

Argyll and Bute Council
Comhairle Earra-Ghàidheal Agus Bhòid

Executive Director: Douglas Hendry



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23 November 2020

NOTICE OF MEETING

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held **BY SKYPE** on **MONDAY, 30 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. **SPECIALITY DRINKS LIMITED: ERECTION OF DISTILLERY WITH ASSOCIATED MALTINGS, AND VAULTED MATURATION WAREHOUSE, VISITOR'S CENTRE WITH SHOP, RESTAURANT AND MEETING FACILITIES, TASTING LODGE AND ASSOCIATED INFRASTRUCTURE INCLUDING: SEWAGE TREATMENT PLANT AND PUMPING STATION, NEW JUNCTION, ACCESS ROADS, CAR PARKING, TANK FARMS, SUDS POND, RESERVOIR AND SEA WATER INTAKE: LAND SOUTH AND EAST OF FARKIN COTTAGE, PORT ELLEN (REF: 19/02555/PP)**

Report by Head of Development and Economic Growth (Pages 3 – 56)

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 & Economic Growth

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

Reference No:	19/02555/PP
Planning Hierarchy:	Major application
Applicant:	Speciality Drinks Limited
Proposal:	Erection of distillery with associated maltings and vaulted maturation warehouse, visitor's centre with shop, restaurant and meeting facilities, tasting lodge and associated infrastructure including: sewage treatment plant and pumping station, new junction, access roads, car parking, tank farms, SuDS pond, reservoir and sea water intake
Site Address:	Land South and East of Farkin Cottage, Port Ellen

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of distillery buildings including:
 - Maltings,
 - Maturation warehouse,
 - Visitor centre with shop,
 - Restaurant and
 - Meeting facilities.
- Tasting lodge;
- Associated signage;
- Associated infrastructure including:
 - Sewage treatment plant and pumping station,
 - New junction onto public road
 - Internal access roads,
 - Car parking facilities,
 - Tank farms
 - SuDS pond,
 - Detached reservoir, and
 - Sea water intake.

(ii) Other specified operations

- Landscaping
 - Connection to public electricity network
-

(B) RECOMMENDATION:

It is recommended that Members firstly agree the findings of the Area Capacity Evaluation and secondly approve the application subject to the conditions and reasons appended below.

(C) CONSULTATIONS:

ABC Area Roads Officer, 06/02/2020 – No objection subject to conditions. Furthermore, Roads & Amenity Services would like the applicant to consider constructing a bus turning area adjacent to the public road. The bus turning area could be used by the service bus and tourist buses. This proposal would benefit the community and the new business.

ABC Environmental Health, 20/01/2020 – No objections subject to conditions relating to noise and construction times.

ABC Biodiversity Officer, 31/01/2020 – No objections but requests the submission of a Site Biodiversity Action Plan (SBAP).

ABC Flood Risk Advisor, 27/01/2020 – No objection subject to conditions covering finished floor levels of the tasting lodge, SuDS and detailed design of the storage reservoir to include appropriate mitigation measures to allow for severe weather events.

ABC Access Officer, 15/01/2020 – No objections to the proposal but the applicant should liaise with the Islay Community Access Group to ensure the core path (Three Distilleries Path) remains unaffected by this proposal.

West of Scotland Archaeology Service, 07/01/20 – No objection subject to a condition pertaining to archaeological work during ground breaking works.

Historic Environment Scotland, 30/01/2020 - HES confirms that the proposal does not raise issues of national significance. Content that the proposal will not significantly impact on the qualifying interests on Cill Tobar Lasrach which is a Scheduled Ancient Monument (SAM). Proposed mitigation involves trees planting but care should be taken to ensure that any planting does not draw attention to the proposed development within the important views from the SAM towards Texa Chapel.

Scottish Water, 7/1/20 – No objection.

Marine Scotland Licensing, 15/01/2020 – No comment but if any part is below the Mean High Water Springs then a marine license may be required.

Scottish Natural Heritage, 06/01/2020 - stated that their previous submission for application reference 18/02525/PP should be referred to given the changes are architectural only. The original response (22/01/2019) is detailed below:

SNH can confirm that we have reviewed the supporting environmental documentation and confirm that we have no objections to the proposal. The proposal is not located within or adjacent to an area designated for its nature conservation importance, although we note that Greenland Barnacle and Greenland White fronted geese are recorded foraging within the application area. These birds form part of the

internationally important goose populations found on Islay, for which there are a number of roost sites protected.

The development footprint is not within or adjacent to a designated roost or indeed known roost site. We advise that the proposal will not have a likely significant effect upon those areas designated for the above species, such as the Oa SPA or Laggan SPA. Our records confirm that both species forage infrequently within the development footprint and that there are ample alternative, and preferred foraging fields within this area of the Island. Indeed, we suspect that both species may well forage within the application upon completion, particularly in the quite coastal areas.

Crown Estates Commissioners – No response.

Scottish Environment Protection Agency, 16/03/2020, 06/05/2020 – Originally objected on the grounds of a lack of information relating to flooding, the power plant, SuDS and peat and COMAH. However, in their recent response they removed their objection following discussion with the applicant.

Islay Community Council, 27/03/2020 – The local community council made several material and non-material objections and comments relating to this proposal. Those matters material to the determination are the same as those originally raised by SEPA. Those matters not shared with SEPA are non-material to the determination.

(D) HISTORY:

18/00804/PAN – Proposal of application notice for proposed distillery – presented to PPSL May 2018

18/02525/PP - Erection of distillery with associated maltings and vaulted maturation warehouse, visitor's centre with shop, restaurant and meeting facilities, tasting lodge and associated infrastructure including: sewage treatment plant and pumping station, new junction, access roads, car parking, tankfarms, SuDS pond, reservoir and sea water intake – Withdrawn due to design and consultee issues 6th December 2019.

(E) PUBLICITY:

Environmental Assessment advert (regulation 28) – expiry 13th February 2020
Regulation 20 advert – expiry 6th February 2020
Neighbour notification advert expiry 24th January 2020

(F) REPRESENTATIONS:

(i) Representations received from:

There have been a total of 21 separate objections to this application with a further petition with 148 names. Of these 4 people have signed the petition and submitted separate individual representations.

Furthermore, 2 letters of support have been submitted.

Details of those who have submitted representations can be found in Appendix B.

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

- The proposal will impact on the already existing housing shortage on the island making it more difficult for local people to get housing.
Comment: The council are aware of the housing shortage on the island and are working hard with RSLs to address the problem.
- Another distillery is not needed on the island.
Comment: The issue of 'need' is not a material planning consideration in this instance.
- The distillery is too close to the school.
Comment: The distillery does not represent a health risk to pupils nor will it adversely impact on the ability of the school to deliver its learning program.
- Concern over the potential impact of over-tourism and the possibility of an Apple Shop replacing the Celtic Shop.
Comment: Noted but not a material planning consideration.
- There isn't enough local resource to support the new distillery in particular water.
Comment: The applicant has demonstrated sufficient water supply through the use of a purpose built reservoir.
- Adverse impact on roads through Port Ellen.
Comment: The site is close to the Port Ellen ferry terminal with minimal distance to be travelled. The Area Roads Engineer has not objected to the proposals. It is not anticipated that this proposal will have an adverse impact on the existing road infrastructure.
- There are some 3,000 residents on Islay but some 120,000 tourists. This proposal won't help redress this balance.
Comment: The 2011 census shows a population of 3,228. Midterm estimates suggests this is declining. By providing economic opportunities the proposal could help to redress some of this decline. Officers are unable to verify how many tourists visit the island.
- Concern over the lack of economic diversity on the island.
Comment: This is not a material planning consideration.
- If it isn't grown, distilled and stored on Islay then why take up precious limited resources.
Comment: The applicant intends to use Islay products to produce the whisky.
- The proposal will add to the already significant pressure on the existing ferry service.
Comment: This is a matter for CalMac, the ferry operator, to consider. It is not a material planning consideration.
- Adverse impact on the landscape.

Comment: Officers have assessed the impact on landscape through an Area Capacity Evaluation (ACE). This can be viewed in Appendix C with supporting documentation also appended to this report.

- There is currently a 0.2% unemployment rate on the island so who is going to work in this distillery?
Comment: The offer of employment will hopefully retain / encourage people to the island.
- The sense of community is being eroded by commerciality.
Comment: There is no evidence to suggest this is the case and regardless this is not a material planning consideration.
- The new Farkin Distillery plans have been submitted with no chance for locals to object.
Comment: The applicant engaged with the community council to discuss the proposed amendments. There is no legislative requirement to do this and no need for further formal Pre-Application Consultation (PAC) having previously undertaken this exercise for essentially the same proposal in the previous application. Members of the public have ample opportunity to comment on planning applications prior to determination by the planning authority.
- They will be shipping in malt and burning peat. This will have a negative environmental effect on the island.
Comment: Only two distilleries use peat for malting on the island. The applicant does not propose to use peat as detailed in the supporting documentation.
- The access is not safe.
Comment: The Area Roads Engineer has not raised any concerns regarding the access.
- Laphroaig road end is subsided due to the weight from all the lorries and has been coned off for four years with no sign of any fixture.
Comment: This is not material to the determination of this planning application.
- They have plans for a meeting room and café which will impact on already established local and not local businesses.
Comment: It is common for distilleries to offer ancillary services in their proposals to compliment the tourism offering. This is subject to assessment as part of the overall proposals. However, these proposals are ancillary and are designed to complement the distillery operation.
- The housing on the original plans have been removed.
Comment: The planning application is for the erection of the distillery and not housing. The previous application did not include housing either.
- This will be a new distillery with no history.
Comment: Noted.
- Adverse impact on archaeological features.

Comment: There is no evidence to suggest this is the case. Neither WoSAS nor HES have raised any concerns to the impact on the historic environment.

- Why will planning be passed without consideration for water supply? If sea water is to be used then this will have an adverse impact on marine life.
Comment: This is incorrect. Water supply has been assessed as part of the application. The applicant has clearly considered this as they are proposing a reservoir to supply water. Environmental Health has not objected to the proposal.
- The applicant has submitted new plans without public consultation.
Comment: The applicant has regularly liaised with the community council. They are not obliged under legislation to undertake another public consultation event given the re-submission is the same description and site boundary as the original.
- The land is excellent quality agricultural land.
Comment: The site is currently used for grazing and has some value for agricultural use.
- All the objection comments are still on the previous application so it now looks like there is objection to this distillery which is very unfair and needs to be addressed immediately without delay.
Comment: Each application is assessed on its own merits therefore if individuals wish to object they must do so to each application.
- Adverse impact on wildlife including otter, barnacle and Greenland white front geese, common snipe, skylark.
Comment: SNH confirmed that Greenland whitefronts do not use this site. They have commented that with the improvements made to the land resulting from this proposal that it is more likely that they will post completion. There have been no objections from either SNH or the Biodiversity Officer.
- Adverse impact on the Three Distilleries core path.
Comment: The applicant will be required to ensure the path is maintained and kept open at all times.
- This so called distillery is no more than an alcohol producing factory.
Comment: Noted.
- There are already 9 functioning distilleries on the island with the re-opening of Port Ellen granted approval.
Comment: Noted.
- There is no exceptional case to support this development as required by planning policy.
Comment: A policy assessment against LDP DM 1 is contained in the assessment section below.

(iii) Summary of issues raised as support:

- The site is close to the ferry terminal and is unlikely to result in undue pressure on existing infrastructure.
- The whisky industry provides an option for young people to stay on the island and grow the population.

Comment: Noted.

Full details of all representations received can be viewed on the Council's website: <https://www.argyll-bute.gov.uk/planning-and-environment/find-and-comment-planning-applications>

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- | | | |
|--------------|--|-----|
| (i) | Environmental Statement:
Non-Technical Summary
Introduction
Scoping, Consultation and PAC report
Planning Policy
Approach to EIA
Project Description
Description of Baseline Environment
Schedule of Mitigation
Summary of Impacts

Appendices:
Air Quality Report
Cultural Heritage Report
Ground Condition Report
Water Supply Report
Drainage Statement parts 1 and 2
Flood Statement
Ecology Report
Noise Report
Transport Statement
Dispersion Report
Outline Peat Management Plan | Yes |
| (ii) | An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: | No |
| (iii) | A design or design/access statement: | Yes |
| (iv) | A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:
Outline Peat Management Plan
Landscape and Visual Impact Assessment
Design and Access Statement
PAC Report
Crown Estates statement | Yes |

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: No

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

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

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

'Argyll and Bute Local Development Plan' Adopted March 2015

LDP STRAT 1 – Sustainable Development
LDP DM 1 – 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 8 – Supporting the Strength of our Communities
LDP 9 – Development Setting, Layout and Design
LDP 10 – Maximising our Resources and Reducing our Consumption
LDP 11 – Improving our Connectivity and Infrastructure

'Supplementary Guidance to the Argyll and Bute Local Plan 2015' (Adopted March 2016)

Natural Environment

SG LDP ENV 1 – Impact on Habitats, Species and our Biodiversity
SG LDP ENV 7 – Water Quality and the Environment
SG LDP ENV 10 – Geodiversity
SG LDP ENV 11 – Protection of Soil and Peat Resources

Landscape and Design

SG LDP ENV 14 – Landscape
SG LDP ACE 1 – Area Capacity Evaluation (ACE)

Historic Environment and Archaeology

SG LDP ENV 19 – Impact on Scheduled Ancient Monuments (SAMs)
SG LDP ENV 20 – Impact on Sites of Archaeological Importance

Support for Business & Industry: General

SG LDP BUS 2 – Business & Industry Proposals in the Countryside Zones
SG LDP BUS 5 – Economically Fragile Areas
SG LDP TOUR 1 – Tourist Facilities and Accommodation, including Static and Touring Caravans
SG LDP TOUR 3 – Promoting Tourism Development Areas

Bad Neighbour Development

SG LDP BAD 1 – Bad Neighbour Development

Sustainable Siting and Design

SG LDP Sustainable – Sustainable Siting and Design Principles

Resources and Consumption

SG LDP SERV 1 – Private Sewage Treatment Plants & Wastewater Systems

SG LDP SERV 2 – Incorporation of Natural Features / SuDS

SG LDP SERV 3 – Drainage Impact Assessment

SG LDP SERV 5(b) – Provision of Waste Storage & Collection Facilities within New Development

SG LDP SERV 6 – Private Water Supplies and Water Conservation

Addressing Climate Change

SG LDP SERV 7 – Flooding and Land Erosion – Risk Framework

SG LDP Sust Check – Sustainability Checklist

Transport (Including Core Paths)

SG LDP TRAN 1 – Access to the Outdoors

SG LDP TRAN 2 – Development and Public Transport Accessibility

SG LDP TRAN 3 – Special Needs Access Provision

SG LDP TRAN 4 – New & Existing, Public Roads & 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
- Consultee comments
- Third party representations raising material planning considerations
- A&B Council Local Development Plan 2, Proposed November 2019
- ABC Strategic Economic Development Action Plan

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

Proposal is a schedule two development and the applicant has carried out an EIA.

(L) Has the application been the subject of statutory pre-application consultation (PAC): Yes

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

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

(O) Requirement for a hearing: No

The requirement for a hearing is based on whether this would add value to the decision making process. In this instance the volume of representations would suggest that Members should consider the need for a hearing, however the majority of representations don't raise issues material to the determination of this application. Instead they raise wider ranging concerns such as impact on ferry travel, condition of the road infrastructure etc. Landscape impact is a consistent theme which is material. However, this has been covered at length by the applicant's LVIA and officer's ACE.

The following is taken from the 2010 protocol on hearings.

In deciding whether to exercise their discretion to allow respondents to appear at a hearing, the members of the PPSL Committee should be guided by :

- Whether the proposal constitutes a justified departure to the local development plan, and/or is a Council Interest Application and the degree of local interest and controversy
- The complexity of technical/material considerations raised
- How up-to-date the Development Plan is, the relevance of the policies to the proposed development and whether the representations are on development plan policy grounds which have recently (ie. within the 5 year life of the Plan) been considered through the development plan process
- The volume of representations and degree of conflict within the local community (eg. notwithstanding there may be significant representation if there is consensus between local community and planning authority in recommendation a hearing may not be required)
- The degree of local interest and controversy on material considerations eg. the relative size of community affected set against the relative number of representations, and their provenance

Whether there has been any previous decisions or pre-determination hearing held covering similar issues/material considerations'. In this issue a recent decision for Ardnahoe distillery raised similar matters relating to the settlement strategy and landscape. Other complex matters included residential amenity and access. This application was determined using officer delegated powers. It received objections from four separate individuals.

In this instance the main issue, as determined by officers, relates to landscape and visual. These matters have been covered extensively and therefore officers do not consider that a discretionary hearing would add value in this instance.

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

The proposal is to erect a distillery on the south coast of Islay east of Port Ellen. It will process some 1.2m litres of alcohol per annum plus a further 0.3m litres of other spirits in a pilot plant. The applicant wishes to commence production in 2021.

The site is currently rough grazing with remains of a former dun called Sron Dubh lying on a rocky outcrop to the SE of the site and a clearance cairn to the south. The A846 bounds the site to the north to which the Three Distilleries core path runs parallel. The Port Ellen Primary School is located some distance to the west. Whilst there are rough grazing fields to the north.

Water supply will be taken from a new reservoir to the north east of the site. This area is currently rough grazing and is well screened from public view.

The location is considered 'countryside' as per the adopted Local Development Plan. Policy LDP DM 1 makes provision for all scales of development subject to an exceptional case and Area Capacity Evaluation (ACE). In this instance the applicant has demonstrated through the supporting documentation that this site offers the only available viable location with sufficient water supply and land to offer scope for the development type. In this regard an exceptional case is accepted especially given Islay's status for promoting tourism, the food and drinks industry and its fragile economy. An ACE has been completed the summary for which can be found in Appendix C.

There are no objections from consultees and conditions are proposed to secure access improvements, landscaping, biodiversity enhancements, residential amenity and archaeology.

There have been a significant number of third party objections which are addressed above. A number of these come from a petition which appears to be against the principal of another distillery and raises a range of non-material objections including impact on infrastructure, availability of employees, housing impact etc. Although these concerns are understandable they are not considered material to the determination of the current application which must be determined on its own merits.

Officers recommend that Members make a positive determination subject to the conditions appended below.

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

(R) Reasons why Planning Permission or Planning Permission in Principle Should be Granted:

The proposal will deliver sustainable economic development within an 'economically fragile area' in a manner which, notwithstanding the concerns expressed by third parties, will not give rise to any unacceptable, or significant adverse effect upon the receiving environment. The proposal satisfies development plan requirements and there are no material considerations which would indicate the need to withhold consent in this case.

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

N/A

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

Author of Report: David Love

Date: 6th May 2020

Reviewing Officer: Peter Bain

Date: 8th May 2020

Fergus Murray
Head of Development and Economic Growth

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 19/02555/PP

1. The development shall be implemented in accordance with the details specified on the application form dated 5th December 2019 the Environmental Statement dated December 2019, Outline Peat Management Plan dated 7th April 2020 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 (as amended).

The developer and subsequent operator(s) shall at all times construct and operate the development hereby permitted in accordance with the provisions of the Environmental Statement accompanying the application with mitigation measures adhered to in full, and shall omit no part of the operations provided for by the permission except with the prior written approval of the Planning Authority.

Plan Title.	Plan Ref. No.	Version	Date Received
Landscape sections	700	P02	10/12/2019
Junction visibility splay	EC21317:00:1009	A	15/04/2020
Proposed long sea outfall and sea water intake	EC21317:00:1007	-	10/12/2019
Proposed reservoir plan and section	EC21317:00:1008	-	10/12/2019
Existing and proposed junction layout	EC21317:00:1010	A	15/04/2020
Road construction details	EC21317:00:1015	-	10/12/2019
Proposed site access road long sections	EC21317:00:1012	A	10/12/2019
Drainage Construction Details	EC21317:00:1013	-	10/12/2019
Proposed site access and road layout	EC21317:00:1011	A	15/04/2020
Timber screen fence	902	-	10/12/2019
Pedestrian gate	901	-	10/12/2019
Landscape layout	001	P05	10/12/2019
Drystone boundary wall	900	-	10/12/2019
Proposed surface and foul water drainage plan	EC21317:00:1006	B	15/04/2020
Site location plan	EC21317:00:1001	-	10/12/2019
Existing site layout	EC21317:00:1002	-	10/12/2019
Proposed distillery site plan	EC21317:00:1004	B	15/04/2020
Proposed site layout	EC21317:00:1003	A	15/04/2020
Ground floor plan	00-DR-A-00001	3	10/12/2019
First floor plan	01-DR-A-00001	3	10/12/2019
Second floor plan	02-DR-A-00001	3	10/12/2019
GA – Ground floor plan A0	00-DR-A-00002	1	10/12/2019
GA – First floor plan A0	01-DR-A-00002	1	10/12/2019
GA – Second floor plan A0	02-DR-A-00002	1	10/12/2019
Elevations	ZZ-DR-A-00100	3	10/12/2019
Courtyard Elevations	ZZ-DR-A-00101	2	10/12/2019
GA plan – Roof	RF-DR-A-27001	3	10/12/2019
GA plan – Roof A0	RF-DR-A-27002	1	10/12/2019

Proposed vaulted warehouse plan, section and elevation	EC21317:00:1005	-	10/12/2019
Tasting lodge ground floor plan	A21-01-01	2	10/12/2019
Private tasting lodge elevations	A30-02-01	4	10/12/2019
Existing culvert location	EC21317:00:1018	-	15/4/2020
Site sections	ZZ-DR-A-90001	3	10/12/2019
External lighting	96:001	-	10/12/2019

Reason: For the purpose of clarity, to ensure that the development is constructed and operated in the manner advanced in the Environmental Statement, upon which the environmental effects of the development have been assessed and determined to be acceptable.

- 2 No development or ground breaking works shall commence until a method statement for an archaeological watching brief has been submitted to and approved in writing by the Planning Authority in consultation with the West of Scotland Archaeology Service.

The method statement shall be prepared by a suitably qualified person and shall provide for the recording, recovery and reporting of items of interest or finds within the application site.

Thereafter the development shall be implemented in accordance with the duly approved details with the suitably qualified person being afforded access at all reasonable times during ground disturbance works.

Reason: In order to minimise the effects of construction upon the receiving environment.

- 3 The Noise Rating Level attributable to the operation of the approved distillery operation shall not exceed background noise levels by than 3dB (A) at any residential property measured and assessed in accordance with BS 4142:2014. Prior to the commencement of the operation of the developer shall submit a report for approval by the planning authority which demonstrates compliance with the noise limit contained in this condition.

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

- 4 No construction plant and / or machinery shall be operated on the site outwith the following times 08:00 – 18:00 Monday to Friday, 08:00 – 13:00 Saturday nor at any time on Sundays or Public Holidays unless otherwise approved in writing by the planning authority in consultation with Environmental Protection.

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

- 5 Prior to the commencement of works the applicant shall submit a Site Biodiversity Action Plan to the planning authority for approval. Works shall then proceed as per the approved SBAP. The SBAP shall contain commentary on how it has put into practice those comments made in the Biodiversity Officer consultee response dated 30th January 2020.

Reason: In the interests of biodiversity gain and enhancement.

- 6 Notwithstanding the provisions of Condition 1, the proposed access to the distillery complex shall be formed in accordance with the Council's Roads Standard Detail Drawing SD08/001a and visibility splays of 136 metres to point X by 2.4 metres to point Y from the centre line of the proposed access. The access shall be surfaced with a bound material in accordance with the stated Standard Detail Drawing. Prior to work starting on site the access hereby approved shall be formed to at least base course standard and the visibility splays shall be cleared of all obstructions such that nothing shall disrupt visibility from a point 1.05 metres above the access at point X to a point 0.6 metres above the public road carriageway at point Y. The final wearing surface on the access shall be completed prior to the development first being brought into use and the visibility splays shall be maintained clear of all obstructions thereafter.

Reason: In the interests of road safety.

- 7 Notwithstanding the provisions of Condition 1, the proposed access to the reservoir shall be formed in accordance with the Council's Roads Standard Detail Drawing SD08/001a and visibility splays of 136 metres to point X by 2.4 metres to point Y from the centre line of the proposed access. The access shall be surfaced with a bound material in accordance with the stated Standard Detail Drawing. Prior to work starting on site the access hereby approved shall be formed to at least base course standard and the visibility splays shall be cleared of all obstructions such that nothing shall disrupt visibility from a point 1.05 metres above the access at point X to a point 0.6 metres above the public road carriageway at point Y. The final wearing surface on the access shall be completed prior to the development first being brought into use and the visibility splays shall be maintained clear of all obstructions thereafter. Headwalls to be constructed at each end of the culvert under the junction.

Reason: In the interests of road safety.

- 8 No work shall start on site until the applicant has submitted details for the road crossing for the water supply pipe, for approval by Roads & Infrastructure Services. Details to include the following:

- Plan showing the proposed road crossing at ninety degrees to the public road.
- Plan showing the proposed duct for pipeline out with the public road corridor.
- Section through public road showing a duct for the proposed pipeline, minimum cover from carriageway level to top of duct to be no less than 1.00 metres. Minimum cover from invert level of roadside ditch to be no less than 600 mm. Duct to start and finish out with the public road corridor.
- Plan showing the position of marker posts for proposed road crossing.
- Drawing showing details of marker posts.
- The duct to be a twinwall pipe with a concrete surround. Duct to start and finish out with the public road corridor.

Reason: To ensure the safe crossing of the water supply in relation to the public road.

- 9 Notwithstanding the provisions of Condition 1, no development shall commence until details of the intended means of surface water drainage to serve the development have been submitted to and approved in writing by the Planning Authority. This shall be designed in accordance with Sewers for Scotland 4th Edition and CIRIA c753.

The duly approved scheme shall be implemented in full concurrently with the development that it is intended to serve and shall be operational prior to the occupation of the development and maintained as such thereafter.

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

- 10 The tasting lodge hereby approved shall be implemented with a finished floor level of 5m above ordnance datum.

Reason: In order to secure the tasting lodge from an unacceptable risk of flooding.

- 11 Prior to the commencement of works on the reservoir a detailed design of the storage reservoir that will include mitigation for severe weather events shall be submitted to and approved in writing by the Planning Authority.

Reason: To reduce the risk of damage caused by potential storm events.

- 12 No development shall commence until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved in writing by the Planning Authority. The scheme shall comprise a planting plan and schedule which shall include details of:

- i) Existing and proposed ground levels in relation to an identified fixed datum;
- ii) Existing landscaping features and vegetation to be retained;
- iii) Location design and materials of proposed walls, fences and gates;
- iv) Proposed soft and hard landscaping works including the location, species and size of every tree/shrub to be planted;
- v) A programme for the timing, method of implementation, completion and subsequent on-going maintenance.

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

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

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

- 13 At least two months prior to the commencement of development, an Environmental Management Plan (EMP) detailing all mitigation and pollution prevention measures to be implemented during construction and the lifetime of the development shall be submitted to and agreed by the Planning Authority in consultation with the Scottish Environment Protection Agency and Scottish Natural Heritage. This should address all aspects of the construction process which might impact on the environment, including in particular, excavations and other earthworks, a management/reinstatement scheme for peat areas, the construction works associated with upgraded watercourse crossings, the management of waste streams, the timing

of works to avoid periods of high rainfall; along with monitoring proposals, contingency plans and reinstatement measures. The development shall be implemented in accordance with the provisions of the duly approved EMP or any subsequently agreed variation thereof.

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

NOTE TO APPLICANT

- **The length of the permission:** This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]
- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

Policy Overview:

The application site is located within land zoned as 'Countryside' wherein the provisions of policy LDP DM 1 offer general support for 'small' scale development on appropriate infill, rounding-off, redevelopment and change of use of existing buildings; plus support for up to and including 'large' scale development on appropriate sites in exceptional circumstances where this accords with an 'Area Capacity Evaluation' (ACE).

The provisions of policy LDP 5 sets out that the Council will support the development of new industry and business which helps deliver sustainable economic growth. The supporting detail to policy LDP 5 identifies Islay as being both an Economically Fragile Area, and a Tourism Development Area.

Policy SG LDP BUS 2 set out that proposals for new business and industry development (Use Classes 4, 5, 6 and 7) in the Countryside Development Management Zones will only be permitted where:

- A) *The development is of a form, location and scale, consistent with policy LDP DM 1. Development proposals must also take account of SG LDP ENV 14 and comply with Schedule B 1 and Schedule B 3; OR,*
- B) *Proposals are for all scales of development in Rural Opportunity Areas, or for small scale development in the Countryside Zone, where the applicant can demonstrate a clear operational need for a specific location within these zones.*

Schedule B1 sets out the scales of Business and Industry development defining 'large scale' development as buildings with a footprint exceeding 600sqm, or a gross site area exceeding 2ha. The provisions of Schedule B1 also note that within Economically Fragile Areas consideration will be given to variation of the permitted scales of development in line with the provisions of policy SG LDP BUS 5.

Schedule B3 sets out the preferred locations for business and industry development in the countryside expressing a preference only for 'small scale' development in 'non-residential locations' outwith the allocations and PDAs. Schedule B3 also defines 'non-residential locations' as being "*locations where residential use does not predominate – this includes mixed use areas*".

The explanatory text to SG LDP BUS 2 sets out that the Council recognises that "*Argyll and Bute has a number of indigenous and emerging industries that are not suited to a location within an existing settlement. The special needs of the fragile economic areas are also recognised. ... Therefore, where an applicant can clearly demonstrate that their proposal requires a location in the countryside, permission will normally be granted, providing that redundant buildings and brownfield sites are used where possible.*"

In operation however, policy SG LDP BUS 5 effectively overrides the settlement strategy considerations built into SG LDP BUS 2 as it sets out that in the Economically Fragile Areas that consideration will be given to varying the permitted scales of economic development where it is judged by the Planning Authority that:

- *It has been demonstrated that no suitable preferred location is available;*
- *The proposal is directly linked to the main potential growth sectors supported by the LDP and the EDAP (Economic Development Action Plan);*
- *A sustainability checklist has been completed and it has been demonstrated that any concerns that have been identified over the sustainability of the proposal can be addressed satisfactorily;*
- *Greenfield sites are avoided if brownfield land is available in close proximity;*
- *In residential locations, the proposed development would not erode the residential character of the area, or adversely affect local residents, through an increase in traffic levels, noise, fumes, or hours of operation;*
- *The proposal is consistent with any other relevant Local Development Plan policy and associated Supplementary Guidance;*
- *The design, scale and siting of the new development respects the landscape/townscape character and appearance of the surrounding area.*

The explanatory text accompanying SG LDP BUS 5 confirms that whilst the LDP sets out a settlement strategy which provides a framework to deliver sustainable development the provisions of SG LDP BUS 5 serve to provide additional flexibility from the planning system in support of LDP objectives for sustainable economic growth and to support population retention and growth.

The application does not contain a sustainability checklist as required by policy, however officers are satisfied that the EIAR contains sufficient information to demonstrate that the proposal meets with the principles of sustainable development.

The proposal also includes for a visitor centre (which should be viewed as an ancillary development to that of the main distillery) and accordingly regard should be had to the provisions of LDP 5 and SG LDP TOUR 1 and SG LDP TOUR 3.

Policies LDP 5 and SG LDP TOUR 3 offer broad encouragement for new and improved tourism facilities, particularly within designated Tourism Development Areas such as Islay. SG LDP TOUR 1 sets out a criteria-based approach, with a general presumption in favour of new or improved tourism facilities provided certain criteria are met:

- *The development is of a form, location and scale consistent with Policy LDP DM 1;*
- *They respect the landscape/townscape character and amenity of the surrounding area;*
- *They are reasonably accessible by public transport where available, cycling and on foot, or would deliver major improvements to public transport services;*
- *They are well related to the existing built form of settlements or the existing development pattern outwith the settlements and avoid dispersed patterns of development, unless the developer has demonstrated a locational requirement based on the need to be near to the specific tourist interest being exploited, and that the facility will not damage those interests;*
AND
- *The proposal is consistent with other policies and SG contained in the Local Development Plan*

Assessment of the Proposal:

The current application relates to a proposed new distillery and visitor centre within a development site of just under 19ha. The proposal is to be considered a 'large scale' business and industry development, having regard to the provisions of Schedule B1.

The details contained within the application set out an aspiration to produce some 1.2m litres of whisky per annum.

The retention and creation of jobs in both tourism and the food sectors are benefits identified in the Argyll and Bute Strategic Economic Development Action Plan (EDAP), as is support for strengthening the branding of Argyll and Bute indigenous food and drink products.

The application is accompanied by supporting information that seeks to demonstrate that the proposed development meets the key principles of Sustainable Development defined in policy LDP STRAT 1, that there is no sequentially preferable location available for the proposed development, and that the location of the distillery requires to be operationally linked to an appropriate water source. The supporting information provides a summary assessment detailing that various locations, including the existing business and industry allocations on Islay and other countryside redevelopment locations, are technically unsuitable to accommodate the requirements of the proposed development. Officers are unaware of any other suitable locations either within settlement areas, or of any 'brownfield' sites on Islay which should be given consideration as sequentially preferable locations for the development. Islay is recognised as an 'Economically Fragile Area' in the LDP and accordingly it is not considered appropriate in this instance to extend consideration of potential alternative development locations to the wider Council area.

In this consideration the applicant set out the following requirements which the site was required to meet:

- Sufficient land area to allow the development of the proposed distillery and associated visitor centre, tasting lodge and facilities;
- Access to the local road network to allow the receipt of materials and distribution of product from the site;
- Access to local raw material sources;
- Access to sufficient water resource including proximity to coastline for seawater cooling water supply and long sea outfall (LSO); and
- Access to electricity grid.

In considering a suitable location the following sites were initially identified and then discarded: Bridgend Islay Farm House, three sites in Glenegedale and Octofad / Coultersay.

- Bridgend Farm was not considered further as the site is for use by small businesses and is related to the wider operational farm and is therefore not deemed suitable for this development.
- The Glenegedale sites were not considered further as they are prone to flooding and the area of land available may not be sufficient to deliver the full requirements of the Proposed Development. The location also did not make sense to create a connection with other existing distillery infrastructure on the island.
- Octofad / Coultersay was not considered further as the site is currently under construction by Bruichladdich distillery for expansion of their operations in that area, i.e. renewable energy proposals and warehousing.

Considering the lack of suitable sites and the fragile economic status of the island officers consider that an exceptional case has been demonstrated. With this in mind the principle of the proposal in the countryside zone can be supported.

The development is not located within a “residential location” having regard to the definition provided by Schedule B3. The effects of the proposed development upon the amenity of the locale, including existing residential property within the locality is subject to detailed assessment in Section B below.

The proposal is supported by a Landscape Capacity Assessment and has also been subject to an Area Capacity Evaluation (ACE) undertaken by officers. The impact of the design, scale and siting of the proposed development is subject to detailed comment in Section F below.

The proposed development is readily accessible by public transport from Port Ellen and is immediately adjacent the Three Distilleries Path. The main road, the A846, is two way and serves three existing distilleries.

In summary, the proposal represents a ‘large-scale’ business and industry/tourism development within a ‘Countryside Zone’ where a clear locational/operational need has been demonstrated and supported by an ‘Area Capacity Evaluation’. The provisions of SG LDP BUS 5 recognise the requirement for flexibility within Economically Fragile Areas such as Islay and make provision for the normal provisions of the Council’s Settlement Strategy to be varied to accommodate up to ‘large scale’ development in rural areas in appropriate circumstances. Accordingly, it is considered that the principle of the development is consistent with policies LDP STRAT 1, LDP DM 1, LDP 5, SG LDP BUS 2, SG LDP BUS 5, SG LDP TOUR 1 and SG LDP ACE 1.

B. Location, Nature and Design of Proposed Development

The proposal requires to be assessed against the relevant provisions of policy LDP 9 and SG LDP SUSTAINABLE in terms of development setting, layout and design.

The provisions of policy LDP 9 set out that new development shall be required to be sited and positioned so as to pay regard to the context within which it is located, that the development layout and density shall effectively integrate with the setting of the development, and that the design of the development shall be compatible with its surroundings.

The provisions of SG LDP SUSTAINABLE relating to new industrial development within isolated locations advises that the form and pattern of the landscape will largely determine the acceptability of the proposal, and that the extent to which the proposal would be clearly visible from public roads, viewpoints and neighbouring local communities is also an important factor. Assessment of proposals shall include consideration of the visual impact of the size and extent of the proposal and the distance/location from which it is seen; the location of the proposal and its landscape setting, including the way in which the development has used natural contours of the site is of prime importance – in this respect it is noted that a large building must be absorbed by the landscape as much as possible, whether by excavating, using existing landforms to mask the development or screening by new trees; the design and colour of the development and any ancillary structures can be used to minimise their perceived bulk and visual impact – it is noted that the use of natural materials such as timber and stone will help fit a large building into the landscape.

The site is located to the east of Port Ellen Primary School on the south coast of the island. Laphroaig is some one mile to the east. The ruin of Farkin Cottage is to the north. The site is bounded by a track leading to some Scottish Water infrastructure to the west where a small field separates the site from the primary school. The A846 is to the north along with the Three Distilleries Core Path which runs parallel. The coast is to the south and agricultural fields are to the east where the land narrows into a bay before widening into Loch Laphroaig and the settlement of the same name. To the North the land tends to slope upwards towards the more mountainous interior of the island typified by Beinn Sholum (347m) and Carn Chonas-airigh (247m). The south coast of Islay is characterised by three existing distilleries namely Laphroaig, Lagavullin and Ardbeg. This proposal would seek to add a fourth.

While the majority of the application sites lies to the south of A846 the application area includes a portion of land to the north east of Farkin Cottage which includes a natural cleft in the topography in which the proposals are looking to form a pond to supply water to the development.

The site itself is relatively flat and characterised by a rolling topography with drumlins. It has traditionally been used for agricultural purposes.

The application comprises a new distillery with associated maltings, utility plant, visitor centre and restaurant, new tasting lodge, maturation storage, and new office accommodation.

Proposed Distillery

The Proposed Distillery is located in the south-eastern portion of the site. The proposed building eaves range in height from 7.5 m (tun room) to 9 m (shops), with the highest point of the kiln 17.7 m in height.

The buildings will be constructed using local building materials (where possible) sympathetic with the local area. The buildings will also incorporate significant glass frontage to maximise the outlook for visitors across the views of the Sound of Jura.

The process area of the distillery will comprise spirit production areas, with a production capacity of approximately 1.2 million litres of spirit per annum. The distillery area is based across a floor area on two levels. The distillery process areas comprise:

- Kiln and floor maltings, over two floors;
- Mill room of approximately 100 m², on each of two floors;
- Mash House area over two floors;
- Fermentation tanks, 16 no. of stainless steel design; and
- Still house, incorporating four copper distillation vessels.
- Still room, incorporating a gin still and associated storage tanks.

The distillery will incorporate a traditional floor maltings, where the barley will be spread and hand turned, following steeping, on a stone floor by local malt men. Once germinated the malt will be had fed to the peat fired kiln where the malt will be dried over a 24-48 hour period. It is anticipated that the distillery maltings will provide in excess of 75% of the process requirement.

The dried malt will pass to the mill, where it is ground to a grist mixture. The grist will be fed into the mash tun and hot water added to create a liquid wort. The wort is subsequently drained and the solid by-product (draff) retained for sale as animal feed. The wort will then be cooled.

Off-gases from the mash tun will be vented to atmosphere via a 300 mm diameter vent on the roof of the distillery building. The vent will protrude 500 mm above the roof ridge height.

The cooled wort from the mash tun will be filled to stainless steel washback vessels and yeast added to begin the fermentation process. The fermented liquor will be distilled in batches in traditional copper pot stills.

The distilled spirit will be piped to storage tanks located to the west of the distillery building. The spirit will then be transferred to tanker for offsite maturation or will be transferred to casks for storage within the limited edition maturation store on site.

Additional storage tanks are located adjacent to the distillery for the supply of raw materials, including grain wheat/rye and water. Additional storage tanks are provided for the storage of liquid effluent, spent lees, pot ale and draff co-products. The tanks will be contained within a bunded impermeable area designed to 110% of the total tank storage capacity.

The distillery will be naturally vented through louvres situated on the eastern face of the building. Process cooling will be provided through heat exchange units to be located to the east of the distillery building, adjacent to the storage tanks. The heat exchangers will utilise sea-water as the cooling medium.

The proposal has been augmented with landscape proposals which detail the use of spoil from excavation of the building footprint to provide shaped bunds along the roadside edge of the development which mimic the existing drumlin form of the site.

In assessing the proposal it is accepted that the design, scale and massing of the proposed development is primarily driven by the requirements of an industrial process. It is however recognised that the applicant has sought to incorporate where possible traditional building form and with the inclusion of the pagoda roofed elements will have an unmistakable appearance of a distillery, the design also breaks the development into smaller visual elements which are more in keeping with the smaller scale nature of existing buildings within the landscape. The use of recessive finishes, including the extensive use of natural materials will greatly assist with the integration of the new buildings within its countryside setting by reducing their visibility and prominence within views into the site, particularly those from the sea and A846. The proposed landscape proposals will strengthen and enhance existing habitat features.

Visitor Centre and Restaurant

A visitor car parking area, comprising approximately 40 spaces will be provided adjacent to the Proposed Distillery, with capacity for over-spill car parking in an area of reinforced surface grassland. Space will be provided for cars and small mini-buses. No provision will be made for coaches. Separate car parking for staff will be provided to the rear of the building.

A public entrance will be provided from the car parking area which will access an entrance hall within which a reception area will be situated. From the entrance hall tasting and interpretation areas can be accessed, alongside a shop of approximately 205 m² and a terraced area. Stairs will be provided to first floor level, which will accommodate main kitchen and serving areas, as well as a café (with space for 140+ covers) and a restaurant/entertainment area (with space for approximately 120+ covers). Guided tours will be provided through the distillery process area.

Air from the kitchen area will be extracted and discharged to atmosphere via a vent on the roof of the main building. The extract will be designed in accordance with relevant good practice.

An area of planting will be provided around the visitor area of the distillery to screen the process areas and to provide an outlook over the landscaped grounds and pond areas, and beyond that to the Atlantic Ocean seaviews.

A botanical garden is located within the central area of the distillery.

A tasting lodge will be situated on the southern tip of a rocky outcrop along the southern boundary of the site. This will be accessed by the coastal footpath from the main distillery building. Along the length of the coastal footpath there will be a series of viewpoints which will be situated in locations along the path to highlight views across the Atlantic Ocean or out to the east long towards the distilleries of Laphroaig, Lagavullin and Ardbeg.

The proposal will introduce a 'large scale' industrial activity into what is presently a quiet rural area and accordingly must be viewed as a 'Bad Neighbour Development' to be assessed against the relevant provisions of SG LDP BAD 1 which sets out that 'Bad Neighbour' developments will only be permitted where there are no unacceptable adverse effects on the amenity of neighbouring residents; where the proposal includes appropriate measures to reduce the impact on amenity; where there are no significant transport, amenity or public service provision objections; and where technical standards in terms of parking, traffic circulation, vehicular access and servicing, and pedestrian access are met in full.

However, there are no residential properties within such close proximity as to be adversely affected by the development. This is reflected within the Environmental Health officer comments.

The proposed development is situated in a relatively dark area, however it is noted that the potential for direct glare or impact on nearby property is very much limited by the local topography. It would however be appropriate to impose a planning condition requiring submission of further details relating to any external lighting for approval.

The proposal has been subject to consultation with both SEPA and the Council's Public Protection Officers, neither of which have raised objection to the development subject to appropriate mitigation measures being secured by planning condition. Having regard to the above, it is considered that the proposal is consistent with the relevant provisions of LDP 9, SG LDP SUSTAINABLE and SG LDP BAD 1.

C. Natural Environment

There are no nature conservation designations which would be directly or indirectly affected by the proposed development, however there are a number of protected species which frequent the wider area, concerns for which have been identified and expressed in third party representations, including Otter and Greenland Whitefronted Geese.

The application is accompanied by an Ecology Study and Assessment report, along with a supplementary report, which concludes that the proposed development is unlikely to give rise to any significant loss of habitat or biodiversity. Recommendations are included within these documents for mitigation measures to avoid adverse impacts

upon interests within the wider locality. Below is a summary of the findings of this report.

- There are no known statutory or non-statutory designations on or adjacent to the site.
- Barnacle and Greenland white-fronted geese, qualifying species for five Islay Goose SPAs, intermittently forage on and adjacent to the distillery site in relatively small numbers which are not likely to adversely affect the conservation objectives of the European Site. SNH have advised that a Habitat Regulations Assessment is not required.
- Listed woodland will not be directly or indirectly impacted by development.
- Habitats were all man-made and dominated by grasslands. Boundary features were the only biodiversity priority habitat. Coastal grassland was of high diversity but will not be significantly impacted.
- Otter were absent at the time of survey, therefore there are no current licensing obligations.
- There are no UK protected species on or adjacent to the site.
- Invasive non-native species (INNS) were absent from the site, including Japanese knotweed and giant hogweed.
- Key habitat mitigation is focused on avoiding and minimising any risk to water quality on a local watercourse used for abstraction and minimising the size of the developed footprint. Non-developed land will be maximised for biodiversity potential by preparing a Site Biodiversity Action Plan (SBAP). Pipelines will be micro-sited to avoid and minimise impacts on coastal habitats.
- The breeding bird resource impacted by the development is mainly improved and semi improved grassland and rush pasture of lower value. No Red List SoCC bird species breed on the site. Raptors and lowland waders were absent, as were corncrake. To ensure compliance with obligations an annual corncrake survey will be required for the duration of the construction period. If works commence during the bird breeding season, then a pre-commencement breeding bird survey will be necessary.
- Otter are known from the wider area and annual updating surveys will be required to maintain obligations during the construction period, especially prior to commencing any coastal works.
- Net biodiversity will decrease in the short term but is likely to be neutral or slightly positive in the medium to long term, especially if a SBAP is written in advance of works and SBAP actions are incorporated in the final landscape plan.
- Residual impacts, after mitigation, lie in the magnitude range negligible-slight adverse. Most are very short term and reversible.

Considering the above the applicant has set out several mitigation measures to overcome any immediate and lasting adverse impacts as a result of the works. Further mitigation measures can be incorporated into the construction environment management plan (CEMP) and should include a SBAP (site biodiversity action plan) which is required as per the conditions of the proposed permission.

Mitigation measures include the following:

- Groundworks should be timed outwith the main breeding season (March to August inclusive) to protect ground nesting birds,
- Pipe laying should take place in winter when plants are dormant,

- Potential impacts of the intake and outfall pipelines will be reduced if they are laid side by side through the coastal section.

SNH have not raised any objection to the proposal in terms of conflict with nature conservation interests. The Council's Biodiversity Officer, following the provision of the supplementary information, is satisfied that the proposed development will not have an adverse impact upon biodiversity interests within the area, subject to the mitigation measures and landscape planting identified.

The proposal is considered to be consistent with the relevant provisions of policies LDP 3 and SG LDP ENV 1.

D. Historic Environment

The proposed development does not give rise to any direct or indirect effects upon the site or setting of any listed building, scheduled monument, or conservation area.

The development site is however located within an archaeological trigger area and accordingly requires to be assessed against the relevant provisions of policies LDP 3 and SG LDP ENV 20.

WoSAS has commented that the area may have the potential for archaeological finds and as such requested a condition for a written scheme of investigation. If approved this shall form part of the consent. The proposal is accordingly considered to be consistent with the relevant provisions of LDP 3 and SG LDP ENV 20.

E. Access to Countryside.

The proposal will be adjacent the Three Distilleries Path and the access will require this to be slightly re-routed. The applicant has agreed to these works to the satisfaction of the Roads Authority and will take the path slightly around the access causing minimal inconvenience to users.

The proposal is consistent with the provisions of policy SG LDP TRAN 1.

F. Landscape Character

The application site is not located within a landscape designation so its impact upon local landscape character should be assessed against the provisions of LDP 3 and SG LDP ENV 14.

The provisions of SG LDP ENV 14 state that outwith scenic designations that the Council will consider landscape impact when assessing development proposals, and will resist development when its scale, location or design will have a significant adverse effect on the character of the landscape, unless is demonstrated that any such effects upon the landscape quality are clearly outweighed by social, economic or environmental benefits of community wide importance; AND that the Council is satisfied that all possible mitigation measures have been incorporated into the development proposal to minimise adverse effects.

Furthermore, the proposal is for a 'large' scale development located within the 'Countryside' development management zone. The applicant has satisfactorily set out grounds allowing the proposal to be considered as an 'exceptional case' and accordingly, having regard to the provisions of LDP 3 and SG LDP ACE 1, the determination requires to be informed by an Area Capacity Evaluation (ACE). It is

confirmed that an ACE has been undertaken by officers and is appended to this report (Appendix C) for prior consideration by Members in their determination of this matter. The application is also accompanied by a 'Landscape Capacity Assessment' report prepared on behalf of the applicant by qualified Landscape Architects (this report may be reviewed in full via public access - <http://publicaccess.argyll-bute.gov.uk/online-applications/>) including visualisations of the proposal from key vantage points on Islay.

The area is considered to represent a Coastal Parallel Ridges Landscape Character Type according to the SNH National Landscape Character Assessment (landscape character type 55) forms rocky ridges at the coastal margins, where the metamorphic Dalradian rocks have been tightly folded to form a series of narrow, parallel ridges with a strong south-west to north-east alignment. The landscape was subsequently deeply scoured by glaciers during the Ice Age, emphasising the ridges landform and over-deepening the narrow glens so that the coastline was flooded by the sea. The Coastal Parallel Ridges represent the remnants of this flooded coastline. The key characteristics are summarised below and assessed against the development in the corresponding ACE.

- Narrow rocky ridges with a strong south-west/north-east alignment, which break down to form chains of rocky islands at the coast.
- Horseshoe-shaped, narrow sandy bays and extensive mudflats.
- Stunted oak-birch woodlands on the rocky ridges separating narrow marginal pastures, marsh or lochs.
- Small blocks of conifers.
- Stone walls enclosing fields and along lanes.
- Small settlements, concentrated at coves.
- Rich variety of archaeological sites.
- Small estates.

Site Landscaping

The application has been the subject of an Area Capacity Evaluation which is set out in Appendix B. The applicant's Landscape Capacity Report includes a map showing the theoretical visibility of the development within the landscape and assessment/visualisations of the proposed development from key viewpoints on the public road to the north and south of the development site to assist in the assessment of the landscape impact of the proposal.

The proposals include areas of new landscaping and SUDS provision to provide visual screening of the Proposed Development and to enhance the natural environment for the benefit of visitors to the site.

The land between the A846 and the distillery will be landscaped to provide some visual screening of the distillery buildings such that the buildings blend with the local landscape. In keeping with the local landscape, landscaping will include the formation of drumlins and other features complementing the local topography. In keeping with the local landscape, planting will be confined to specific areas and reflect the rugged coastal environment and thin soils across the site.

A planning condition will require details of the landscaping around the reservoir area but the applicant has been advised that the mounding will need to be as natural as possible.

The ACE undertaken by officers concludes that the proposed development cannot be accommodated at this location without giving rise to a significant change to the

established character of the local landscape setting with the introduction of larger scale buildings and loss of an area of grazing which forms a key feature of the landscape setting. It is however considered that the applicant's proposal to provide extensive landscaping to the north of the proposed development that will not only provide a high degree of screening within a natural setting that should offset any adverse effect. The proposal is therefore considered to have a neutral impact upon the local landscape despite the extent of the change to established character. The proposal is accordingly considered to be consistent with the relevant provisions of SG LDP ENV 14.

G. Road Network, Parking and Associated Transport Matters.

The provisions of policy LDP 11 set out that the Council will seek to ensure that an appropriate standard of access is delivered to serve new developments, including off-site highway improvements where appropriate.

The proposal is served by the A846 east of Port Ellen. This road also serves Laphroaig, Ardbeg and Lagavullin distilleries. The new site access will form the only access to the site, servicing both visitor and service vehicles. The new access will be 9.23 m in width beyond the junction, providing sufficient space for two buses or heavy goods vehicles (HGVs) to pass each other on the road as necessary.

Traffic flows associated with site operations have been estimated based on the sites operational requirements. The estimated traffic flows are outlined in the Traffic Statement in Annex H in Volume 3 of the EIA Report.

The estimated week traffic volumes are approximately 21 HGVs per week based on initial production volumes, growing to 28 HGVs per week at maximum operational capacity. The maximum daily HGV flow will be 3 vehicles per day.

Approximately 30,000 visitors per year are anticipated to visit the site, with a daily peak of 130 vehicles assumed, equating to 16 vehicles per hour. Visitor traffic numbers are expected to be seasonal, peaking in August and minimal in January.

The provisions of policies SG LDP TRAN 4 and SG LDP TRAN 6 set out the Council's requirements in respect of site access and parking provision. Third party representations have raised concerns regarding the ability of the road infrastructure to cope with the additional load.

The proposed development will be accessed via a new bellmouth with a radius capable of accommodating HGV traffic onto the A846 public road. The proposal includes on-site hardstanding areas for parking, turning, loading/unloading of commercial vehicles with separate visitor parking provision. The reservoir access will be upgraded and also allow for a radius of large vehicles turning into the site. The Council's Roads Officers have assessed the proposals advised that the proposed access, turning and parking arrangements are acceptable.

Having regard to the above, the proposal is considered to be consistent with the relevant provisions of LDP 11, SG LDP TRAN 4 and SG LDP TRAN 6.

H. Infrastructure / Waste Management

Water

It is proposed to create a new reservoir (at approximately NGR NR 3795 4565) which covers an area of approximately 0.59 km². Water from the reservoir would be gravity fed or pumped to the distillery.

The reservoir will be approximately 4 m in depth, with a base level of 14 m AOL and height ranging between 17.5 m and 18.0 m AOL, level with existing ground on the west and with formed embankment on the east. The water depth will be 3.0 m in depth. The reservoir will be excavated and formed with concrete wall and pond liner. The visible exterior of the reservoir will be formed of rocks and vegetation embankment, landscaped to hide the concrete walls.

The distillery cooling system will utilise seawater as the cooling medium. A demand of approximately 100 cubic metres per day is anticipated. A seawater intake pipe will be formed into the Sound of Jura. A pump house will be located adjacent to the main distillery building and pipeline laid, underground, along the access road to the rear (south) of the distillery and then following the path to the tasting lodge. A pumping chamber will be located close to the coast with manhole access for maintenance.

The water intake pipe will then be located to a distance of 50-100 m offshore. The precise route of the seawater intake pipe has to be determined and the location and formation of the pipe will be agreed with statutory consultees, including Marine Scotland and Crown Estates. Based on the rock shoreline it may be necessary to undertake directional drilling to create the pipe route, minimizing coastline and seabed disturbance.

The water intake will be designed to be sufficient distance from sea outfall and within sufficiently deep water such that no localized effects will occur. Appropriate design controls will be implemented to minimize impingement and entrapment of marine organisms within the intake.

Site Drainage and Sewerage

The site drainage and sewerage have been designed to take account of site surface water run-off and domestic drainage from the Proposed Development.

A sustainable drainage system (SuDS) has been designed to account for the development of impermeable surfaces, including roads, hardstanding and building footprint. The SuDS has been designed in accordance with Scottish Environment Protection Agency (SEPA) guidelines and current industry good practice and has the following design principles:

- Surface water run-off will be collected and discharged at a rate restricted to the 2-year greenfield run-off rate;
- Surface water will be treated before discharge in line with the requirements of ABC and SEPA, including a single stage of treatment for roof, pedestrian hardstanding car parking and road area run-off and two stage treatment for vehicle hardstanding/loading areas.

One SuDS wetland is proposed for the site, located to the east of the main Distillery building. SuDS wetland is designed with a combined capacity of 400 m³ storage to provide adequate storage for a 30-year storm event, including 30% climate change allowance. The SuDS wetland will discharge at a greenfield run-off rate no greater than 8.2 litres per second.

Water treatment options for the SuDS system will be developed at the detailed design stage, however will include a combination of:

- Swales; and

- Detention basin;

An appropriate SuDS maintenance programme will be developed in line with industry good practice and will include:

- Monitoring and inspection procedures
- Implementation of monitoring and inspection procedures, generally every six months (maximum), to monitor ongoing maintenance regimes and to alter the regimes to suit local conditions, as required.
- Maintenance regimes for swales and detention basins, and filter strips
- Regular grass cutting regime, including monthly during the growing season
- Regular removal of dead plants, tree fall and waste products (generally monthly)
- Sediment removal every six months and after storms
- Maintenance of permeable pavements
- Brushing/vacuuming once a year to prevent clogging; and
- Remedial works, as required.

Based on the determined level of foul water from the site facilities it is proposed to treat the effluent using a package treatment plant of appropriate capacity and then discharge the treated effluent through a soakaway (if ground conditions allow). It is anticipated that the effluent discharge will be subject to SEPA approval and approved discharge limits.

A pump house will be located adjacent to the distillery building and outfall pipeline will be located underground, along the access road to the rear (south) of the distillery and follow the path to the tasting lodge. The pipeline will then be taken offshore to a distance of approximately 150 m from the mean high water line. A discharge of approximately 115 cubic metres of effluent a day (1.33 litres per second) is anticipated.

The precise route of the outfall pipe has to be determined and the location and formation of the pipe will be agreed with statutory consultees, including Marine Scotland and Crown Estates. Based on the rock shoreline it may be necessary to undertake directional drilling to create the pipe route, minimizing coastline and seabed disturbance. The pipe distance has been determined based on the minimum mixing depth required for sufficient dispersion of the outfall.

Energy

The project energy requirements will be met through a combination of on-site generation and imported energy.

The site will obtain electricity from the Scottish Power Energy Network (SPEN) grid accessing the site. The existing overhead electricity supply to the site will be upgraded, with a new switchroom and transformer located on the site.

The distilling process will require heat and steam. These requirements will be met by the use of an on-site boiler plant. Two diesel fired boilers with a combined thermal input rating of 7.5 MW will be utilised, emissions from which will be vented to atmosphere via a combined 19 m high stack.

An efficient energy system is included within the site design to maximise energy recovery, including the use of process steam to provide heating to the office buildings and visitor centres. The use of energy recovery techniques, combined with the high efficient process design will reduce demand for fossil fuels and the associated greenhouse gas emissions.

The maltings will utilise a traditional kiln, fed by peat. It is worth noting that there is only a single authorised site for commercial peat extraction on the island which is at Castlehill peat moss.

Waste

The Proposed Development will generate municipal and commercial waste associated with the operation of the distillery offices and the visitor centre, restaurant and shops on-site. Appropriate on-site facilities will be created for the management of differing waste streams and a commercial agreement will be sought with a licensed waste contractor for the removal and recycling of the differing waste streams. All waste will be either taken to the local recycling depot in Bowmore or will be removed from the island.

Co-products from the distilling process will include:

- Draff, which is the spent grain left in the mash tun after the liquid (wort) has been drawn off;
- Pot ale, which is the liquor left in the wash still after the first distillation in the pot still process, i.e. it is the residue of the wash after the extraction by distillation of the low wines; and
- Weak waste waters, which include the spent lees, washing waters and RO permeate.

The draff co-products will be stored in an outside draff silo, where it will be collected by a local farmer and removed off-site on a regular basis to be used as animal feed. The applicant is currently in the process of formalising an agreement with a local farmer for removal of the draff co-products.

Similarly, the pot ale co-product will be stored on-site in external tanks and removed by the farmer for spreading to land. Agreement is to be formalised in the same process as for the removal of draff co-products.

In each case the co-products will be pumped from external silo to a mobile tanker using a sealed coupling pumping system to minimise the potential for release of odour emissions. Pumping will be undertaken within a defined bunded area and appropriate process controls implemented to manage any spillage during the transfer process.

The proposal is considered to be consistent with the relevant provisions of policies LDP 11, SG LDP SERV 1, SG LDP SERV 2, SG LDP SERV 5(b) and SG LDP SERV 6.

The provisions of policy SG LDP SERV 3 set out that developments involving significant new buildings or hardstandings should be subject to a Drainage Impact Assessment; however, the proposal intends to discharge surface water from the site to the sea and accordingly a DIA is considered to be unnecessary in this instance.

I. Other Scottish Government Advice

The applicant estimates that up to 30 full time equivalent jobs will be created after construction of the Proposed Development. These jobs will include the requirement for skilled staff experienced in the spirit production process, whom it is anticipated will be recruited at a local level.

It is anticipated that other employees will also be sourced from the local labour market, including apprenticeship opportunities. Specific procedures will be put in place with respect to advertising vacancies in the local area.

J. Other Matters

The Islay Community Council submitted a lengthy response to the proposal which is briefly summarised above. However, a number of these items are considered by officers to be non-material to the determination of the application. The below correspondence seeks to clarify why these concerns are not material.

- The applicant is not required, under legislation, to hold a public meeting this time around given the applicant was the same as described previously.
- The application is for a distillery and does not include housing. The planning authority cannot consider elements such as housing that do not form part of the application.
- The request to impose a section 75 for new housing is not reasonable with respect to the application submitted and would not withstand scrutiny under appeal.
- The request for the change to the speed limit and street lighting are matters for the Roads Authority to consider. They have not raised either as a matter that requires to be addressed through the determination of this application.
- The objection to the spreading of pot ale is not a material consideration in the determination of this application.

It is advised that the community council maintain their current level of dialogue with the applicant to resolve those matters not able to be considered by the planning authority.

Appendix B – List of representations

Objection

Natalie MacAffer Cam Sgeir Torradale Port Ellen Isle of Islay Argyll and Bute
22.01.2020
Bronwen Currie Taigh Na Torraig Bruichladdich Isle of Islay Argyll and Bute
21.01.2020
E J McGrann Ardview House 67 Frederick Crescent Port Ellen Isle of Islay
24.01.2020
Dorothy Dennis 5 Imeravale Port Ellen Isle of Islay PA42 7AL 22.01.2020
Patricia Dean 4/1 Bellevue Terrace Edinburgh EH7 4DU 21.01.2020
Scott Currie Taigh Na Torraig Bruichladdich Isle of Islay Argyll and Bute 22.01.2020
Ian Faggetter Tir Nan Og Port Ellen Isle Of Islay PA42 7AX 30.01.2020
Patrick McGrann 67 Frederick Crescent Port Ellen Isle of Islay Argyll and Bute
Donald MacIntyre Islay Cottage Back Road Port Ellen Isle of Islay Argyll and Bute
22.01.2020
Sandra Taylor Erin's Cottage Lower Killeyan The Oa Isle Of Islay Argyll And Bute
24.01.2020
Cheryl Macintyre Islay Cottage Back Road Port Ellen Isle of Islay Argyll and Bute
Margaret Brodie Laighe Na Greine Bowmore Isle of Islay Argyll and Bute 21.01.2020
Frances Guinn 97 Lennox St Port Ellen Islay PA42 7BW 27.01.2020
Stephen Rogers Carraig Mhor Emerivale Port Ellen Isle of Islay Argyll and Bute
04.02.2020
Chris Abell Erin's Cottage Lower Killeyan The Oa Isle Of Islay Argyll And Bute
Angela MacLeod The Lodge, Drum Coille Braco FK159LG
Katie Hogg 1 Nerabus Islay Argyll Bute PA48 7UE
Graeme Smith Laighe Na Greine Bowmore Isle of Islay Argyll and Bute 21.01.2020
Iona Middleton Ardimersay House Kildalton Isle of Islay Argyll and Bute 22.01.2020
Dietmar Finger Stable Cottage Carnduncan Gruinart Isle of Islay Argyll and Bute
19.01.2020

Petition Against

Nikki Corson, 3 Hawthorn Lane Bowmore Isle of Islay Argyll and Bute 19.01.2020,
20/01/2020 - Islay Locals Petition 24.01.2020

Support

Malcolm Younger Isleman Ltd St Mary's Cottage Hatton Road Perth 24.01.2020
Niall Colthart Lagavulin Farmhouse Lagavulin Isle of Islay Argyll and Bute
22.01.2020

Appendix C – Area Capacity Evaluation

AREA CAPACITY EVALUATION (ACE)

A. Purpose and Requirement for the ACE

The proposed agricultural shed is located within an LDP defined 'Countryside Zone' wherein the provisions of policies LDP DM 1 (E) of the Development Plan would ordinarily only encourage 'small scale' development on appropriate infill, rounding off, redevelopment and change of use of existing buildings. However, in exceptional cases, including the erection of a new medium-scale building on an existing key infrastructure services site supporting the local community can be supported if this accords with an Area Capacity Evaluation (ACE).

The application is accompanied by a supporting statement which satisfactorily demonstrates that the applicant has a valid locational/operational requirement for the proposed building. The applicant has set out a sequential approach to site selection within the documentation and the planning authority are content that this addresses the operational / locational need requirement as set out within policy.

The ACE assessment has been undertaken in accordance with Supplementary Guidance to the Local Development Plan - SG LDP ACE 1. The aim of the ACE process is simply to comprehensively and methodically assess the capacity of the landscape to successfully absorb the proposed development.

B. Area of Common Landscape Character / ACE Compartment

The area is considered to represent a Coastal Parallel Ridges Landscape Character Type according to the SNH National Landscape Character Assessment (landscape character type 55) forms rocky ridges at the coastal margins, where the metamorphic Dalradian rocks have been tightly folded to form a series of narrow, parallel ridges with a strong south-west to north-east alignment. The landscape was subsequently deeply scoured by glaciers during the Ice Age, emphasising the ridges landform and over-deepening the narrow glens so that the coastline was flooded by the sea. The Coastal Parallel Ridges represent the remnants of this flooded coastline. The key characteristics are summarised below and assessed against the development in the corresponding ACE.

- Narrow rocky ridges with a strong south-west/north-east alignment, which break down to form chains of rocky islands at the coast.
- Horseshoe-shaped, narrow sandy bays and extensive mudflats.
- Stunted oak-birch woodlands on the rocky ridges separating narrow marginal pastures, marsh or lochs.
- Small blocks of conifers.
- Stone walls enclosing fields and along lanes.
- Small settlements, concentrated at coves.
- Rich variety of archaeological sites.
- Small estates.

The ACE compartment is defined as linear section of rocky coast on the where it cuts into the next bay and crosses the pinch point along the access track to the reservoir site and then is contained by contours to the north and east. The compartment also extensions west from this location following contours to the edge of the grazing fields north of the main site.

The main road runs adjacent the distillery complex site where views are localised from land based locations but further afield from sea views.

C. Key Environmental Features – Constraints & Opportunities

The ACE compartment primarily relates to a linear area of rough grazing and relatively narrow coastal strip with a clear structure before reaching an in-land cleft. The land gradually slopes down to the south to the rocky coast containing pebble bays and areas of wetland. From the cleft it follows natural contours to the north to encompass the reservoir and then west again following the same contours. The landscape does not extend significantly to the east but could be reasonably contained by low lying topography. The main road bisects the compartment into a north – south divide. Existing built development within the ACE compartment is limited to a cluster of traditional farm buildings near the reservoir site, a new dwelling west of the reservoir, the ruinous farmhouse of Farkin, small scale Scottish Water infrastructure and Port Ellen Primary School to the west of the main distillery complex site. Settlement pattern is generally adjacent the main road. Land use is predominantly unimproved grazing.

The wider south coast of Islay is characterised by older distilleries and their associated settlements and building complexes. Such building groups tend to be clusters of buildings built up over time as opposed to single large structures.

D. Visual / Landscape Impact

The proposed development is a 'large' scale industrial development comprising a new distillery and visitor centre, hardstandings, access roads and parking areas. The building design is generally of simple, traditional form and with a pagoda roofed would be readily identifiable as a distillery. The proposal has been amended since the initial design proposals through extensive discussion with officers and now offers a more traditional complex of buildings with a better landscape 'fit', to provide a more recessive palette of building materials including render and natural slate, and the introduction of extensive landscaping proposals to assist in both screening it from view.

The proposed development is consistent with other south coast distilleries in form and scale. It is a complex of buildings sprawling across the site maintaining a low scale and form. Although buildings are functional they are also designed to be welcoming and attractive. The use of existing landscape features will help to settle the development into the landscape rather than creating an artificial platform.

On Islay, the visual impact of the proposed development would be contained to a short stretch of the A846. Long distance views will be limited to some extent by topography and existing buildings. The impact of the development would be minimised by extensive landscaping designed to mimic the existing drumlins across the site. However, the development will be open to immediate views.

The visual impact from outwith Islay would however be more extensive with the building being obvious from the coast where the Kennacraig to Port Ellen ferry runs. However, this will be seen in the context of Port Ellen and the existing three distilleries along the south coast.

Distilling on Islay is traditionally an activity which has been undertaken in coastal locations necessitated by access to sufficient quantities of fresh water and the requirement to import/export volumes of raw materials/produce by sea; the majority of existing distilleries being located at low level on the coast and in close proximity to a

pier, and in many cases giving rise to the growth of housing and other facilities in their surrounds to support the industry. The notable exception to this traditional pattern of development is the modern distillery established at Kilchoman which is located inland and has been undertaken as a redevelopment and extension of a group of traditional farm buildings. The fact that distilling is an industry indigenous to Islay would not in itself explain the landscape context of the establishment of a large group of buildings in this coastal location despite the wider context and accordingly it is the view of officers that the introduction of a grouping of large buildings at a location which is otherwise devoid of any substantial built structures, coupled with the loss of a prominent area of improved grazing will give rise to a significant change to the established character of the local landscape setting.

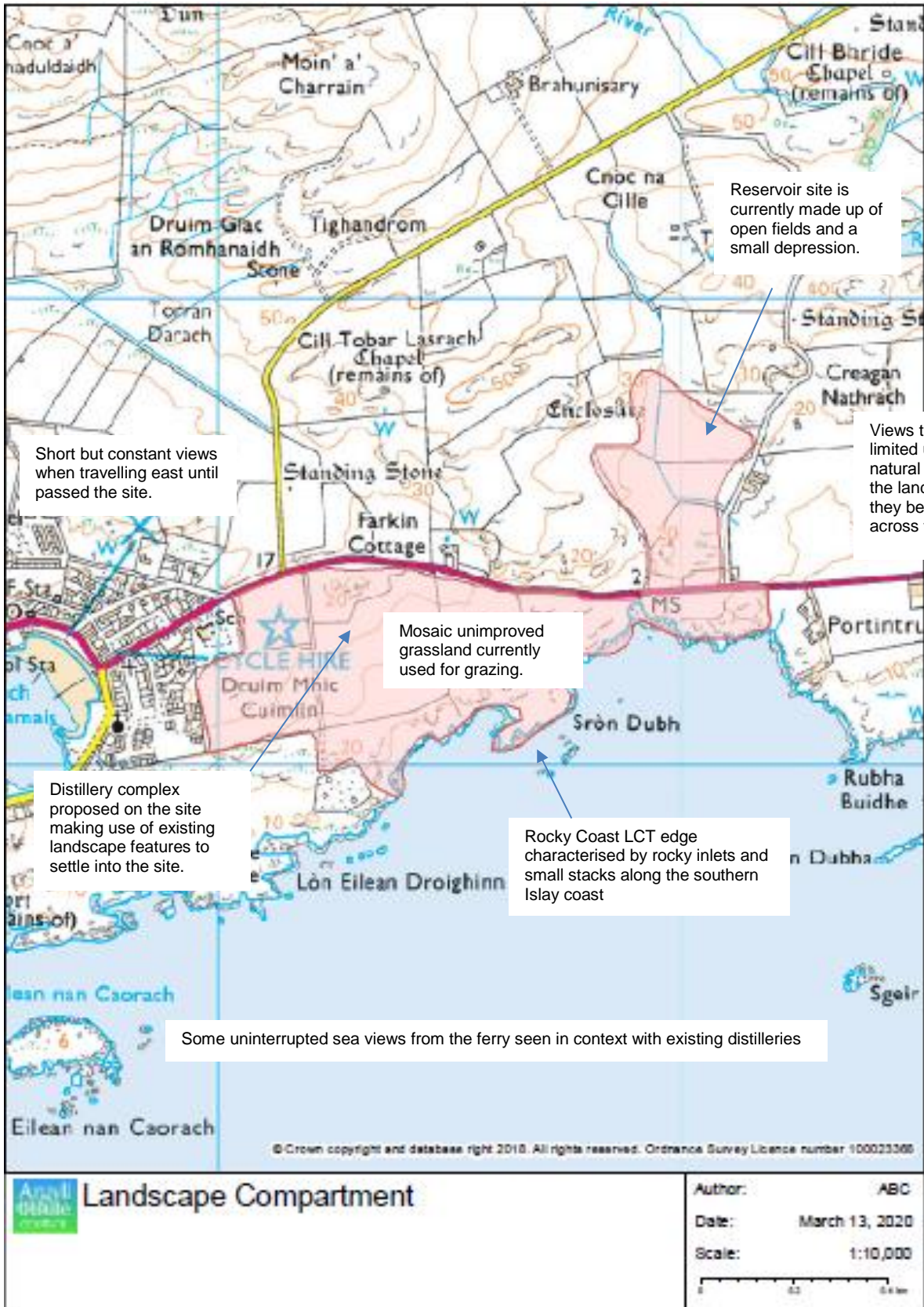
Whilst it has been established that the local landscape character does not have the ability to absorb the proposed development this is not to say that the resultant effect upon the key qualities and characteristics of the landscape would be unacceptable. Weighed against this it is also necessary to consider that any noticeable change in landscape character will be localised to the immediate surrounds and as a result of the use of appropriate finishes and landscape treatment, will present a landscape 'fit'. Within the localised setting the use of a variety of materials will somewhat break up the massing of the buildings and should avoid them appearing as a single, solid mass; in addition to this the provision of significant landscape treatment will further reduce the visibility and overall mass of the development.

In summary, it is considered that the proposed development will not have an adverse impact upon from the sea into the site. The proposed development will however result in a significant change in the appearance of the local landscape character with the obvious introduction of a substantially larger scale of built development than that which presently exists but also resulting in the loss of improved grazing land which is a prominent feature of the local landscape setting; the development will however deliver substantial landscaping proposals which will assist in accommodating the development. On balance, it is therefore considered that the change to landscape character may be considered to have a neutral impact upon the quality of the receiving landscape character.

19/02010/PP - ACE Compartment (shaded deep pink)



Constraints and Opportunities





Three Distillery Core Path.

Natural drumlins across the site.

The proposal makes use of the existing landscape features to 'settle' within the site. Scottish Water infrastructure is visible to the left whilst the track down to the right leads to more of their network.



View from the Three Distilleries Core Path looking over the site. It can be seen to be unimproved grassland suitable for grazing.



View from the Three Distilleries Core Path looking west. You can see how the low lying land rises with the site just over the horizon. Views are generally quite limited until travelling to a higher elevation.



The reservoir site is the depression in the mid ground of the picture. The landscape character changes to a rocky mosaic LCT above this. The applicant intends to use spoil material to create natural mounds to tie this in with the landscape.

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Location Plan Relative to Planning Application: 19/02555/PP



1:5,000

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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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