

Argyll and Bute Council
Comhairle Earra-Ghàidheal Agus Bhòid

Executive Director: Douglas Hendry



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7 December 2020

NOTICE OF MEETING

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held **BY SKYPE** on **MONDAY, 14 DECEMBER 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. D.HILL PROPERTY LTD: RESIDENTIAL DEVELOPMENT COMPRISING 101 DWELLINGHOUSES INCLUDING FORMATION OF VEHICULAR ACCESSSES, LANDSCAPING, OPEN SPACE AND PLAY AREAS: LAND WEST OF ALEXANDER STREET, DUNOON (REF: 19/01456/PP)**

Report by Head of Development and Economic Growth (Pages 3 – 44)

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	

Contact: Hazel MacInnes

Tel. No. 01546 604269

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Argyll and Bute Council

Development and Economic Growth

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

Reference No: 19/01456/PP

Planning Hierarchy: Major Application

Applicant: D. Hill Property Ltd

Proposal: Residential development comprising 101 dwellinghouses including formation of vehicular accesses, landscaping, open space and play areas

Site Address: Land West of Alexander Street, Dunoon

SUPPLEMENTARY REPORT NO. 1

1.0 INTRODUCTION

The purpose of this report is to advise Members of a late objection, submitted by Mr K Matheson Dated 21.09.20.

2.0 SUMMARY OF POINTS RAISED

The main points raised are summarised as follows:

- Infrastructure can't cope (water, sewerage all Victorian and not fit for purpose)
- Doctors surgeries, schools and hospitals can't cope
- Roads can't take the increased traffic now. New development will make it worse.

Comment: These issues have been raised by other objectors and are addressed in the main Report on Handling

Note: Full details of this representation can be viewed on the Council's website www.argyll-bute.gov.uk

3.0 RECOMMENDATION

The points made have been raised by other objectors and do not alter the recommendation details in the main Report of Handling, namely, that Officers recommend that the application be approved subject to holding a hearing in respect of the application.

Author of Report: David Moore

Date: 22/09/2020

Reviewing Officer: Sandra Davies

Date: 22/09/2020

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

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DECISION ROUTE

(i) Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of 101 dwellings
- Associated internal and external roads infrastructure to include footways and parking;
- Provision of SuDS compliant drainage infrastructure.
- Provision of landscaping,
- Provision of formal and informal and amenity areas

(ii) Other specified operations

- Connection to public water supply
 - Connection to public sewage system
-

(B) RECOMMENDATION:

It is recommended that Planning Permission be granted as a minor departure from policy LDP DM 1 subject to a discretionary local hearing and the conditions detailed in this report.

(C) HISTORY:

80/01037/PPP – Site for Housing Development (40 Lodges). Approved 24.04.81

80/01037/AMSC – Discharge of Conditions associated with 80/01037/PPP. Approved 6.8.84

Correspondence from the Area Team Leader dated 2.10.12 on this file confirms the approval of reserved matters on 6th August 1984. The approved layout comprised 17 detached and 24 semi-detached houses. It was determined in March 1990 by Officers that, as a consequence of work carried out on the approved access road, a meaningful start on the development under Section 40 (2) (d) of the Town and Country Planning (Scotland) Act 1972 had been effected timeously. Subsequently, one house was completed on Plot 26 and a non-material amendment in respect of its external finishes was accepted in 1993 (ref: 92/00067/_003). This has the consequences of keeping permission 80/01037/PPP alive and capable of future implementation subject to submission and approval of further details.

92/00067/_003 NMA – Proposed alterations to external finishes 11 Gordon Street (Plot 26 of 80/01037/PPP) Dunoon. Approved 24.2.93

18/02005/PAN - Proposal of application notice for proposed housing development (related to current application)

(D) CONSULTATIONS:

Area Roads Manager (Dated 23.7.19): No Objection subject conditions

Council's Development Policy Officer (Dated 29.7.20): No Objection.

Housing Policy Officer (Dated 17.6.20 and 26.7.20): No Objection

SEPA (Dated 30.8.19, 25.3.20 and 15.4.20): No Objection

Council's Flooding Advisor (Dated 8.4.20, 5.6.20, 23.7.20 and 27.08.20)

Scottish Water (No Response Received)

West of Scotland Archaeology (Dated 2.8.19): No Objection subject to condition.

Council's Biodiversity Officer (Dated 13.8.19 and 8.10.19): No Objection

Environmental Protection (Dated 12.08.19) No Objection subject to conditions

Council's Access/Core Paths Officer (No Response Received)

Education Department (Dated 26.7.20) No Objection

Dunoon Community Council (Dated 29.07.19) Objection

- Post Office services already stretched
- Council Services also a full capacity
- Town has high unemployment with no major investment planned

- Roads Access not of adequate standard and congestion would be caused to surrounding streets
- Development will have a negative financial impact on housing market.

South Cowal Community Council (Dated 8.8.19): No Objection

- Despite technical issues which require to be addressed development should be good for our area.
- Sewage and Drainage: Conclusion seems to be that drainage services can cope if their advice is followed. Scottish Water have confirmed that sufficient capacity in both water supply and Drainage
- Health and Council Services: An increase in the local population could be the trigger needed to make the hospital more secure.
- Unemployment: Developer should be encouraged to use local labour, cannot see how having additional private housing would increase unemployment in the area.
- Road Access: It does appear that there will be only one access to the site which could cause traffic flow issues. On this issue Dunoon CC do appear to have a point.
- Property Values and Numbers: As new build little in local market to relate to them. Would assume houses will be built in small numbers as they are sold and not flood market. Feel that developer would not have invested in the site and submitted plans if they were not convinced that there was such a market.
- Existing access to rear garden of 20 Nelson Street will be blocked by the proposed housing to the rear

(E) PUBLICITY: Yes

Regulation 20 Advert Major Application
EXPIRY DATE: 23.08.2019

(F) REPRESENTATIONS:

Objection has been raised by the following 114 parties:

A Gilmour 91 Alexander Street Dunoon Argyll And Bute PA23 7BD
A S Lowe Address Not Provided
Aidan Beautyman Burnbrae Cottage 59 Alexander Street Dunoon Argyll And Bute
Aislinn Kerr 2 Kirn Gardens Kirn Dunoon Argyll And Bute
Alexander Gilmour 95 Alexander Street Dunoon Argyll And Bute PA23 7BD
Andrew Robertson 81 Mary Street Dunoon Argyll And Bute PA23 7EH
Anna Docherty 13 Dhailing Road Dunoon Argyll And Bute PA23 8EA
Anne Spark 97 Alexander Street Dunoon Argyll And Bute PA23 7BD
Antony Cullen 135 John Street Dunoon Argyll And Bute PA23 7BL
Ashley Adebayo 6 Dunloskinbeg Place Dunoon Argyll And Bute PA23 7QG
Ayshea Robertson Tigh An Lis Victoria Park Dunoon Argyll And Bute

Barry McGourty 20 Nelson Street Dunoon Argyll And Bute PA23 7EL
Brian Kossuth 14 Dixon Crescent Dunoon Argyll And Bute PA23 8NE
C Gilmour 91 Alexander Street Dunoon Argyll And Bute PA23 7BD
C MacAffer 18 Douglas Cottages Park Road Kirn Dunoon
Callum Satchel Marclann 12 George Street Hunters Quay Argyll And Bute
Carol Chapman 3 Marina View Sandbank Dunoon Argyll And Bute
Caroline Alder 8 Robertson Terrace Sandbank Dunoon Argyll And Bute
Caroline Clark 159 John Street Dunoon Argyll And Bute PA23 7BJ
Charmaine Russell 12A Nelson Street Dunoon Argyll And Bute PA23 7EL
Christine Dickson 7 Lorimer Terrace Sandbank By Dunoon PA23
Christine MacCallum Thornwood Furnace Inveraray Argyll And Bute
Claire Christie Marcus Cres Blackburn Aberdeenshire AB210SZ
Claire Dickson 14 Queens Court Dunoon PA23
Claire McKay 14 Dixon Crescent Dunoon Argyll And Bute PA23 8NE
D Frankgate 2 Crochan Road Dunoon Argyll And Bute PA23 7LP
D. Frankgate 18 Douglas Cottages, Kirn
D G Forbes 9 Gordon Street Dunoon Argyll And Bute PA23 7EJ
Donald Galbraith 52 Alexander Street Dunoon Argyll And Bute PA23 7EW
Donald Galbraith Quarryknowe 52 Alexander Street Dunoon Argyll And Bute
Doris G Kerr 12 Western Place Edinburgh EH12 5QA
E Webster Full Address Not Provided (107 Edward Street ?)
Eliot Peterson 69 Alexander Street Dunoon Argyll And Bute PA23 7BB
Elizabeth Davidson Craigiebell 338 Argyll Street Dunoon Argyll And Bute
Elizabeth McArthur 70 Alexander Street Dunoon Argyll And Bute PA23 7BB
Fiona Peterson 69 Alexander Street Dunoon Argyll And Bute PA23 7BB
Fiona Stewart Full Address Not Provided (Cochran View PA23 7LP?)
Fletcher Crochan View 2 Crochan Road Dunoon
Unclear Name, Crochan View, 2 Crochan Road, Dunoon
Frankgate Sara 2 Crochan Road Dunoon Argyll And Bute PA23 7LP
Frederick Parlane 6 Gordon Street Dunoon Argyll And Bute PA23 7EJ
G Leckie 85 Alexander Street Dunoon Argyll And Bute PA23 7BD
Gill Wollers 50A Hill Street Dunoon Argyll And Bute PA23 7AY
Graeme Fletcher 10 Nelson Street Dunoon Argyll And Bute PA23 7EL
Heather Jeffrie St Anne's 5 Gordon Street Dunoon PA23 7EJ
Helen Hendry 13 Belmont Crescent Glasgow g12 8eu
Iain Cameron 2 Victoria Crescent Dunoon PA23 8DL
Iain Munro 1B Swordale Stornoway Isle Of Lewis HS2 0BP
Ian Jeffrie St Anne's 5 Gordon Street Dunoon PA23 7EJ
Ian Mitchell 22 Nelson Street Dunoon Argyll And Bute PA23 7EL
Iona McFarlane 11 Hill Street Dunoon Argyll And Bute PA23 7AL
James Marshall 82 Mary Street Dunoon Argyll And Bute PA23 7EH
James McCrossan 7 Gordon Street Dunoon Argyll And Bute PA23 7EJ
Jennifer Hirsch 18 Nelson Street Dunoon Argyll And Bute PA23 7EL
John Carmichael 1 Gordon Street Dunoon Argyll PA23 7EJ
John Cullen 135 John Street Dunoon Argyll And Bute PA23 7BL
John Denman Dunrod 42 Alexander Street Dunoon Argyll And Bute
John McFarlane 11 Hill Street Dunoon Argyll And Bute PA23 7AL
John Mclsaac 3 Leven Lane Kirn Dunoon Argyll And Bute
Julie McPhee 60 Alexander st Dunoon PA23 7BB
June Mortimer 73 Alexander Street Dunoon Argyll And Bute PA23 7BB
K Macaffer 18 Douglas Cottages Park Road Kirn Dunoon
K McIntosh Shawpark Victoria Parade Dunoon PA23 7LD
Kay Denman Dunrod 42 Alexander Street Dunoon Argyll And Bute
Kenneth Macdonald 121 Alexander Street Dunoon Argyll And Bute PA23 7PY
Kenny Grant Address Not Provided
L McPhail 68 Auchamore Road Dunoon Argyll And Bute PA23 7JL
Leanne Beattie 48A Alexander Street Dunoon Argyll And Bute PA23 7EW

Lorna Low 61 Alexander Street Dunoon Argyll And Bute PA23 7BB
Lorraine Hall 9 Ferrymans Sandbank Dunoon Argyll And Bute
Louise Cullen 149 John Street Dunoon Argyll And Bute PA23 7BL
Lynsey Anderson
M Banks
M Leckie 85 Alexander Street Dunoon Argyll And Bute PA23 7BD
M. Robertson 81 Mary Street, Dunoon
M Satchel 12 George Street Hunters Quay Dunoon Argyll And Bute
Maggie Saidler 6 Eastcote Avenue Glasgow G14 9JT
Margaret C Fyfe 7 Gordon Street Dunoon Argyll And Bute PA23 7EJ
Marie-Claire Kerr 11 Gordon Street Dunoon Argyll And Bute PA23 7EJ
Marion Carmichael 1 Gordon Street Dunoon PA23 7EJ
Marion McArthur 72 Alexander Street Dunoon Argyll And Bute PA23 7BB
Marion McArthur 72 Alexander Street Dunoon Argyll And Bute PA23 7BB
Mary Munro-Taylor 462 King Street Aberdeen AB24 3DE
Michael Hall 9 Ferrymans Sandbank Dunoon Argyll And Bute
Michael Sinclair Address Not Provided
Michelle Matthews 2 Arthur Terrace Argyll Street Dunoon Argyll And Bute
Miss Johnanna Ritchie 87 Alexander Street Dunoon Argyll And Bute PA23 7BD
Miss Margaret Irvine 98 Alexander Street Dunoon Argyll PA23 7BD
Morian Fletcher 47 Alexander Street Dunoon Argyll And Bute PA23 7EW
Mr Barry McGourty 20 Nelson Street Dunoon Argyll And Bute PA23 7EL
Mr Michael Clark 159 John Street Dunoon Argyll And Bute PA23 7BJ
Mrs Karen Torlay 80 Mary Street Dunoon Argyll And Bute PA23 7EH
Mrs M Kerr 11 Gordon Street Dunoon Argyll And Bute PA23 7EJ
Ms Laura Pearson 16 Nelson Street Dunoon Argyll And Bute PA23 7EL
Norma Cullen 135 John Street Dunoon Argyll And Bute PA23 7BL
Paul Beautyman Burnbrae Cottage 59 Alexander Street Dunoon Argyll And Bute
Pauline Beautyman Burnbrae Cottage 59 Alexander Street Dunoon Argyll And Bute
Philp Mortimer 73 Alexander Street Dunoon Argyll And Bute PA23 7BB
Ralph Houston 55B Mary Street Dunoon Argyll And Bute PA23 7EG
Rhona Ferguson Darlyon Toward Dunoon Argyll And Bute
R. Peterson 69 Alexander Street, Dunoon
Robert Turner 75 Alexander Street Dunoon Argyll And Bute PA23 7BB
Rona Baird 67 Alexander Street Dunoon Argyll And Bute PA23 7BB
S Macdonald 55 Cromwell Street Dunoon Argyll And Bute PA23 7AX
Sandra Galbraith 52 Alexander Street Dunoon Argyll And Bute PA23 7EW
Sandra Tulloch 3 Gordon Street Dunelm Dunoon Argyll And Bute
Shirley Robertson 81 Mary Street Dunoon Argyll And Bute PA23 7EH
Skye Beautyman Burnbrae Cottage 59 Alexander Street Dunoon
Steven Baird 67 Alexander Street Dunoon Argyll And Bute PA23 7BB
Stuart Tulloch Dunelm 3 Gordon Street Dunoon Argyll And Bute
S Frankgate 2 Crochan Road Dunoon Argyll And Bute PA23 7LP
W M Ponton 79 Alexander Street Dunoon Argyll And Bute PA23 7BB
Yvonne Mulgrew 1 Alexander Street Dunoon PA23 7LS

(i) Summary of Objections raised

- Alexander Street is already busy with traffic and parking and could not cope with the development.
- Access to Alexander Street from development not acceptable and increased traffic will be a road safety issue. Street lighting in area not adequate or safe to accommodate this new development.

- Proposals would cause noise, pollution and activity levels to the area which would adversely impact existing residents' amenity and change its character.
- Proposals would be overbearing to and cause overlooking of existing houses, particularly from proposed balconies, overshadowing, loss of light and loss of amenity to existing properties.
- Impact upon Wildlife and loss of natural habitat unacceptable. Protected species will be adversely impacted. Ecological Surveys not carried out at correct time of year.
- Site is well used by children, cyclists and many other members of the public. It is a community asset and valuable amenity space with core paths through it.
- It is the only safe and free space available for children to learn and develop. Used by four local nurseries on a weekly basis for both children and parents in learning and development.
- Adverse Impact on drainage and flooding from the site when problems already exist in the local area.
- Adverse impact on sewage capacity.
- Schools may not be able to cope with the development.
- Density of development is too high and this will have visual impacts.
- The proposals does not have the required 25% of affordable housing and is in direct contradiction to this policy.
- In council's own Local Housing strategy there is a more realistic scenario that the need for small and affordable housing will grow not for houses of this size and type.
- The application submission itself clarifies that further investigations are required, none of which have been undertaken.
- Concerned over Japanese Knotweed on site
- Building more houses uses more energy which is bad for the environment.
- The development will result in the loss of many trees which are mostly Oaks.

The above matters are addressed in the Officer Report.

Objections/Issues raised which are not considered to be material planning considerations

- Proposals will adversely affect the value of existing properties.
- Existing properties would lose views to this countryside site.
- Plenty of properties still for sale that are not selling in Dunoon.
- Houses could be built and left empty.
- Not enough employment in the area for new housing.
- More Suitable sites elsewhere.
- Why does developer think there is a need for 101 new high spec houses.
- Care home and sheltered housing have huge waiting lists.
- Developer should take on and renovate some existing buildings in the town.
- Land at old gas works should be compulsorily remediated before developing any more greenfield sites.
- Object to paying full Council Tax as street has become a speed track.
- Local facilities will not be able to cope i.e. Doctors, Hospitals.
- Have existing Parking problems on Alexander Street with lorries and trailers being left
- Ferry not fit for purpose to serve more houses.
- There is an issue recruiting GP's and teachers in the area.

Submissions in Support of the proposals

K McGillivray

10 Oxford Lane Dunoon

Main Points made in support of proposals

- Dunoon lacks good private sector housing development
- Proposals would support other investment opportunities for the area.

G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) Environmental Statement:** No
- (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
- (iii) A design or design/access statement:** Yes
- (iv) A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** Yes
 - Drainage Strategy
 - Flood Risk Assessment
 - Ecological Appraisal
 - Design and Access Statement
 - Transportation Assessment

The matters covered by these supporting documents will be addressed in the appropriate sections of this report.

(H) PLANNING OBLIGATIONS

- (i) Is a Section 75 agreement required:** Yes

There is a requirement for a Section 75 agreement to be entered into in order to secure the commuted payment in respect of the affordable housing contribution associated with this application. The heads of terms of this will address:

- I. Payment at a rate of £15,000 per unit in accordance with the 2013 findings of the District Valuer for this HMA. (or, if disputed by the applicant, such figure that the District Valuer arbitrates to be appropriate having been instructed by the Council, at the expense of the applicant and/or landowner, to undertake such work.).
- II. Commuted Payment to be made for 25 No. housing units
- III. The timing of payments to be agreed between parties, acting reasonably, to reflect the phasing of the development, but in any event with a backstop that all funds to be provided before the last 25% of permitted houses can be completed.
- IV. Funds to be paid to Argyll and Bute Council Strategic Housing Fund

- V. Funds must be spent within the Cowal Housing Market Area
- VI. Funds shall only be spent in accordance with the identified housing need objectives set out in this report, and in the consultation response from housing officers, to improve the provision of accessible housing within the identified HMA by Registered Social Landlords.
- VII. The expense of drafting this S75 and to be met by the applicants in accordance with normal council procedure and costings.

Planning permission will not be issued until such time as a S75 agreement has been entered into by all necessary parties in order to secure the appropriate level and timing of affordable housing contribution by means of commuted payment.

Reason for refusal in the event that the section 75 agreement is not concluded within four months:

Suggested Reason:

The applicants have failed to conclude the required Section 75 agreement, necessary to secure the applications compliance with the requirements of LDP Policy SG LDP HOU1 in respect of affordable housing provision. More particularly, the applicant has failed to ensure that a mechanism has been put in place to secure the payment of an agreed commuted sum in respect of the provision of affordable housing within the Cowal Housing Market Area within an appropriate and reasonable timeframe, which is a substantive and defining planning consideration in considering the planning merits of this proposal.

The failure to adhere to the requirements of Policy SG LDP HOU 1 is considered to be so significant a breach of planning policy as to comprise sufficient justification to refuse the current planning application, notwithstanding its compliance with other plan policies and the material considerations which favour its approval as set out in the Officers Report.

Members are requested to note that there is a mechanism within the Agreed Heads of Terms for the applicants to seek an independent review, by the District Valuer, of the £15,000 per unit commuted sum. In the event that an application for review is made, Officers consider that the four month period should start not from determination date by PPSL, but within four months of any determination date by the District Valuer. Officers seek endorsement of this approach as part of this determination by Members.

-
- (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 DM1 – Development within the Development Management Zones.
LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment
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
LDP PROP 2 – The Proposed Allocations

Supplementary Guidance

SG LDP ENV 1 – Development Impact of Habitats, Species and Our Biodiversity (i.e. biological diversity)
SG LDP ENV 6 – Development Impact on Trees / Woodland
SG LDP - Sustainability Checklist -Climate Change- sustainable siting and design
SG LDP ENV 14 –Landscape
SG LDP ENV 20 – Development Impact on Sites of Archaeological Importance
SG LDP HOU 1 – General Housing Development including Affordable Housing Affordable Housing Guidance Note
SG LDP HOU 2 – Special Needs Access Provision in Housing Developments
SG LDP HOU 3 – Housing Green Space
Sustainable Siting and Design Principles
SG LDP DEP 1 – Departures to the Local Development Plan
SG LDP SERV 1 – Private Sewerage Treatment Plants and Wastewater (i.e. drainage) systems
SG LDP SERV 2 – Incorporation of Natural Features / Sustainable Systems (SUDS)
SG LDP SERV 3 – Drainage Impact Assessment (DIA)
SG LDP SERV 5(b) – Waste Related Development and Waste Management in Development
SG LDP SERV 7 – Flooding and Land Erosion – The Risk Framework for Development
SG LDP - Climate Change
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 and Existing, Public Roads and Private Access Regimes
SG LDP TRAN 6 –Vehicle Parking Provision

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

- Updated HNDA Data for Cowal Housing Market Area
- Argyll & Bute Sustainable Design Guidance (2006)
- Argyll and Bute Biodiversity Action Plan (2017)

- Designing Streets - Scottish Government Policy Advice
 - Creating Places – Scottish Government Policy Advice
 - SPP Policy Advice
 - Dunoon Surface Water Management Plan (Dec 2019).
Options Appraisal- Alexander Street.
 - LDP 2
-

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

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

(M) Has a sustainability check list been submitted: Yes.

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

(O) Requirement for a hearing (PAN41 or other): Yes

The proposal has generated a considerable number of objections, from primarily local residents, and it is considered that value would be added to the determination process by Members inspecting the site to consider the matters raised by objectors having regard to the characteristics of the site and the design and layout proposed.

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

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

The proposal seeks to develop allocated housing site to provide a total of 101 dwellings of varying sizes. A mixture of two bedroom semi-detached houses and three bedroom detached houses are proposed for the site together with associated infrastructure and amenity space.

The site itself forms a greenfield site on the edge of Dunoon which has a considerable slope, generally running NW to SE across the site. The site has a number of desire lines upon it, and it is clear to officers that the site is currently well used by local residents for informal recreation and its development to form a housing site will constitute a considerable change in the local area. That this site is valued by the local community is demonstrated by the number of objections which have been received to the current planning application.

However, notwithstanding these objections to the principle of developing the site, this is an allocated housing site within the LDP (Site H-AL 2/3: 100 Units) and therefore the

principle of housing development on the site has already been agreed and approved as part of the LDP adoption process. It is therefore in Officers' opinion a matter of considering whether the proposal accords with required LDP policies and standards in respect of design, parking, amenity space and other associated policies of the plan, and not whether housing development should be allowed on the site or not as a point of principle.

Members are also requested to note that the planning history for the site clarifies that by partly implementing permission 80/01037/PPP and construction plot 26 this keeps the historic planning permission alive and capable of future implementation. Therefore the default position is that further housing development could take place on the site utilising this historic planning permission. This is considered to be a material consideration in respect of determining the current planning application.

These proposals will provide substantial planning gain in addressing the existing flooding issues as identified in the Dunoon Surface Water Management Plan (Dec 2019) at Alexander Street. Discussions between the applicant and the Council have ensured that the housing proposals will address flows of water through the site and therefore the current and future climate change related flooding problems for residents should be addressed by the implementation of these housing proposals. This is considered by Officers to be a significant benefit of the scheme and constitute a community benefit. This is also considered to be a material consideration in determining the current proposals.

The Area Roads Engineer has examined the TA submitted with the application and the proposed layout and is of the view that the proposals are acceptable subject to the imposition of appropriate conditions to ensure compliance with necessary standards in accordance with the requirements of SG LDP TRAN 4 and SG LDP TRAN 6.

In respect of affordable housing provision, a detailed examination of the identified housing needs in the Cowal Housing Market Area (HMA) have been undertaken by housing Officers. It has been determined in this instance that the 25% affordable housing contribution can most effectively address the currently identified priorities in the Cowal HMA by the payment of commuted sum to be paid to the Strategic Housing Fund. This would allow Registered Social Landlords who operate in the area to provide special needs housing for the Area. This position has been reached following not only analysis of the most up to date HNDA data, but also following discussions between housing officers and the active registered social landlord operating in the area. The Planning Policy advisor is also in agreement with this approach. Therefore the proposals are considered to accord with Policy SG LDP HOU1.

It should be noted that the smaller SuDs pond is located outside the housing allocation site boundary in the LDP, but on land within the control of the applicant. The application proposals remain substantially within the designated housing site and the SuDs pond to be located just outside it will have a natural and landscaped appearance appropriate for a countryside location. This element of the proposal is therefore considered to constitute an acceptable minor departure from the development plan in regards SG LDP DEP 1.

The proposals, in the opinion of officers, will provide an appropriate layout and design for this allocated housing site. The housing layout is in accordance with placemaking objectives and there will be suitable for those with mobility issues to move around and access in accordance with SG LDP HOU2. It is considered that the layout of the scheme, the landscaping proposed, and the variation in house designs and external finishes, together with the application of place making compliant design, presents an attractive and appropriate form of development for this site which will accord with policies LDP 3, LDP 9 and SG layout requirements, subject to the imposition of appropriate conditions. On this basis it is considered that Planning Permission should be granted for the current proposals as a minor departure from the development plan.

(Q) Is the proposal consistent with the Development Plan: No – Justified Minor Departure

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

The site of the proposed development is a housing allocation within the adopted Argyll and Bute Local Development Plan (LDP). The principle of the proposal and the design, layout and materials proposed accord with the policies of the LDP. The proposal also accords with supplementary guidance and there are no other material considerations, including views expressed by third parties, which, in the opinion of Officers, would warrant other than planning permission being granted.

Members are requested to note that the smaller SuDs pond is located outside the housing allocation site boundary in the LDP, but on land within the control of the applicant. The application proposals remain substantially within the designated housing site and the SuDs pond to be located just outside it will have a natural and landscaped appearance appropriate for a countryside location. This element of the proposal is therefore considered to constitute an acceptable minor departure from the development plan in regards SG LDP DEP 1.

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

The smaller SuDs pond is located outside the housing allocation site boundary in the LDP, but on land within the control of the applicant. The application proposals remain substantially within the designated housing site and the SuDs pond to be located just outside it will have a natural and landscaped appearance appropriate for a countryside location. This element of the proposal is therefore considered to constitute an acceptable minor departure from the development plan in regards SG LDP DEP 1.

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

Author of Report: David Moore

Date: 31.08.20

Reviewing Officer: Sandra Davies

Date: 04.09.20

Fergus Murray
Head of Development and Economic Growth

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO.19/01456/PP

1. The development shall be implemented in accordance with the details specified on the application form dated 08/01/2019 and the approved drawing reference numbers

Plan Title.	Plan Ref. No.	Version	Date Received
LOCATION PLAN	P01	C	23.07.19
SITE PLAN AS EXISTING	P02	C	23.07.19
SITE PLAN AS PROPOSED	P03	J	03.08.20
LANDSCAPED SITE PLAN AS PROPOSED (1 OF 2)	P04	E	09.03.20
LANDSCAPED SITE PLAN AS PROPOSED (2 OF 2)	P05	E	09.03.20
HOUSE TYPES A & B	P06	B	23.07.19
HOUSE TYPES C & D	P07	B	23.07.19
STREET VIEWS (1 OF 2)	P08	C	23.07.19
STREET VIEWS (2 OF 2)	P09	C	23.07.19
SITE SECTIONS A-A TO D-D	P10	B	23.07.19
ROAD GEOMETRY (1 OF 2)	P11	A	09.03.20
ROAD GEOMETRY (2 OF 2)	P12	A	09.03.20
ROAD SIGNAGE	P13	-	23.07.19
HOUSE TYPES E & F	P16	-	18.07.19
PLOT TO HOUSE RATIO SCHEDULE	P17		29.06.20
DRAINAGE APPRAISAL 2	12711-SK1	D	03.09.20
DETAILED SURFACE DRAINAGE LAYOUT	12711-SK3	B	03.09.20
PROPOSED DRAINAGE LAYOUT	J3210-C-03	B	03.09.20

unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

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

2. Notwithstanding the effect of condition 1, no development shall commence until samples and/or full details of materials to be used in the construction of :

- (i) boundary fences;
- (ii) external materials finishes of all the houses
- (iii) any other walls to be constructed in the development;
- (iv) roads and parking areas;
- (v) footpaths;
- (vi) shared surfaces.
- (vii) Retaining structures and walls
- (viii) any other external materials

have been submitted to and approved in writing by the planning authority. The development shall thereafter be completed using the approved materials, or such alternatives as may be agreed in writing with the Planning Authority.

Reason: In order to secure the use of appropriate materials.

3. Notwithstanding the provisions of Condition 1 no development shall commence until details for the provision and maintenance of proposed areas of communal open space

and equipped play area(s) within the development have been submitted to and approved by the Planning Authority. The details shall comprise:

- i) A plan showing the location and extent of communal open space and equipped play areas;
- ii) Provision to satisfy the minimum standards set out in the Development Plan; 6sqm of equipped play space and 12sqm of informal open space per dwelling unit;
- iii) Specification of play equipment to be installed, including surface treatments and any means of enclosure, designed in accordance with the appropriate health and safety provisions of Play Equipment Intended for Permanent Installation Outdoors.
- iv) Proposals for the timing of the implementation of the play area(s) in relation to the phasing of the development;
- v) A maintenance schedule for communal open spaces and equipped play areas in accordance with the provisions of BS5696 including details of on-going inspection, recording and procedures for detailing with defects along with details of the parties responsible for the maintenance.

Reason: In order to secure provision and retention of communal open space and equipped play areas within the development in accordance with the minimum standards set out in the Development Plan.

4. The communal open space and equipped play area(s) shall be provided in accordance with the duly approved details and shall be retained and maintained to the specified standards thereafter.

Reason: In order to secure provision and retention of communal open space and equipped play areas within the development in accordance with the minimum standards set out in the Development Plan.

5. Notwithstanding the provisions of Condition 1 no development shall commence until details of the proposed finished ground floor level of the development relative to an identifiable fixed datum located outwith the application site, along with details of the existing and proposed site levels shown in the form of sectional drawings/contour plans/site level survey, or a combination of these, has been submitted to and approved by the Planning Authority with respect to all dwellings that bound to and who's curtilage/garden immediately adjoins existing residential properties. The development shall be implemented in accordance with the approved details.

Reason: In order to ensure an acceptable relationship between the development and its surroundings and inform the detailed boundary planting proposed in respect of condition 08.

6. Prior to commencement of development, a scheme for the retention and safeguarding of trees bounding the application site to be retained during construction shall be submitted to and approved by the Planning Authority. The scheme shall comprise:

- A programme of measures for the protection of trees during construction works which shall include fencing at least one metre beyond the canopy spread of each tree/sapling in accordance with BS 5837:2012 "Trees in Relation to Construction".
- Tree protection measures shall be implemented for the full duration of construction works in accordance with the duly approved scheme. No trees shall be lopped, topped or felled other than in accordance with the details of the approved scheme unless otherwise approved in writing by the Planning Authority.

Reason: In order to retain trees adjoining the development site in the interests of amenity and nature conservation.

7. Notwithstanding the effect of condition 1, and the details set out in drawings P04 E and P05 E, within 12 months of the date of this permission a detailed landscaping scheme and planting proposals including species and numbers to be planted, must be submitted to the Planning Authority for their approval in consultation with the Council's Biodiversity Officer. For the avoidance of doubt such details shall also be required for the proposed SuDS Ponds and also along all common boundaries between the development site and existing residential curtilages.

Reason: To ensure that landscaping proposals accord with the objectives of the approved Argyll and Bute Biodiversity Action Plan 2017 and that appropriate levels amenity planting is carried out to secure the appropriate integration of the site into its locality.

8. All planting shall be completed in accordance with approved plan(s). Any trees or shrubs which fail to become established, which die, are removed or become seriously diseased within 5 years of the implementation of the scheme shall be replaced in the following planting season by equivalent size and species of trees or shrubs as those originally required to be planted.

Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity and to promote bio-diversity.

9. Notwithstanding the provisions of Condition 1, the development shall be implemented wholly in accordance with the details and recommendations set out in the submitted Flood Risk Assessment documentation, the approved drainage layout drawings set out at condition 01, and supporting technical information and data sets submitted to and approved by the Council's Flooding Advisor as set out below;

- o Flood Risk Assessment: Updated Final (September 20)
- o Borehole Logs and Percolation Results (July 20)
- o Greenfield Run Off Rate Estimates for Site (21.08.20)
- o Storm Sewer Design by Modified Rational Method (02.09.20)

unless as may otherwise be agreed by the Planning Authority in consultation with its Flooding Advisor in writing.

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

10. Prior to the commencement of development details of the maintenance responsibility and a schedule of intended maintenance arrangements of the approved drainage works shall be provided to the Planning Authority for their approval. This schedule shall include inspection, recording and procedures for detailing with defects. For the avoidance of doubt this shall also include the SuDS Ponds

Reason: To ensure appropriate maintenance provisions in respect of the approved drainage details are secured.

11. Details of fencing around the proposed SuDS ponds and a site safety method statement addressing construction and operational safety in respect of these matters shall be submitted to the Planning Authority for their approval prior to the ponds being formed and containing any water.

Reason: In the interests of safety

12. Notwithstanding the provisions of Condition 01. The development must be constructed in accordance with required roads standards as follows:

Full Site

- Junctions sight lines of 42 x 2.4 x 1.05 metre must be provided. All walls, fences, and hedges/vegetation within the visibility splays must be maintained at a height not greater than 1 metre above the road. The forward visibility of these formed junctions must be 35m.
- Defined footways to be provided at these external junction locations leading into proposed development
- Continuous walkways to be provided on a phased basis to be agreed in writing with the planning authority in consultation with the Area Roads Engineer to ensure safe pedestrian movement prior to the occupation of any of the houses is possible.
- Prior to the construction of any internal access roads within the development details of the transitional arrangements between the approved roads layout and the adjoining informal path network shall be submitted to the Planning Authority for approval in consultation with the Area Roads Engineer.
- Unallocated parking spaces to be at 90⁰ to 5.5 metre wide carriageway. 2 metre walkway to be provided as both locations are on core path routes. Size of bays to be a minimum of 5 x 2.5 metres.

Driveways

- Minimum length of drive way to be 6 metres behind limit of road corridor.
- Sightlines to be 20 x 2 x 1.05 metres. All walls, fences and hedges within visibility splays to be maintained at a height not greater than 1 metre above the road.
- A sealed surface for first 5 metres with a gradient not exceeding 5%.
- Surface water must not be able to flow out onto walkways and running surface.
- Parking for 2no. vehicles to be provided for all 2/3 bedroomed units within their own curtilage.

Reason: To ensure the proposal is constructed to necessary roads standards and in the interests of road safety.

13. Prior to development commencing, a Traffic Management Plan shall be submitted to and approved in writing by the Planning Authority in consultation with the Area Roads Engineer. The Plan shall detail approved access routes, agreed operational practices, and shall provide for the provision of an appropriate Code of Practice to drivers of construction and delivery vehicles. The development shall be implemented in accordance with the duly approved Traffic Management Plan unless as otherwise may be agreed in writing by the Area Roads Engineer.

Reason: To address traffic associated with the development in the interests of road safety and having regard to the restricted and shared access arrangements to the site and in the interests of residential amenity.

14. No development shall commence until details for the arrangements for the storage, separation and collection of waste from the site, including provision for the safe pick-up by refuse collection vehicles, have been submitted to and approved in writing by the Planning Authority. Thereafter the duly approved provision shall be implemented prior to the first occupation of the dwellings it is intended to serve.

Reason: In order to ensure that satisfactory arrangements have been made for dealing with waste on the site in accordance with Policy SG LDP SERV 5(b).

15. Prior to commencement of development full details of any external lighting to be used within the site during construction shall be submitted to and approved in writing by the Planning Authority in consultation with the Area Roads Engineer. Such details shall include the location, type, angle of direction and wattage of each light which shall be so positioned and angled to prevent any glare or light spillage outwith the site boundary.

Reason: In order to avoid light pollution to adjoining residential properties in the interest of amenity

16. Notwithstanding the provisions of Condition 1. Prior to the commencement of works on site. Full details of compensatory path provision in respect of the loss/diversion of Core Path C227(a) shall be submitted to the Planning Authority for its approval in consultation with the Council's Access Manager. Any diversion of the Core Path must be constructed and available for the public to use in advance of any alteration, diversion or stopping up of the existing core path or as otherwise may be agreed in writing with the Access Manager.

Reason: In order to maintain the extent and quality of footpaths/ pedestrian access.

17. A Phase 1 Contamination Study as described in the guidance document available at https://www.argyll-bute.gov.uk/sites/default/files/planning-and-environment/contaminated_land_development_guide_may_10.pdf must be undertaken prior to the commencement of development. This should include an investigation and risk assessment and where mitigation is deemed necessary then a remediation scheme must be prepared which is subject to the approval in writing of the Local Planning Authority. 14. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

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

18. Prior to the commencement of any works on the site the applicant will be required to provide a Construction Environmental Management Plan (CEMP) with details of suitable control measures to be put in place so as to ensure that construction does not cause loss of amenity to local residents and/or statutory nuisance. For the avoidance of doubt this CEMP should also include details to ensure that no adverse flooding impacts take place to adjoining residential properties which are caused by the implementation of this permission. Details of phasing of development should also be provided as part of the CEMP and appropriate method statements provided to address potential nuisance and/or harm to surrounding uses.

The CEMP should provide identification and assessment of all potential sources of nuisance, including dust, plant, machinery, methodology i.e. piling, excavation works to be undertaken on site and any temporary lighting provided, which may cause disturbance to nearby residents during construction should be undertaken by the applicant. This should include consideration of intended hours of operation, movement of vehicles, use of plant and storage of equipment and materials on site including a site waste management plan

to address waste created during the construction process. Details of all proposed mitigation must be provided and approved.

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

19. The development shall not begin until a scheme for protecting residents in nearby properties from noise and vibration, from the proposed development during the construction phase, has been submitted to and approved in writing by the Planning Authority in consultation with Environmental Protection. (This should also take the form of an Application for Consent under section 60 and 61 of the Control of Pollution Act 1974).

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

20. In order to minimise, as far as necessary, the level of noise and/or vibration to which nearby existing residents will be exposed during the construction process the hours of operation of the site should be restricted to 08.00 to 18:30 Monday to Friday and 08.00 to 13.00 on Saturdays. There should be no operation on Sundays or Bank Holidays.

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

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

Reason: In order to protect any archaeological resources.

NOTES TO APPLICANT

1. **The length of this planning permission:** This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]
2. In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
3. In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.
4. The applicants attention is drawn to the fact that Consent in respect of Sections 17, 21 and 56 of the Roads Scotland Act 1984 will be required and the applicant is advised to contact the Area Roads Engineer in respect of such matters.
5. In the event that the core path (C227(a)) is a recorded or claimed Public Right of Way formal permission for the Stopping Up or Diversion of the footpath must be obtained in advance under the appropriate statutory procedures. Contact the Council's Access

Manager for further advice in this respect.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 19/01456/PP**PLANNING LAND USE AND POLICY ASSESSMENT****A. Settlement Strategy**

The application proposal for the erection of 101 dwellings and associated works. The proposal is on land identified within the adopted Local Development Plan for residential development within the settlement boundary of Dunoon (Allocation H-AL 2/3). The allocation indicates that the site is suitable for circa 100 houses.

Members are requested to note that the smaller SuDs pond is located outside the housing allocation site boundary in the LDP, but on land within the control of the applicant. The application proposals remain substantially within the designated housing site and the SuDs pond to be located just outside it will have a natural and landscaped appearance appropriate for a countryside location. This element of the proposal is therefore considered to constitute an acceptable minor departure from the development plan.

There are also some small variations in the application site boundary along its western edge, which on occasions deviate beyond the formal housing allocation site boundary. The small variations along this somewhat complex boundary of the application site are not considered by Officers to be a matter of planning consequence for this application. However if Members consider they are more substantive, Officers are of the opinion that they too are acceptable minor departures from Policy LDP DM1.

The current application is of a nature and scale which is accordance with this LDP allocation and settlement classification of Dunoon as a Main Town suitable for larger scale development. Therefore the proposal accords with policies LDP STRAT 1, LDP DM 1 and LDP 10 in promoting development of an appropriate scale and type in an appropriate and sustainable location subject to a minor departure from LDP DM1 in respect of the smaller SuDS pond.

B. Location, Nature and Design of Proposed Development

The application site comprises a 7.2ha hillside site on the western edge of the settlement of Dunoon. The site itself slopes downwards generally from west to east and the many informal desire lines and paths on the land show that it is well used by the local community to undertake informal recreation. There are a number of trees on the site, however none of these are protected.

The application proposal itself is comprises a mix of 2 and 3 bedroom detached and semi-detached properties as set out below:

<u>House Design</u>	<u>Type</u>	<u>Bedrooms</u>
A	Detached	3
B	Semi	2
C	Detached	3
D	Semi	2
E	Detached	3
F	Detached	3

The site itself will require to be stepped and platformed to take account of the slope and some of the houses will present a single storey aspect to the internal streets with a two

storey easterly facing elevation and some will present the full two storeys to the internal street. Details of this can be observed in the Street View plans submitted (P08C and P09C).

Many of the objections to the proposals relate to the scale/density/design and layout of the proposals and consider that the proposals are too dense, and should be refused. Policy LDP 9 is of assistance in evaluating such matters, this states:

Policy LDP 9 – Development Setting, Layout and Design

The Council will require developers and their agents to produce and execute a high standard of appropriate design in accordance with the following criteria: Development Setting

(A) Development shall be sited and positioned so as to pay regard to the context within which it is located.

Development Layout and Density

(B) Development layout and density shall effectively integrate with the urban, suburban or countryside setting of the development. Layouts shall be adapted, as appropriate, to take into account the location or sensitivity of the area. Developments with poor quality or inappropriate layouts or densities including over development and overshadowing of sites shall be resisted.

It is Officers opinion that the density and layout of the proposals are acceptable and will integrate well into the local area as well as from longer range views of the rising hillside. Landscaping will also be an important factor in successfully integrating the development into its locality and details of this are provided at a later stage of this report.

The proposals are considered to promote the following design and layout approach to the site, as follows:

- Increased use of shared surfaces to improve street scene and address Scottish Government objectives in “designing streets”;
- Use of mixed surface treatments and layout alterations to add interest and address “place making”;
- Planting of trees on site to improve setting, appearance and biodiversity;
- Use of variable housing materials to add variety and interest;
- Creation of attractive layout which respond to the topography of the site and respects the character of the local area.

Officers are of the opinion that these proposals satisfactorily promote a “placemaking” approach and that the development proposal creates an attractive place to live in accordance with LDP and Scottish Government policy objectives. Appropriate conditions requiring further details of external materials, surfaces, fences, landscaping and any retaining walls/structures are proposed to ensure that the proposals are of a sufficiently high quality and integrate successfully into the site.

Officers are of the opinion that as well as an attractive overall layout the variation in scale, design and materials being proposed is acceptable for this location. In respect of garden sizes and plot sizes, all of the houses are in accordance with plot ratio requirement indicating that this does not represent an unacceptable level or density of development on the site.

Provision of formal and informal open space within the development is in accordance with required standards and the central location of the main formal and informal play area is considered to improve the overall layout and appearance breaking up the urban form and

creating a large and attractive area which will have both formal and informal recreational uses.

This large area of informal open space (7668sqm) also provides additional comfort that this is not a development which is of such a density as to be unsuitable for the site as the required standard for this number of houses would be 1212sqm. An appropriate condition relating to the provision and maintenance of formal play equipment and maintenance of the informal play areas will be imposed. The proposals are therefore in accordance with the requirements of SG LDP HOU 3.

The applicants have proposed to provide first floor balconies on the houses facing towards the existing houses and gardens of properties on Alexander Street and Gordon Street. Objectors have raised concerns in respect of overlooking and lack of privacy.

Window to window privacy distances of 18 m are met and considerably exceeded in some cases (Between 22m and 40m to balcony edge). As a general approach to privacy of rear gardens within an urban area, there is no right to a garden with no views into it from either existing or proposed development. Therefore the fact that views of a rear garden may be available from the new housing development is not in itself reason to raise concerns over the current application. However, notwithstanding that, the applicants have indicated a willingness to undertake boundary planting to break up any perceived overlooking and officers will address this in detail as part of the required additional landscape details which will be subject to condition.

Officers accept that the development of this site for housing will represent a substantial change for those residents who immediately back onto the development site, as previously the land has had a rural character and was used for informal amenity purposes. The proposals will undoubtedly result in a reduction in the views of countryside/rural land from the objectors houses/gardens and an increased perception of overlooking and containment. This will impact on the level of amenity they currently enjoy. However this is an allocated housing site, the right to a view is not a material planning consideration, and the layout as proposed, meets the required design policies and standards and is considered acceptable by officers.

Given the above Officers consider that the proposal is in accordance with policies LDP 3, LDP 8, LDP 9 and SG LDP HOU 3.

C. Natural Environment

Many residents have raised concerns over the potential impacts of the development on wildlife and ecological interests. The updated ecological survey identifies that no protected species have been found which would be adversely impacted by the proposals and having inspected the site and reviewed the surveys the Council's Biodiversity Officer raises no objection to the development. This is an important material consideration in respect of such matters.

A number of trees will require to be removed to accommodate the construction of this development. Officers have discussed the potential to fence and retain those trees of greater value within the proposed informal amenity areas. It has been clarified that the groundworks and platforming involved in the construction of this sloping site renders this not practical. However, with appropriate replacement planting the overall number and quality of trees will be improved in the medium/longer term due to appropriate landscaping being provided.

The applicant is in agreement that the site offers scope for extensive and layered planting both within the informal amenity areas to be provided, but also within some of the larger plots than is currently shown on the submitted landscaping drawings.

Officers consider there is a need for additional tree and general landscape planting layered to promote biodiversity in order to soften and integrate the development into the hillside as well as providing additional biodiversity benefits by using native species planting. Therefore a condition requiring further detailed landscaping proposals, to be agreed in consultation with the Biodiversity Officer is proposed to ensure the structured landscaping approach takes account of the platforms and plots formed by the development and maximised the opportunities for biodiversity uplift and landscape integration associated with the proposals.

Additional planting along the boundary with Alexander Street, Gordon Street and Nelson Street also offers the opportunity to reduce the perception of loss of privacy for these residents.

In respect of any retaining structures on the site, the cross sections provided in drawing P10B indicate that there is likely to be a requirement to incorporate retaining walls/structures within the site to stabilise parts of the ground works throughout the site. A condition will therefore be placed upon any grant of permission to ensure that these structures are not only acceptable in respect of visual amenity, but also where possible to ensure that biodiversity benefits are maximised (i.e. rain walls). Any approved details in respect of these will be in consultation with the biodiversity officer.

The proposals are therefore considered to be in accordance with SG LDP ENV 1, SG LDP ENV 8 and the Biodiversity Action Plan 2017.

E. Impact on Woodland/Access to Countryside/Archaeology.

As has been stated previously at Section D, existing trees on the development site will have to be removed. This is not a woodland but a largely open site with some trees upon it, most of which are not of high quality. A number of attractive Oak trees will have to be lost, but replacement planting will, over the longer term, more than make up for these losses and will promote biodiverse native species planting on both the extensive informal areas, but also within the streets and rear gardens of the larger plots.

There will be a considerable number of trees retained on land adjoining the site, particularly at the north eastern corner of the site near the existing telecommunication mast where tree cover is most dense, and a condition has been proposed to ensure the protection of any trees adjoining the application site to minimise tree loss on land adjoining but outside the application site when works to form the site boundaries are undertaken.

A condition is also proposed to secure additional native species tree planting to that indicated on the submitted drawings. This will have both landscape integration and biodiversity benefits. The proposals are therefore considered to accord with SG LDP ENV 6 and SG LDP ENV 14.

With respect to access to the countryside, Core Path Route C227(a) Alexander Street transverses the western boundary of the site and will be impacted by the development . The applicant has indicated proposals to route this through the central open amenity areas of the site and also through linkages to form additional footpath connections to the west towards the open countryside. Officers consider that further details in respect of the new footpath routings and connections, as well as the nature and type of footpath proposed are required and to this end a condition requiring further details of these to be submitted for the approval of the planning authority in consultation with the Access Manager is proposed to ensure appropriate footpath provision is made. The proposals, subject to appropriate conditions are considered to accord with SG LDP TRAN 1, SG LDP ENV 6 and SG LDP ENV8 and LDP 11.

In respect of Archaeology, WOSAS have raised no objection subject to the imposition of an appropriate condition to secure investigation of the site. A condition to this effect is proposed and the proposal is therefore in accordance with the requirements of SG LDP ENV 20.

F. Affordable Housing

A number of objectors have raised concerns over the failure of the application to provide affordable housing on the site in accordance with the 25% level required by policy SG LDP HOU 1. Members are requested to note that within the 2015 LDP written statement table at Page 61 the site is allocated for 100 houses. However the requirement to provide 25% affordable housing on the site is annotated as being suspended for two years following adoption of the LDP in March 2015. The default position is therefore that 25% affordable housing is now required for the site as the two year period when it was not required has expired.

For clarity, the application as submitted did not include any affordable housing provision. However Appendix 8 of the Design Statement clarified that;

The development site is allocated for Housing in Argyll and Bute Council (ABC) Local Development Plan (LDP) H-AL 2/3. Referencing supplementary guidance provided by ABC, the development has been assessed against policy SG LDP HOU 1 - General Housing Development including Affordable housing provision. Policy context outlines that a minimum 25% affordable housing units should be accommodated within new housing development sites.

The client has considered the policy and the options available to provide affordable housing and the desirable option is to provide a commuted sum to Argyll and Bute Council for the development of future housing. The commuted sum is subject to agreement by the District Valuer.

In the opinion of Officers the existence of this historic exemption from providing affordable housing on the site made it necessary to carefully evaluate both the need for affordable housing and also establish what the priority is within the Cowal Housing Market Area (HMA) to ensure that the circumstances of the area continue to be properly reflected in policy interpretation.

To this end discussions have been undertaken between Planning Policy and Housing Officers to ensure the most up to date data sets have been examined to determine the appropriate mechanism and scale of affordable housing provision required to appropriately address policy SG LDP HOU1.

The Councils Housing Policy Officers have advised, following review of the data that:

Our conclusion is that while overall need and demand in Dunoon is currently being addressed, there is evidence of an imbalance in particular for larger, family sized units and for specialist provision for households with particular needs.

Our recommendation, based on this evidence, is that a commuted sum to support the provision of a small number of specialist units within an RSL development elsewhere in Dunoon would be appropriate.

The Council's Planning Policy Officer has also agreed with this approach in policy terms clarifying that:

In the Supplementary Guidance sets out the Affordable Housing Policy (SG LDP HOU1) and provides further guidance on the various types of, and ways in which affordable housing can be delivered. The options for delivery of affordable housing include provision of a commuted sum in lieu of on site provision. While an order of preference is given, there is not strict sequential test, (so not all the options have to be explored and ruled out before a commuted sum may be considered appropriate).

There have been a number of applications where the use of commuted sums has been agreed via condition... The payment would normally be made to the Planning Authority and placed in the Councils Strategic Housing Fund with the proviso that the commuted payment be used to provide affordable housing within the same housing market area as the development. In this case this would be the Cowal housing market area.

Some years ago the Council commissioned the District Valuer to provide a set of recommendations for the appropriate level of commuted sum for each of the relevant housing market areas. These levels have been agreed by the Council. And in this case would be at a rate £15,000 per affordable unit not provided on site. If the developer does not agree to these figures, then an updated affordable housing calculation could be commissioned (at the developers expense) from the DV via the Council.

I have no objections to the provision of the affordable housing requirement on this site being met through the provision of commuted payments as outline above.

Given the above, and the comments of both housing and policy officers in respect of this application, it is considered that in this instance a commuted payment for pro rata 25 affordable houses is appropriate at a rate of £15,000 per house (or such figure as the District Auditor Reaches in any arbitration). This should be required by means of a Section 75 Agreement prior to the issuing of planning permission. The suggested draft heads of terms for this S75 agreement are set out at Section H of the main report. The applicant has confirmed that they are in agreement with this approach in general terms.

It is considered that, given the circumstances of the HMA involved, this approach to providing the affordable housing accords with the requirements of SG LDP HOU 1 and the affordable housing advice note contained in SG.

G. Road Network, Parking and Associated Transport Matters.

A number of objections have been raised by local residents in respect of traffic generated by the development and also the suitability of the proposed vehicular access points.

The Area Roads Engineer considers that the proposals are acceptable and raises no objection subject to imposition of conditions relating to maintaining sightlines and further details of the transition of the informal footpaths into the formal layout being provided. Conditions in respect of these matters are proposed. The proposals have also been designed using the principles of designing streets to ensure that both the layout and surface treatments are accessible and accord with SG LDP HOU 2.

A condition requiring appropriate details of waste storage provision on the site (bin stores and locations) to ensure this is both adequate and serviceable has been imposed in accordance with normal practice for housing developments. This will be secured by condition.

The site also benefits from proximity to public transport and the facilities and transport connections of Dunoon. The proposal is therefore considered to accord with Policies LDP

11, SG LDP TRAN 1, SG LDP TRAN 2, SG LDP TRAN 4, SG LDP TRAN 6 and SG LDP SERV 5(b).

Members will also be aware that a separate Roads Construction Consent (RCC) will be required and all technical roads matters are further controlled through this process to ensure required standards are met.

H. Flooding

The locality of the site has a history of flooding and many objectors have raised this matter in their submissions. Indeed the current site has been identified in the Dunoon Surface Water Management Plan (Dec 2019).(Options Appraisal- Alexander Street), as an area subject to flooding which requires to be addressed.

The application proposals have offered the opportunity to address flooding issues through the design of the drainage proposals for the current housing proposal. This is seen by Officers as a substantial community benefit associated with the current proposals as it will remove the need for flood alleviation works at public expense at a future date.

There has been considerable, and detailed, discussion in respect of flooding and drainage matters and Officers have required that full details of an acceptable flooding and drainage solution be submitted in advance of any determination, and have resisted the applicant's view that such matters could be resolved at a later date through use of a suspensive condition.

The alterations proposed have been checked by the Councils flooding advisor and he is content with the technical solutions and infrastructure proposed will meet required standards to address both the current and future climate change flooding and drainage requirements based on best information available at this time.

The proposed SuDS ponds also offer opportunity for biodiversity enhancement associated with the required design and landscaping of these features. A condition ensuring that appropriate maintenance responsibility and inspection regimes are provided for these features has also been proposed in accordance with normal practice. Appropriate and attractive landscaping will also be required for the SuDS pond. This will be particularly important for the smaller SuDS pond which has a countryside location and conditions to ensure appropriate biodiversity focussed landscaping have been imposed.

The overall design utilises SuDS principles to not only ensure that drainage and surface water flows associated with the current development are satisfactorily addressed, but also that the previous flows to existing properties are also addressed, to improve the current situation. The proposals are therefore considered to accord with Policies SG LDP SERV 1, SG LDP SERV 2, SG LDP SERV 3 and SG LDP SERV 7.

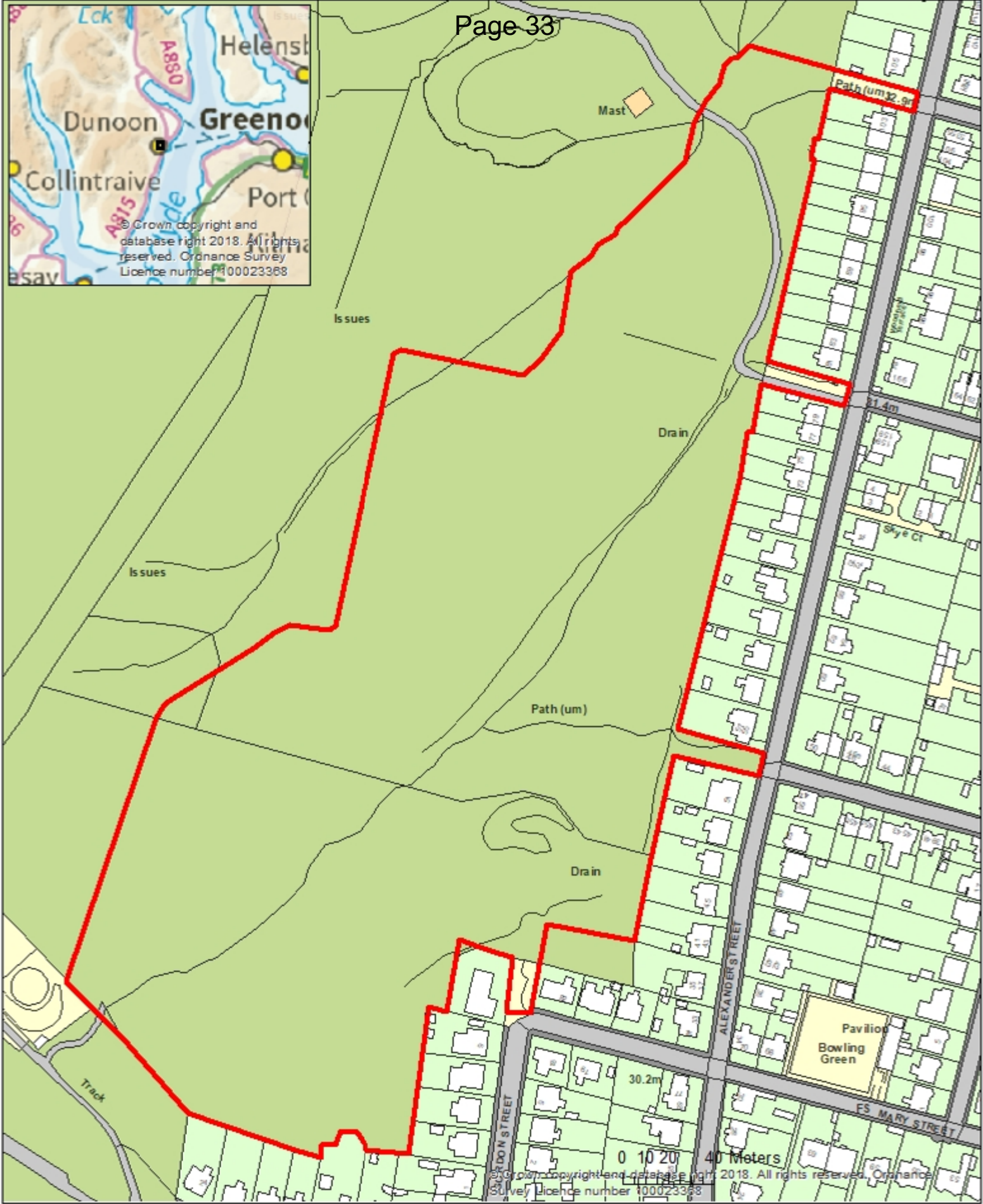
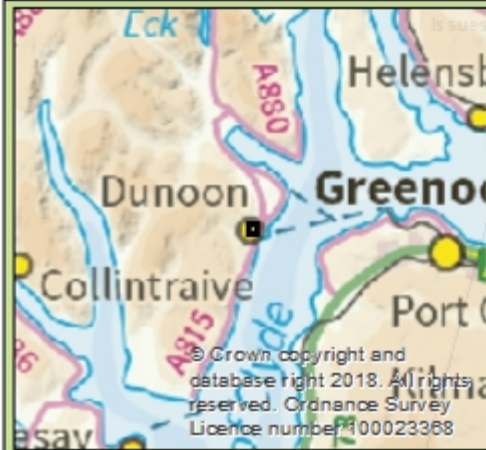
I. Conclusion.

The site of the proposed development is a housing allocation within the adopted Argyll and Bute Local Development Plan (LDP). The principle of the proposal and the design, layout and materials proposed accord with the policies of the LDP.

The smaller SuDs pond is located outside the housing allocation site boundary in the LDP, but on land within the control of the applicant. The application proposals remain

substantially within the designated housing site and the SuDs pond to be located just outside it will have a natural and landscaped appearance appropriate for a countryside location. This element of the proposal is therefore considered to constitute an acceptable minor departure from the development plan in regards SG LDP DEP 1.

. The proposal also accords with supplementary guidance and there are no other material considerations, including views expressed by third parties, which would warrant other than planning permission being granted.



Location Plan Relative to planning application: 19/01456/PP



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

HELD BY THE PLANNING, PROTECTIVE SERVICES & LICENSING COMMITTEE

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

Ref: ABH1/2009

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

Ref: ABH1/2009

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

NOTE

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

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

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

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

The representative of the Executive Director with responsibility for Development and Economic Growth – not more than half an hour

The Applicant - not more than half an hour.

The Consultees - not more than half an hour.

The Supporters - not more than half an hour.

The Objectors - not more than half an hour.

Ref: ABH1/2009

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

Ref: ABH1/2009

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

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

COMPETENT MOTIONS

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

Ref: ABH1/2009

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

DEFINING A MATERIAL CONSIDERATION

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

Ref: ABH1/2009

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

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