, SG LDP ENV 2 and SG LDP ENV 6 of the Argyll and Bute Local Development Plan 2015.**

## **L. ACCESS AND CORE PATH ASSESSMENT**

Supplementary Guidance policy SG LDP TRAN 1 (Access to the Outdoors) requires development proposals *“to safeguard and enhance public rights of access to the outdoors in a manner that is appropriate and proportionate to the specific site characteristics and the scale and impact of the proposed development on access issues. Accordingly, the Core Paths Plan ... will be a material consideration in assessing planning applications.”*

It goes on to state that, where *“development would have a significant adverse effect upon the public access interests identified, alternative access provision will be sought at the developer’s expense either by diverting the route or incorporating it into the proposed development in a way that it is no less attractive, safe or convenient for public use.”*



The Design and Access Statement states that “*there are no public paths or rights of way within the site boundary*” but a “*Right of Access exists and will be maintained.*” The accompanying diagram shows a hatched area that leads from Meadows Road; through the vehicular access; heading east to the north of the flat-roofed structure; and on to an existing footbridge, where it ends.

Additionally, the Council has a list of Core Paths and the one that is relevant in the case of the current application is referred to as “*C242(a) - Townhead to Barone Hill and Barone Road, Bute*”. It begins where Barone Road turns into Meadows Road and terminates at the south-western corner of the land belonging to ‘*Meadow Cottage*’. The route of the Core Path does not appear to be within the application site but it passes by the existing access point from Meadows Road.

In view of the above circumstances, it is considered reasonable to attach a condition requiring the submission of an Outdoor Access Plan that would set out the means by which the maintenance of the right of access in particular would be addressed.

**On the basis of the foregoing, and subject to a suitably-worded condition, the proposal is considered to accord with Policy LDP 11 and Supplementary Guidance policies SG LDP TRAN 1 of the Argyll and Bute Local Development Plan 2015.**

## **M. DAYLIGHTING AND SUNLIGHTING IMPACT ASSESSMENT**

The ‘*Sustainable Siting and Design Principles*’ contained in the Supplementary Guidance part of the LDP explains that householders can legitimately expect a reasonable amount of direct daylight into all or at least some of their living room windows and that this should be protected as far as possible in order to maintain reasonable levels of household amenity.

When considering new developments, applicants should ensure that the building would not significantly affect daylight and direct sunlight to existing neighbouring properties and reference should be made to published standards.

In the case of the current proposal, the new building would be approximately 20 metres from the south-facing elevation of the dwellinghouse known as No.5 Sheriff’s Croft. Whilst the occupier of this dwellinghouse has not objected to the proposal, it was considered appropriate for a daylighting and sunlighting impact assessment to be carried out.

The applicant commissioned LightSIM to carry out a study, which was based on the various numerical tests set out in the recommended Building Research Establishment (BRE) guide ‘*Site Layout Planning for Daylight and Sunlight: a guide to good practice*’ by P J Littlefair 2011.

The LightSIM report advised that, using AutoCAD drawings and a SketchUP model, a 3-dimensional model was created of the proposed development and No. 5 Sheriffs Croft. There are three windows on the south-facing elevation of the dwellinghouse and these serve a kitchen, bathroom and bedroom.

The BRE guide contains the Vertical Sky Component (VSC) test for new developments, which is the ratio of daylight falling on a vertical surface to the daylight available under an unobstructed sky. Diffuse daylight may be affected if, after a development, the Vertical Sky Component is both less than 27% and less than 0.8 times its former value.

The report advises that calculations were completed using the MBS Software for Sketchup and the Integrated Environmental Solutions (IES) Virtual Environment (VE) software suite. The results confirm that all south-facing windows of No. 5 Sheriff’s Croft achieve the criteria set out in the BRE Guide as the VSC for all windows achieves above 27% or 80% of existing VSC.

The BRE guidance suggests, where there is an expectation of sunlight, *“that for it to appear adequately sunlit throughout the year, at least half of a garden or amenity area should receive at least two hours of sunlight on 21 March. If as a result of a new development an existing garden or amenity area does not meet the above, and the area that can receive two hours of sun on 21 March is less than 0.8 times its former value, then the loss of sunlight is likely to be noticeable.”*

Images presented in the LightSIM report show that the existing property at No.5 Sheriff’s Croft would receive good levels of sunlight (i.e. more than 2 hours) throughout the day on 21st March even after the introduction of the proposed Bute Island Foods development.

**In terms of its impact upon the daylight and sunlight received by No. 5 Sheriff’s Croft, the proposal is considered to accord with Supplementary Guidance policy SG LDP Sustainable Siting and Design Principles of the Argyll and Bute Local Development Plan 2015.**



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**Location Plan Relative to planning application: 20/01441/PP**



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**ARGYLL AND BUTE COUNCIL**  
**PROCEDURE NOTE FOR USE AT**  
**VIRTUAL DISCRETIONARY HEARING**

**HELD BY THE PLANNING, PROTECTIVE SERVICES & LICENSING COMMITTEE**

1. Argyll and Bute Council have determined the need to hold virtual Discretionary Hearings. This procedural note has been drafted to support these meetings.
2. Virtual meetings are those that will **not** involve a physical location. However should circumstances dictate, the Chair and (if appropriate) Vice Chair along with relevant officers will be located in a single venue.
3. The Executive Director with responsibility for Legal and Regulatory Support will notify the applicant, all representees, supporters and objectors of the Council's decision to hold a Hearing and to indicate the date on which the hearing will take place. The hearing will proceed on that day, unless the Council otherwise decides, whether or not some or all of the parties are represented or not. Statutory consultees (including Community Councils) will be invited to attend the meeting to provide an oral presentation on their written submissions to the Committee, if they so wish. Details on how interested parties can access the meeting will be referenced within the same notification.
4. While reasonable efforts will be made to ensure all interested parties can attend the virtual Discretionary Hearing on request, there may be exceptional circumstances, given technological capacity, which may limit the numbers attending. Should this situation arise we will ensure priority access to the meeting will be given to those who have notified of their intention to present to the Committee (e.g. applicant, Planning Authority, statutory consultees and spokespersons of objectors/supporters). Thereafter, invites will be issued to other interested parties until the limit of the meeting is reached.
5. On receipt of the notification the applicant, all representees, including supporters and objectors will be encouraged to appoint one or a small number of spokespersons to present their views to concentrate on the matters of main concern to them and to avoid repetition. Parties who wish to speak at the meeting shall notify Argyll and Bute Council no less than 2 working Days (excluding public holidays and weekends) prior to the start of the meeting. This is to facilitate remote access (see note 1) and the good conduct of the meeting.
6. The Executive Director with responsibility for Legal and Regulatory Support will give a minimum of 7 days' notice of the date and time for the proposed Hearing to all parties.

Ref: ABH1/2009

7. The hearing will proceed in the following order and as follows.
8. The Chair will introduce the Members of the Committee, confirm the parties present who have indicated their wish to speak and outline the procedure which will be followed. It is therefore imperative that those parties intending to speak join the meeting at its commencement.
9. The Executive Director with responsibility for Development and Economic Growth's representative will present their report and recommendations to the Committee.
10. The applicant will be given an opportunity to present their case for approval of the proposal and may include in their submission any relevant points made by representees supporting the application or in relation to points contained in the written representations of objectors.
11. The consultees, supporters and objectors in that order (see note 1), will be given the opportunity to state their case to the Committee.
12. All parties to the proceedings will be given a period of time to state their case (see note 3). In exceptional circumstances and on good cause shown the Committee may extend the time for a presentation by any of the parties at their sole discretion.
13. Members of the Committee only will have the opportunity to put questions to the Executive Director with responsibility for Development and Economic Growth's representative, the applicant, the consultees, the supporters and the objectors.
14. At the conclusion of the question session the Executive Director with responsibility for Development and Economic Growth's representative, the applicant, any consultees present, the supporters and the objectors (in that order) will each be given an opportunity to comment on any particular information given by any other party after they had made their original submission and sum up their case.
15. If at any stage it appears to the Chair that any of the parties is speaking for an excessive length of time he/she will be entitled to invite them to conclude their presentation forthwith. (see note 3)
16. The Chair will ascertain from the parties present that they have had a reasonable opportunity to state their case.
17. The Committee will then debate the merits of the application and will reach a decision on it. No new information can be introduced after the Committee begins to debate.
18. The Chair or the Governance Officer on his/her behalf will announce the decision.

Ref: ABH1/2009

19. A summary of the proceedings will be recorded by the Committee Services Officer.

NOTE

- (1) If you wish to speak at the hearing you will require to notify the Committee Services Officer no less than 2 working Days (excluding public holidays and weekends) prior to the start of the meeting. This is to facilitate remote access and the good conduct of the meeting.

In the event that a party wishes to speak to a visual presentation, this requires to be sent to Committee Services no less than 2 working days (excluding public holidays and weekends) before the commencement of the Hearing; this will not be shared with other parties prior to the meeting but will ensure its availability for the commencement of the Hearing. The slides that are visible, at any point during the presentation, will be determined by the spokesperson(s). Should, for any reason, this not be possible the Committee Services Officer will control the slides under explicit instruction from the spokesperson(s), it would therefore be helpful if the slides were individually numbered. It would also be helpful if the file size of the presentations is kept to a minimum to mitigate against any potential IT issues – guidance can be provided if required.

If it is your intention to join the hearing to observe the proceedings, please advise the Committee Services Officer no less than 2 working Days (excluding public holidays and weekends) prior to the start of the meeting to facilitate remote access.

- (2) Councillors (other than those on the Committee) who have made written representations and who wish to speak at the hearing will do so under note 1 above according to their representations but will be heard by the Committee individually.
- (3) Recognising the level of representation the following time periods have been allocated to the parties involved in the Hearing. For the avoidance of doubt the time allocated will be per party and will include for example all supporters/objectors in the half hour slot except where additional time is agreed by the Chair.

The representative of the Executive Director with responsibility for Development and Economic Growth – not more than half an hour  
The Applicant - not more than half an hour.  
The Consultees - not more than half an hour.  
The Supporters - not more than half an hour.  
The Objectors - not more than half an hour.

Ref: ABH1/2009

- (4) The purpose of the meeting is to ensure that all relevant information is before the Committee and this is best achieved when people with similar views co-operate in making their submissions.
- (5) Everyone properly qualified as a representee recorded on the application report who wishes to be given an opportunity to speak will be given such opportunity subject to the requirements for notice herein.
- (6) Should, for any reason, Members of the Committee lose connection or have any technical issues during the meeting, they will be asked to contact the Governance or Committee Support officer, if possible, by email or instant message. A short adjournment may be taken to try and resolve the connection. If the Members of the Committee are unable to re-join the meeting and a quorum still exists then the meeting will continue to proceed. If a quorum does not exist the meeting will require to be adjourned. For the avoidance of doubt Members of the Committee have to be present for the whole hearing in order to take part in the decision.
- (7) Should, for any reason, participants in the hearing lose connection or have any technical issues during the meeting, a short adjournment may be taken to try and resolve the connection. In the event the connection cannot be restored within a reasonable timeframe consideration will be given to the continuation of the meeting.
- (8) Members of the Committee will use the instant message box function to indicate to the Chair when they wish to speak to ask a question or make a comment. This function will be monitored by the Chair and by governance staff in attendance. The instant message box should not be used by any other party in attendance. For the avoidance of doubt any comment made using this function other than by Members of the Committee will be disregarded. Misuse of the messaging facility by any attendee could result in that person being removed from the meeting by the Chair.
- (9) Where a Councillor who is a member of the PPSL has made or wishes to make a representation (on behalf of any party) during the meeting in relation to the application under consideration, they should make their position clear to the Chair and declare an interest. Having done so, they may, at the appropriate time, make the relevant representation and then must retire fully from the meeting room prior to deliberation of the matter commencing. A Councillor, not a member of the PPSL, may make a representation (on behalf of any party) during the meeting in relation to the application then must retire fully from the meeting room prior to deliberation of the matter commencing.
- (10) The Council has developed guidance for Councillors on the need to compose a competent motion if they consider that they do not support



Ref: ABH1/2009

the recommendation from the Executive Director with responsibility for Development and Economic Growth which is attached hereto.

I:data/typing/virtual planning hearings/procedure note

## COMPETENT MOTIONS

- Why is there a need for a competent motion?
  - Need to avoid challenge by “third party” to local authority decision which may result in award of expenses and/or decision being overturned.
  - Challenges may arise from: judicial review, planning appeal, ombudsman (maladministration) referral. Expenses may be awarded against unsuccessful parties, or on the basis of one party acting in an unreasonable manner, in appeal/review proceedings.
- Member/Officer protocol for agreeing competent motion:
  - The process that should be followed should Members be minded to go against an officer’s recommendation is set out below.
- The key elements involved in formulating a competent motion:
  - It is preferable to have discussed the component parts of a competent motion with the relevant Member in advance of the Committee (role of professional officers). This does not mean that a Member has prejudged the matter but rather will reflect discussions on whether opinions contrary to that of professional officers have a sound basis as material planning considerations.
  - A motion should relate to material considerations only.
  - A motion must address the issue as to whether proposals are considered consistent with Adopted Policy of justified as a departure to the Development Plan. Departure must be determined as being major or minor.
  - If a motion for approval is on the basis of being consistent with policy reasoned justification for considering why it is consistent with policy contrary to the Head of Development and Economic Growth’s recommendation must be clearly stated and minuted.
  - If a motion for approval is on the basis of a departure from policy, reasoned justification for that departure must be clearly stated and minuted. Consideration should be given to holding a PAN 41 Hearing (determined by policy grounds for objection, how up to date development plan policies are, volume and strength of representation/contention)
  - A motion should also address planning conditions and the need for a Section 75 Agreement.
  - Advice from the Scottish Government as contained within Planning Circular 3/2013: Development management procedures on the definition of a material planning consideration is attached herewith However, interested parties should always seek their own advice on matters relating to legal or

Ref: ABH1/2009

planning considerations as the Council cannot be held liable for any error or omission in the said guidance.

## DEFINING A MATERIAL CONSIDERATION

1. Legislation requires decisions on planning applications to be made in accordance with the development plan (and, in the case of national developments, any statement in the National Planning Framework made under section 3A (5) of the 1997 Act) unless material considerations indicate otherwise. The House of Lord's judgement on *City of Edinburgh Council v the Secretary of State for Scotland* (1998) provided the following interpretation. If a proposal accords with the development plan and there are no material considerations indicating that it should be refused, permission should be granted. If the proposal does not accord with the development plan, it should be refused unless there are material considerations indicating that it should be granted.
2. The House of Lord's judgement also set out the following approach to deciding an application:
  - Identify any provisions of the development plan which are relevant to the decision,
  - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies,
  - Consider whether or not the proposal accords with the development plan.
  - Identify and consider relevant material considerations for and against the proposal, and
  - Assess whether these considerations warrant a departure from the development plan.
3. There are two main tests in deciding whether a consideration is material and relevant:
  - It should serve or be related to the purpose of planning. It should therefore relate to the development and use of land, and
  - It should fairly and reasonably relate to the particular application.
4. It is for the decision maker to decide if a consideration is material and to assess both the weight to be attached to each material consideration and whether individually or together they are sufficient to outweigh the development plan. Where development plan policies are not directly relevant to the development proposal, material considerations will be of particular importance.
5. The range of considerations which might be considered material in planning terms is very wide and can only be determined in the context of each case. Examples of possible material considerations include:
  - Scottish Government policy, and UK Government policy on reserved matters
  - The National Planning Framework
  - Scottish planning policy, advice and circulars
  - European policy
  - A proposed strategic development plan, a proposed local development plan, or proposed supplementary guidance

Ref: ABH1/2009

- Guidance adopted by a Strategic Development Plan Authority or a planning authority that is not supplementary guidance adopted under section 22(1) of the 1997 Act
  - A National Park Plan
  - The National Waste Management Plan
  - Community plans
  - The Environmental impact of the proposal
  - The design of the proposed development and its relationship to its surroundings
  - Access, provision of infrastructure and planning history of the site
  - Views of statutory and other consultees
  - Legitimate public concern or support expressed on relevant planning matters
6. The planning system operates in the long term public interest. It does not exist to protect the interests of one person or business against the activities of another. In distinguishing between public and private interest, the basic question is whether the proposal would unacceptably affect the amenity and existing use of land and buildings which ought to be protected in the public interest, not whether owners or occupiers of neighbouring or other existing properties would experience financial or other loss from a particular development.

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