

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING  
COMMITTEE held BY SKYPE  
on TUESDAY, 26 JANUARY 2021**

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

|                            |                             |
|----------------------------|-----------------------------|
| Councillor Gordon Blair    | Councillor George Freeman   |
| Councillor Rory Colville   | Councillor Kieron Green     |
| Councillor Mary-Jean Devon | Councillor Roderick McCuish |
| Councillor Lorna Douglas   | Councillor Jean Moffat      |
| Councillor Audrey Forrest  | Councillor Alastair Redman  |

**Attending:** David Logan, Head of Legal and Regulatory Support  
Iain Jackson, Governance, Risk and Safety Manager  
Peter Bain, Development Manager – Planning  
Sandra Davies, Major Applications Team Leader – Planning  
Howard Young, Area Team Leader – Helensburgh & Lomond – Planning  
Mark Lodge, Senior Planning & Strategies Officer – Planning  
Pelham Olive – Applicant  
Bruce Jamieson – Applicant’s Agent  
Mike Hyde – Applicant’s Agent  
Chris Calvey – Applicant’s Agent  
Watson Robinson, Chair of Garelochhead Community Council – Consultee  
Fergus Madigan, Planning Officer, Garelochhead Community Council – Consultee  
Hilary Worton, Secretary of Garelochhead Community Council – Consultee  
Donna Lawson, Traffic and Development Officer – Consultee  
Marina Curran-Colthart, Biodiversity Project Officer – Consultee  
John Urquhart – Supporter  
Ron Fletcher, Chair of Portincaple Residents Association – Objector  
Ian Cowan, Save Loch Long Protect Portincaple Campaign Group – Objector  
Rory Hobbs, Save Loch Long Protect Portincaple Campaign Group – Objector  
Ross Greer MSP - Objector

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Graham Archibald Hardie, Donald MacMillan, Sandy Taylor and Richard Trail.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. MR PELHAM OLIVE: ERECTION OF 12 DWELLINGHOUSES, ALTERATIONS TO VEHICULAR ACCESS AND INSTALLATION OF PRIVATE DRAINAGE SYSTEM: LAND EAST OF LOCHSIDE, PORTINCAPLE (REF: 19/00094/PP)**

The Chair welcomed everyone to the meeting which was being held on a virtual basis in light of government guidance and Coronavirus legislation on public gatherings in response to the Covid-19 pandemic. For the purposes of the sederunt,

Iain Jackson, Clerk to the Committee today, read out the names of the Members of the Committee and asked them to confirm their attendance.

The Chair then raised a preliminary matter and referred to the number of objections to the hearing proceeding on a virtual basis. He invited the Development Manager, Peter Bain, to comment on the supplementary report that was issued in relation to the requests received for continuation of this hearing.

Mr Bain referred to supplementary report number 4 and the requests for postponement of the hearing. The recommendation in the report raised a number of concerns regarding the ability of third parties to properly engage in the hearing process. Following advice from the Head of Legal and Regulatory Services a joint response to these requests was made. This confirmed that the hearing process was discretionary and not statutory and the important element was for Members to decide on how they would wish to proceed. In response to the issues raised Officers had noted and had regard to the advice issued by the Chief Planner which suggested that planning authorities should take a pragmatic and flexible approach in seeking to maintain development management functions in planning at this time. It was contended that the approach to deal with this application by way of a virtual meeting was open, fair and transparent.

The Chair opened the discussion to Members.

Councillor Green referred to the number of ways that people could join this meeting and asked if Officers were aware of anyone that had been unable to join. The Head of Legal and Regulatory Support, David Logan advised that the practicalities of making sure those making presentations had the ability to do so had been discussed. He advised that parties who wished to participate in the hearing today and make a presentation were in attendance. With 35 presenters and 30 plus observers he was not sure if anyone was unable to join. He pointed out that whether a physical or virtual setting, there would always be circumstances when people could not attend.

Councillor Freeman referred to the request for adjournment which he had discussed with Officers. He said it was quite clear that given the previous decision by the Committee to hold virtual hearings was taken less than six months ago, it would not be possible to go back on and review that decision without suspending standing orders and if there was a material change in circumstances.

Mr Logan acknowledged that he had received Councillor Freeman's request for comment and advice on this and advised that he would agree that the decision to move to virtual hearings was taken less than six months ago and could not be changed without suspending standing orders. He pointed out that if a Member sought to move to a physical hearing his view, at the moment, was that it would be difficult to form a competent Motion in this respect as there would be uncertainty as to how and when a physical hearing could take place.

Councillor Freeman commented that if the Committee decided not to proceed today the developer would have a right of appeal to the Scottish Ministers for non-determination which would mean a strong possibility that the decision on the application could be taken out of the Committee's hands.

At this point it was noted that Councillor Gordon Blair had lost connection to the meeting. A short adjournment was taken to enable him to be reconnected.

Councillor Freeman sought confirmation from Mr Logan that given the timescale since the application was submitted, the developer would have a right of appeal to the Scottish Ministers for non-determination. He said that as far as he was concerned applications should always be dealt with locally. Mr Logan confirmed that the Applicant did have the right of appeal to the Scottish Ministers for non-determination. He advised that he could not say if such an appeal would be competent or successful. He added that objectors had no right of appeal but could have a Judicial Review. He advised that it was important to have regard to the advice of the Chief Planner. He said that this process was envisaged so that all participants would be able to access the meeting in a meaningful way.

Councillor Devon commented that the Committee had held several of these hearings over recent months and that she believed that all parties involved in these went away satisfied with the outcome. She asked Mr Logan if he could confirm if any adverse comments in respect of the previous hearings had been received. Mr Logan advised that as far as he was aware no adverse comments had been received and that everyone was happy that they were able to put their case across.

The Committee unanimously agreed to proceed with the hearing today.

In advance of the meeting today interested parties confirmed that they would make presentations to the Committee. Mr Jackson read out the names of those representatives and asked them to confirm their attendance.

The Chair, having explained the hearing procedure that would be followed, invited the Planning Officer to present the case.

## **PLANNING**

Before proceeding with the main part of her presentation, the Major Applications Team Leader, Sandra Davies, advised Members of a number of late representations received which were contained within supplementary report number 7. This report was circulated and a short adjournment was taken to allow time for it to be read.

Mr Bain then gave a verbal update on further additional representations received after preparation of supplementary report number 7. He advised that a further 10 emails were received from the Save Loch Long, Protect Portincaple Campaign Group which contained 202 pro-forma representations objecting to the application. The content of the submission related to the manner in which planning policy had been applied in the assessment of the application. This issue, along with the content of the pro-forma, was contained within earlier supplementary reports.

With the aid of power points slides, Mrs Davies gave the following presentation:

This application is for the erection of 12 houses at a site within Portincaple, a small settlement which is located to the north of Garelochhead. The proposal also involves the realignment of an existing section of private access so that the development can be served by a public road. The installation of a low carbon water based district heating system is also proposed as is a private sewage treatment

plant. Portincaple is a minor settlement which is located on the eastern banks of Loch Long.

I will begin this presentation with a series of photographs of the site in order that Members can better understand the proposal. These comprise photos from in and around the site as well as overhead drone photographs which the applicant has kindly provided. The first slide here shows an Ordnance Survey map extract with the boundary of the application site marked on it.

Slide 2 is a drone photograph showing the site after a large amount of *Rhododendron ponticum* had been removed. It shows that the area is not heavily wooded although there are a number of individual trees across the site with areas of denser woodland around the site. The drone footage also shows the houses located in the vicinity of the site along with Feuins Road. Feuins Road leads from the A814 to the start of the private access which leads down to the existing houses at the shore at the northern end of Portincaple. This aerial shot shows the red line of the site indicated. You can see Loch Long to the west. I will now follow on with a few more of the drone photographs taken from different angles.

Slide 3 shows the site in the centre of this photograph. Loch Long is just visible in the top right hand corner.

Slide 4 is taken from the other direction with Loch Long at the bottom of the photograph. Again the site is in the centre. This should hopefully give Members a flavour of the pattern of development surrounding the site.

Slide 5 provides a closer view of site. Again the shore of Loch Long is at the bottom of the slide with Feuins Road and the neighbouring houses at the top.

Slide 6. I am now going to show you some photographs of the access into Portincaple. This location plan shows the application site and the road network in the vicinity of Portincaple. The pink coloured road which is orientated from north to south is the A814. This runs along the eastern side of Loch Long from Garelochhead to Arrochar. The access to Portincaple comes off this road and leads down to the settlement and the application site. Feuins Road is a public road. I have a series of photographs taken from the the A814 all the way down to the site access.

The photograph on Slide 7 is taken from the A814 looking towards Arrochar. The junction of the public road which leads into Portincaple is on the left.

Slide 8 is taken from Feuins Road, approaching the junction with the A814.

Slide 9 is taken further down Feuins Road just before the sharp bend.

In Slide 10 we have now come round the bend and this is looking along the public road heading in the direction of the site. The private access that leads down to the houses that form the southern part Portincaple is located to the left.

Slide 11 is again further along Feuins Road.

Slide 12 ...further along again.

In Slide 13 we are now moving into a point of Feuins Road where there are houses on both sides.

In Slide 14 we are again heading north approaching public road end and turning area.

Slide 15 is taken at the end of the public road at the junction of the existing private access. This is the section of private access that will be realigned and upgraded to an adoptable standard. Land to the left hand side of the private access forms part of the application site and this will be used to realign the existing private access in order to form a road to adoptable standards into the site.

Slide 16 shows the existing private access that leads down to the site access and northern shore houses. As I have just mentioned this would be realigned and upgraded to form the new public road. The access to the site is on the left hand side where the gate is in the centre of the photo.

Slide 17 shows access to the site looking up the private access.

I will now show you some photographs of the site itself. Slide 18 is taken at the access to the site. There is a watercourse which flows down the northern end of the site. In this photograph there is a culvert immediately in front of the photographer. It is in this location that the adopted road will cross the watercourse into the site.

Slide 19 is taken from the southern end of the site and is looking in a north west direction. This is the main footprint where the houses will be built.

Slide 20 is taken looking west across the site. One of the shore level houses is just visible on the right hand side of the photograph.

Slide 21 is taken at the lower level of the site looking up the slope. You can just see one of the higher level houses which is accessed from Feuins Road at the top right hand side of the photograph.

Slide 22 is taken at the top of the site looking down towards Loch Long in a south westerly direction. This concludes the site familiarisation section of my presentation.

Slide 23 shows an extract from the LDP along with the red line of the site. The settlement boundary of Portincaple is shown in the buff colour and designated areas of ancient woodland of semi natural origin are shown hatched in green. This is a standalone application for 12 dwellings and it does not form part of a masterplan or larger proposal. The proposal also comprises a realigned road to allow the development to be served by a road to adoptable standards and a low carbon district heating system along with a private sewage treatment plant. Portincaple is identified in the adopted LDP as a village / minor settlement and is located on the banks of Loch Long located between Coulport to the south and Finnart Oil Terminal to the north. The area is designated as an Area of Panoramic Quality and parts of the site are also covered by a semi natural ancient woodland designation as shown on Slide 23.

The proposal is for a medium scale housing development in a settlement categorised as a village / minor settlement within the adopted Local Development Plan. In terms of dwellings, medium scale development is defined by the plan as being between 6

and 30 units. The proposal is being recommended for approval as a minor departure from Policy DM1 subject to conditions and a s75 agreement to secure a commuted sum for affordable housing and the provision of three terraced houses for the MOD or other personnel associated with the base.

This application has attracted a large number of objections which have continually been submitted from the first submission of the application about a year ago until this morning. Advised there were just over 3000 objections, 2 support and 15 representations.

In this presentation I wish to highlight what I consider to be the main determining issues in relation to this proposal. These are:

- The siting, design and scale of the proposal;
- Road and Access issues;
- Flooding and drainage issues;
- Impacts on trees;
- impacts on biodiversity, protected species and the landscape which is designated as an Area of Panoramic Quality.
- The principle of a medium scale development in a minor settlement and the justification for a departure;

Firstly I wish to look at the siting, design and scale of the proposal and I have moved forward to Slide 24.

The planning application site measures approximately 1.5 hectares in size and it is located wholly within the settlement boundary of Portincaple. The site is bounded by settlement boundary on three sides with Loch Long to the west.

The site varies in level from approximately 30m AOD to sea level at the shoreline. The proposed houses would be located around the 18m to 22m AOD range. Due to the sloping nature of the site, the houses would be split level. The proposed layout of the site is shown on slide 24. The proposed development would comprise:

- 6 no. terraced dwellings which would either be 5 bed cabins or 4 bed terraced houses at the north end;
- 4 no. semi-detached 4 bed houses in the middle;
- 2 detached 4/5 bed houses at the south end.

All of the houses would be located to the west side of the access road. This plan also shows the water course which runs down the northern end of the site.

Slide 25 shows the architect's site layout plan. The proposed water source heat pump would be located within Loch Long and is annotated as PG7 on this plan.

Slide 26 shows the elevations and floor plans for the terraced houses at the northern end of the development. The cabin houses are at the northern end of this terrace and these are the houses that are intended to meet the requirements of the expansion of the naval base. They would have a shared kitchen / living area and two bedrooms on the ground floor and three bedrooms on the upper floor which

would also provide the access to the houses. All houses would be finished in a mix of white render and timber cladding with anthracite grey metal roofs.

Slide 27 shows the upper floors of the terraced houses along with the parking. Additional parking has been allocated to the cabin houses.

Slide 28 shows the ground floor plan for the four semi-detached houses as well as the elevations.

Slide 29 shows the first floor plan and also the second floor plans for the houses with pitched roofs. The entry is at the first floor level and the parking is also shown on this plan.

Slide 30 shows the ground floor level for the detached houses as well as the elevations.

Slide 31 shows the upper floor plans of the detached houses as well as the elevations. Again the access is from first floor level and the parking is shown.

As a result of the sloping nature of the settlement of Portincaple, the pattern of development is currently a mix of detached properties at shore level, mid level and top level. The proposed development would be located in the mid level area at the northern end of the settlement and would look over the top of the lower level houses and sit below the top level houses. Slide 32 shows some cross sections which illustrate this point. It is not considered that the proposal would cause any overshadowing issues on the lower houses due to the distances involved and the intervening vegetation. The development would respect the natural contours of the site and the split level houses would be built into the landscape to avoid the need for unsightly underbuilding.

The Council's Design and Conservation Officer has been consulted on this planning application and was involved in discussions regarding the design and form of these houses. Amendments were made by the architect following these discussions. These included the introduction of varying roof heights, intermittent pitched roofs and the use of render and timber.

The proposal would introduce terraced and semi-detached properties of a contemporary design into Portincaple. The use of varying roof heights, intermittent pitched roofs and the use of render and timber would break up the elevations so they do not appear as a solid terrace allowing the development to sit sensitively in the landscape. The development of this proposal would also facilitate public access with footpaths and seating areas proposed.

### **Roads and Access Issues**

With regard to roads and access issues Supplementary guidance policy SG LDP TRAN 4 requires that developments in excess of 5 dwellinghouses which do not form part of a housing court development be served by a public road. The entrance to the site is currently taken off an existing private access which runs from the termination of the adopted road and serves a number of dwellings within the north most section of the Portincaple settlement. In accordance with this policy, it is proposed to extend the limit of the public road from where it currently ends in the vicinity of a property named Woodstock all the way into the proposed site to serve the development. A

section of the private access from end of the existing public road requires to be realigned in order to achieve gradients and widths which would be suitable for adoption. The Area Roads Officer has offered no objection to this proposal subject to conditions relating to road condition and culvert surveys, visibility splays, gradients and phasing.

The Area Roads officer is also content with internal layout of the development and the level of parking.

### **Impacts on trees**

I will now turn to impacts on trees. Parts of the site are covered by semi natural ancient woodland designations. These semi-natural ancient woodlands are important because they contain remnants of the country's original woodland and their flora and fauna.

As has been seen from the earlier drone footage and the photographs, the application site is not uniformly covered in trees. There are trees on the site but there are also large clearings. A tree survey has been submitted by the applicant and this has identified that the trees on the site are predominantly Oak although there are also some birch, rowan, holly and ash.

The tree survey identified that there were 188 trees with 89 of these being of moderate quality and 99 being of low or very low quality. 26% of these trees were considered to be mature and 76% were semi mature to early mature.

The tree survey also notes that there has been lack of natural regeneration of trees due to the presence of *Rhododendron ponticum* which is a highly invasive non native species. Prior to the landowner undertaking *Rhododendron* clearance this woodland was absolutely choked with this invasive species. This has been severely detrimental to biodiversity and the natural regeneration of the woodland. Slide 33 was taken prior to the *rhododendron* being removed. The site which has been cleared in the foreground does not form part of the application site.

The supporting planning statement advises that the proposal would require the removal of 50 to 60 trees whilst the more recent woodland management plan suggests that 30 to 50 trees may need to be removed. Of these trees, 12 moderate quality trees would be removed at the north end and 8 moderate quality trees would be removed at the south end. It is noted that the final number will be confirmed following a pre start construction survey and a condition is proposed requiring these details prior to the commencement of development.

The aim of the WMP is to provide a framework to restore the amenity and biological values of the woodland. In order to secure the survival of the woodland it is imperative that the trees are managed and the *Rhododendron* continues to be suppressed.

The WMP proposes to restore the currently absent understorey of the woodland by planting small trees and shrubs. This notes that it is the intention to fell as few trees as possible and where they are felled they will be replaced on a 3:1 basis. Taking account of the depleted condition of the existing trees due to the invasion of *Rhododendron* and the proposals to regenerate and actively manage the woodland, it is considered that, on balance, the proposed level of tree removal is acceptable. The end result will be a site with more trees and a higher biodiversity value.

## **Flooding and drainage issues**

Slide 34. I will now move on to consider the flooding and drainage issues associated with the proposal. The proposal would be served by a private sewage treatment plant. SEPA initially objected to this application on the grounds that discharge to groundwater via a soakaway would be the preferred option rather than discharge to an inland watercourse. The applicant's engineers subsequently submitted details of percolation tests which concluded that the site is unsuitable for an insitu soakaway. Therefore, the design was amended to incorporate peat modules for filtration after treatment prior to discharge to coastal waters. SEPA removed the objection following the submission of the additional information. SEPA has confirmed that the foul drainage arrangements being proposed are considered to be a betterment to the aforementioned discharge to the inland watercourse. Taking account of the above, it is considered that the proposal would comply with Policy SG LDP SERV 1.

The applicant has submitted drainage information which considers the impact of the development on its catchment areas with regard to flood risk and pollution. The observations from the Council's Flood Advisor notes that the overall site boundary lies within the indicative limits of the 1 in 200 coastal flood extent on the SEPA Flood Map (2014). The main limits of flooding are to the western edge of the site where it adjoins the coast. The proposed houses are located much further up the slope outwith the 1 in 200 year flood area starting at a height of about 18m AOD. The small burn which runs to the north of the site has a catchment area of less than 3km square and this is too small to be included on the SEPA map. A culvert is required along a short stretch of the watercourse in order to facilitate road access into the site. As details of this small burn are unknown, the Council's Flood Advisor has recommended that the culvert upgrade is sufficient to convey the 1 in 200 year plus climate change flow plus a 0.6m freeboard and be designed in accordance with CIRIA C689. A condition is proposed to this effect.

In terms of surface water drainage, the drainage plan shows that a filter drain along the side of the access road is proposed with an outfall to the burn to the north of the site and that all roof run off from the properties will be discharged to private soakaways in each of the gardens. In addition, tree pit soakaways and bio-retention features are proposed to assist in the management of surface water. The plans also include other SuDS features such as permeable paving to be used in the private driveways and a flush kerb arrangement on the side of the access road to allow for surface water run-off. The Council's Flood Advisor has confirmed that this approach is acceptable subject to a condition requiring drainage calculations and details of the maintenance of the drainage system. These conditions are proposed should Members be minded to grant this application.

## **Impacts on biodiversity, protected species and the landscape which is designated as an Area of Panoramic Quality**

I will now summarise the issues in relation to biodiversity, protected species and the Area of Panoramic Quality local landscape designation.

There are no statutory or non-statutory designated areas for nature conservation within the boundaries of the application site. A number of supporting documents have been submitted in relation to the natural environment.

The Council's Biodiversity Officer has been consulted on this application and is satisfied with the supporting information subject to conditions. These conditions are proposed and it is considered that the proposal would accord with Policy LP ENV 1. The site is located within an Area of Panoramic Quality. This is a local landscape designation and policies LDP 3 and SG LDP ENV 13 apply. This policy resists development where its scale, location or design would have a significant adverse impact on the character of the landscape. The policy also states that the highest standards in terms of location, siting, design, landscaping and boundary treatment will be required.

In terms of the Scottish Natural Heritage Landscape Assessment of Argyll and the Firth of Clyde, Portincaple is located within a landscape type no. 5, Open Ridgeland. A more recent landscape / seascape assessment was published in March 2013. The Loch Long section of this study sub-divides the loch in eight coastal character areas with Portincaple falling within the one entitled Finnart Oil Terminal to Coulport. The study notes that this stretch of coast is dominated by the large structures associated with the MOD site at Coulport and Finnart Oil Terminal. These sites are separated by a stretch of hill slope and extensive regenerating broadleaved woodland as well as the small village of Portincaple. The study further notes that Portincaple sits on an alluvial fan and that Clyde Steamers used to call at Portincaple.

Opportunities and guidance which relate to Portincaple are noted in the study as follows:

- There may be opportunities for additional housing associated with the alluvial fan at Portincaple;
- Modest, domestic scaled jetty or slipway structures could be located at Portincaple;
- The expansion of semi-natural woodland along this coast should be encouraged as it creates a unifying element which provides a context for development.

In order to make an informed assessment on the impact of the development on the landscape and character of Portincaple, the applicant has submitted a series of photomontages. The following slide illustrates before and after scenarios from three view points on the loch.

SLIDE 35 - This is a viewpoint looking toward Portincaple before the development.

SLIDE 36 - And here is the montage with the development shown.

SLIDE 37 - Here is the next viewpoint as existing.

SLIDE 38 - And here is the development.

Slide 39 shows the final viewpoint from a bit further away.

Slide 40 shows the viewpoint with the proposed development included. It is considered that the landscape has the capacity to absorb the scale of development proposed. The montages demonstrate that while some terraced houses have been introduced into Portincaple, these have been designed in such a

way so as to break up their appearance through the use of materials and intermittent pitched roofs. The Council's Sustainable Design Guide advocates that new developments should include a range of housing types and sizes so that the scale and density varies through the development. It is considered that mixed developments help ensure a more sustainable community in the long term.

### **The principle of a medium scale development in a minor settlement and the justification for a departure**

Finally I wish to look at the principle of a medium scale development in a minor settlement and the justification for a departure.

Portincaple is defined as a village / minor settlement within the adopted LDP. The proposal is for 12 dwelling houses which is defined as medium scale within the plan. Medium scale is defined as between 6 and 30 dwelling units inclusive. Policy DM1 establishes the acceptable scales of development within each of the zones identified in the LDP. Within villages and minor settlements Policy DM1 is supportive of small scale development on appropriate sites. As 12 dwelling houses constitutes medium scale development the proposal is a departure from Policy DM1.

It is, however, considered that a development of this scale could be accommodated on this site without detriment to the amenity of the surrounding area. It is considered that there is capacity in the landscape for this scale of development and that the design of the proposal would respect the existing rural settlement character of Portincaple.

Other than breaching the 5 dwelling limit stipulated in the policy, there would be no other reason to resist the proposed development. There would be nothing to prevent the applicant from applying for this proposal in groups of 5 or less houses. This piecemeal approach to development has the potential to result in poorly coordinated schemes with the added disadvantage that the Council are not able to take advantage of planning gain for affordable housing. In addition, it is proposed that three of the houses each with five single rooms will be made available to Royal Navy personnel or people in other employment which is associated with the expansion HMNB Clyde. While this does not meet with the criteria for affordable housing as defined by the LDP, it would satisfy a housing need in the area. It is considered that an exceptional case has been demonstrated and that the policy would comply with policy SG LDP HOU 1. The proposal accords with all other relevant policies in the adopted plan and it is considered that the proposal could be viewed as a minor and justifiable departure from Policy DM1.

In conclusion, this is an application for 12 houses only and it does not form part of any greater scheme. The proposal would accord with all of the policies within the LDP with the exception of policy DM1 for which there are material considerations of sufficient weight to justify a minor departure. In these circumstances the application is recommended for approval subject to the amended conditions in sup report 4 and a s75 agreement in order to secure a commuted sum for affordable housing and limit the occupancy of three of the houses to naval personnel and workers associated with the expansion of the naval base.

Thank you Chair.

## APPLICANT

With the aid of a power point slides Bruce Jamieson, on behalf of the Applicant, gave the following presentation:

Thank you to Councillors and the Council's Governance for facilitating this hearing, and to the Planning officer for the overview of the site, seen here from the water.

The Officer has explained in detail why these proposals have been recommended for approval and I emphasis here these proposals.

Because these proposals are not the ones distributed by objectors in local papers and on social media, and I am glad that I can finally present the proposals that have been submitted with all the detailed information shown on slide 4.

The submission has included architectural drawings and photomontages, diagrams of planning gains and benefits, engineering drawings for drainage and road layouts, a full feasibility study for the Energy Performance of the site, tree surveys and a woodland management plan, sustainability and bio-diversity checklists, an ecological appraisal, Otter walkover survey, Bat PRA and invasive species survey, qualified dismissals of the unsubstantiated concerns about sea squirts and great crested newts, a landscape strategy and masterplan, two expert rebuttals to the woodland trust objection, and agreement for provision of affordable housing via commuted sums.

All of this information has been carefully considered and excepting the Garelochhead Community Council, there are no objections from any other statutory consultees including the Roads department, the biodiversity officer, the Built Heritage Conservation Officer, the MOD, the HSE, Marine Scotland, Environmental Health, SEPA and Scottish Water and the Officers have also recommended this application for approval.

I am not covering all of this material today. My presentation will however be about 36minutes long, covering 44 slides, highlighting how positive these proposals are, then confirming the aims of the applicant Mr. Olive, and finally will address the letter that launched a thousand objections.

I will reference the numbers of each page for anyone following with sound only. If there are technical interruptions, I will repeat any, or all of the presentation in the interests of a fair and thorough hearing, and can provide answers to any questions afterwards, assisted by planning consultant Mike Hyde, tree expert and Arboriculturist, Chris Calvey and the applicant Mr Olive.

These proposals are actually a happy story of 'rediscovering' the unique location of Portincaple and its special connection to Ardgail and Lochgoilhead, reversing the destruction of woodland from highly invasive species, and improving bio-diversity at the heart of Portincaple so it can be enjoyed by everyone as an easily-accessible, welcoming and healthy Lochside community, which is not dominated by, but in fact 'characterised' by, forward-thinking, gold-standard, sustainable housing, with a ground-breaking Loch water district heating system at its core, and that accords with the aims of the Local Development Plan.

Slide 6 shows that land subject to this development is wholly within the settlement boundaries, identified as Pink, and therefore the most suitable land for development. It is also a key piece of ground near the centre, connecting the top level of the Feuins road continuously down to the Loch, so has unique potential. By replacing a part of the sub-standard road, responsibly managing neglected natural space, and unblocking connection to the Loch, it can reverse steady overburdening of infrastructure and decline of amenity that has come from continual small-scale infill in Portincaple that has not provided wider improvement.

Portincaple is also located within an Area of Panoramic Quality and slide 7 shows it in the wider setting of Loch Long.

Guidance for development in the APQ is found in the recent 'Land and Seascape Assessment of the Firth of Clyde (2019)'.

This important document is a Firth-wide assessment of landscape character, going beyond individual authority boundaries, and placing the overall seascape of the Clyde Estuary at the centre of the assessment.

It states that this stretch is dominated by the large features associated with the Finart and Coulpport terminals and that there are no exceptional coastal landmark features and no significant aesthetic qualities associated with this coastline.

It states that the village of Portincaple wraps round the alluvial fan and that Clyde steamers once called in, with people ferried to and from the landings by small boats. Slide 8 highlights the alluvial fan.

The study concludes with three specific recommendations for this location:

Firstly, there may be opportunities for additional housing associated with the alluvial fan at Portincaple.

Secondly, modest domestic scaled jetty or slipway structures could be located at Portincaple.

Thirdly, the expansion of semi-natural woodland along this coast should be encouraged as it creates a unifying element which provides a context for development.

The assessment strongly asserts the association between the alluvial fan and the settlement at Portincaple should be maintained if possible.

And in case you missed it, here are the houses highlighted in their setting- slide 12

It is therefore manifestly true that the overarching potential for development on the site is acceptable both by the designation as 'pink land' in the local plan, and in the wider context of the Clyde Estuary Seascape assessment, and all three of its recommendations are found in these proposals.

Clearly, the development of this stretch of coastline does not overwhelm the character of Loch Long, is entirely appropriate to the location, and indeed what you might expect to see in an exemplar development that also delivers specific Planning Gain.

On the left, supplementary guidance Policy SG LDP HOU1 shows that more than 5 houses in a 'village or minor settlement,' is deemed a 'minor' departure from Policy DM1.

It is worth noting that the emerging LDP is removing the upper limit of 5 houses to discourage piecemeal development that does not deliver wider planning gain. In any case, HOU1 section D allows minor departure if at least one specific planning gain can be delivered, which includes 'helping deliver affordable housing; or meeting a particular local housing need.

Only one is required to satisfy HOU1, but these proposals deliver two, and may also indirectly stop population decline if the exemplar is duplicated in similar loch side locations.

Discussion with Argyll Homes and the Housing Needs Assessment Officer established that other sites in the Helensburgh & Lomond area need urgent investment, and therefore the affordable housing quota will be delivered by option 3 in the supplementary guidance by the payment of a commuted sum, calculated by the council's District Valuer and accepted by all parties.

It will be a vital injection for affordable housing where it is needed most.

### **Meeting a particular housing need**

On the right, p17 of the Council's SHIP addresses the specific priority for housing in the Faslane area, ensuring sufficient and suitable capacity to accommodate Base expansion over the next 5 – 10 years.

There will be a 25% onsite provision of single living accommodation SLA's exclusively for rent or sale by Royal Navy personnel or people in other employment associated with expansion of the base.

Sale or rent may take a number of procurement avenues, guaranteed by a section 75 agreement.

The MOD and their liaison officers have established that 'The Future Accommodation Model (FAM)' is the most likely avenue, which gives service personnel greater choice, and an incentive to live in private accommodation and integrate with the local population.

The remaining 9 houses also meet the specific housing need since the site is around 3 miles from the Base. It is an ideal location for anyone wishing to cycle to work, and the proximity along with all the other benefits of the proposals- open space, access to the water and highly efficient houses, will have a great bearing on choice.

Slide 14 shows that as well as helping deliver affordable housing and meeting a specific local housing need, a grant of planning permission will deliver numerous other planning gains, listed as follows:

- Exemplar, highly sustainable housing;
- A ground breaking Loch Water district heating system;
- A Woodland Management and Landscaping Plan;
- The creation of public open space;

Improved access to Loch Long;  
A link between core path networks on land and sea;  
Major road and safety improvements;  
The installation of public electric car charging points;  
Potential for public transport.

Most of this would not be required for multiple applications of 5 houses or less.

I'd now like to deal with these each in turn starting with the highly sustainable, exemplar housing slide 15.

The design follows the Local Plan supplementary design guidance that all new development should be designed, sited and built to be sustainable. The aim was to go further and deliver a housing project that achieves as close to zero carbon as possible and the highest possible sustainability rating that can be achieved on the site.

Band 'A' will be achieved for both energy efficiency and carbon dioxide ratings, as well as Gold compliance across all 8 aspects of sustainability, including Co2 emissions, energy for space and water heating, Water use efficiency, smart 'heating, lighting and ventilation controls', flexibility and adaptability, wellbeing and security, sustainable material specification, and minimising of waste.

The proposals have been designed to deliver appropriate access, recreation, and Open space for Special Needs Access Provision and in full compliance with LDP HOU 2.

The design delivers the core maxims of modern living-

- Public open space
- Off-street car parking
- Electric car-charging
- Convenient bicycle and bin storage
- Level access for full accessibility
- Generous patio garden spaces
- And wide-fronted, bright and naturally lit living areas

Slide 16 demonstrates the efficiency of the design.

Houses have a small footprint, with a wide frontage and shallow plan. This allows the houses to fit tightly on the contour line in terms of section, sitting down into the landscape, benefiting from earth sheltering and avoiding wasteful underbuild.

An interior view is shown on slide 17.

The level garden space with decking to the front and natural planting and screening avoids overlooking to properties below.

Slide 18 shows a street elevation of the 4 semi-detached houses. It demonstrates that on the street side, windows are fewer and smaller, but there are large, bright and welcoming bridge entrances. The houses sit down a level from this

side, thereby presenting themselves as one and a half storey to the road and the existing houses behind.

Slide 19 shows more private elevation facing West of the same houses. Large windows take advantage of the uninterrupted views over the loch. A key part of the sustainability of this design is the flexibility which ensures that a large variety of internal arrangements are possible to meet 'varying needs' both now and in the future.

Typical plans are shown on slide 20. A fully structural external envelope and floor plates allows all internal walls to be reconfigured without altering the exterior.

As well as being flexible and compact, the houses will use modern, modular off-site construction and will have a positive impact, with an easily understood sustainable identity.

### **District Heating System**

In addition to the sustainable design, world renowned Engineers Ramboll, undertook a full Energy performance study, which used computer modelling and analysis of available data to determine the best energy solution for the site, shown on slide 21. This ground-breaking district heating system will be optimised by use of an ambient loch water loop, submerged beyond Low water, and secured above the seabed. These 'sea-mats' will take up a small area approximately 5m by 5m and being a closed loop, will be completely inert- neither taking out nor adding material to the loch and extracting heat solely through immersion.

Slide 22 shows the layout of the ambient loop which will be driven by the individual heat pumps in each house, with no other external equipment required.

We believe construction of this Loch water district heating system will be the first of its kind in Scotland and will create jobs and expertise in this greatly underdeveloped and exciting energy sector.

Ramboll calculations demonstrate that the Loch water design will use 28% less energy than an equivalent system using individual air source heat pumps, 15% less than a district air source heating system, and an incredible 70% less energy of an equivalent, heated with oil or electricity. The Gold standard design of the housing envelopes will reduce Co2 emissions by a further 27% below Scottish Government Target Emission Rates.

The SEA mats will be maintained by a floating pontoon applied for under a separate Marine Licence, which will be offered for community ownership. It will enable public access to the water at all states of the tide.

On request the loop can be extended to other existing houses in Portincaple.

It will be an exemplar for other off-grid coastal communities that wish to avoid fuel poverty whether new build or retrofit.

I will now explain our Woodland strategy, how it will mean a greater than 50% increase in Woodland, and why it is a major planning gain from this being 12 houses and not multiple applications for 5 houses or fewer.

Slide 23. shows pictures taken on the first visits to the site.

They demonstrate the neglect of the woodland, its displacement by rhododendron, and an overall lack of access to and across the site. This valuable natural asset has been unmanaged, with no formal interest by the community, who have neglected it, cut down trees at will and discarded waste on it for decades, with right to roam actively discouraged.

Here is slide 24 with pictures taken during the clear up operation.

You can see how the operators were dwarfed by the rhododendron. They were instructed to leave all existing trees standing and did so with considerable skill.

Slide 25 is a drone picture of the application site taken after the Rhododendron had been cleared.

During the whole operation, only two trees were removed, to avoid danger to life - one blocking the ramp down to the shore and the other a narrow pinch-point on the cliff edge both shown here with red dots.

After this operation was completed it was clear that there were far fewer native trees on the site than apparent when it was densely congested with rhododendron. The initial Tree Survey report, states "Within the large area where rhododendron has recently been cleared there is a complete absence of 'Category A' trees. Existing biodiversity is remnant, the lower quality trees are threatened, and the entire ecosystem has virtually been lost. Without intervention, the site will revert to rhododendron, which has the lowest biological value of any green space. The survival of what remains of the woodland in the long term will therefore be dependent upon managing trees, replacing trees, and keeping the site clear of invasive specie.

Therefore in posing the direct question, will the woodland and associated wildlife benefit from this development or not? the factual answer is YES. The woodland can only be restored by intervention, with the allocation of resources, and through the implementation of a Woodland Management Plan.'

We therefore produced a Woodland Management Plan seen here slide 26.

This plan can only deal with the current condition of trees on the site, in terms of invasive species, and the health of remaining trees, and any woodland inventory, or claims of what was, should, or might be there are completely irrelevant! The submitted Plan (WMP) provides a framework to restore the amenity and biological values of existing woodland areas, whilst also accommodating new woodland areas alongside the development.

The application site has been divided into 4 labelled compartments, each of which will enhance and preserve the woodland in specific ways. It is anticipated that at least 320 new trees will be planted, made up from 80 full canopy species, 50 understorey species, 40 shrub species, and 150 hedge species of tree, all of which will be carefully planted and managed over a five-year period.

This presents a significant enhancement to the current natural bio-diversity of the site, removing Rhododendron and supplanting it with trees indigenous to the area.

It will result in a measurable 52% overall increase in Woodland.

But it's not just about trees. In addition to planting new trees, a full and detailed Landscape plan was prepared by TGP Landscape Architects, shown on slide 27.

This plan ensures that the woodland understorey and the ground cover will be filled with species-rich grassland and wildflower mixes, along with native shrubs and bulbs consistent with its coastal setting.

The Landscape Plan also defines the private gardens with soft planted hedgerows and specimen trees that will identify and root the houses in the woodland landscape.

Together then, the Woodland management and landscape plans combine to ensure that a coordinated natural biodiverse theme runs right through the development from the trees, to the woodland floor, the gardens and the pathways, integrating the house plots into the woodland, improving the amenity, biodiversity, and ecology of the site.

Three experienced, highly qualified and independent Ecologists have made four different ecological studies of the site at various times of year, and confirmed no evidence of protected species was recorded within the site and no native bluebells were found on the specific development footprint.

In addition to the surveys, Tetrix Ecology submitted a full Biodiversity checklist, which supported the holistic approach of woodland and landscaping plans and added a robust woodland statement confirming that 'rhododendron scrub had already depleted the woodland's biodiversity,' and that 'the proposed management of the woodland will promote a positive ecological affect for local biodiversity, especially when compared to the 'do nothing' scenario wrongly suggested by Local opposition and the Woodland Trust, that will allow a return of rhododendron and continued unmanaged depletion of the woodland's biodiversity.'

Therefore, the simple facts of this planning application in regard to Woodland is that it will eradicate invasive species from the site and implement a detailed Woodland Management Plan that will extend the Woodland by an extra 52% over and above trees that currently exist, and with all the retained woodland being in a much better state of health and with a positive effect on the woodland's biodiversity. It accords with the Land & Seascape Assessment of the Firth of Clyde that 'expansion of semi-natural woodland along this coast should be encouraged as it creates a unifying element which provides a context for any development.'

Just a reminder then, without a grant of planning permission, the Council has no mechanism to implement any Woodland improvement...and if there is no Woodland improvement, land will revert to the previous status quo shown here again slide 28.

In addition to the lost biodiversity Portincaple's history has also been forgotten.

What exactly has been lost?

Slide 29 shows the historical fishing, ferry and rail activity that used to exist, since Portincaple was always a crossing and landing point. In fact the name derives from the cattleman's 'Caple, or Mare, who led the herd across loch long and chose to land in the shelter of the alluvial fan. A record of ferry house can be traced back at least as far as the Jacobite uprising.

Until 1925, plans show the jetty located where the pontoon is proposed, and rowing boats beached at the groin further south and ferried people to and from the steamers.

It was a bustling little place!

Slide 30. demonstrates how different things are now.

Steamers, and the ferry route to Ardgoil disappeared and at the same time, several kilometres of land north and south of Portincaple have been developed by the MOD and the oil terminal, both of which block access to the shore, shown with a red line on the left-hand plan.

In addition to this, the red line on the right-hand plan shows that access between MOD and oil terminal land is mostly prohibited by private access and private gardens, except for the stretch of beach at the centre of Portincaple, which as demonstrated, has been blocked for decades.

A combination of all these factors means easy public access to the water in the Loch Goil vicinity is currently impossible, putting far greater emphasis on the importance of reversing neglect in this particular location, opening up the shoreline that leads to the loch for everyone.

A grant of this planning permission will therefore not only implement the Woodland Management Plan but will also reinstate the historical access to the shore at the only remaining viable location.

Slide 31 demonstrates that the accessibility of the site comes not only from unblocking the shoreline, but from improvement of the main artery that serves Portincaple.

The Feuins road is only adopted to the point of the north bridge, where it becomes a private access, narrowing dramatically as it makes a sharp turn down a steeper than 1 in 5 incline. It also does not lead to the shoreline. This means that that all land and houses beyond the north bridge are served by a hazardous stretch of road terminating with a dead end and no arrival at Loch Long.

Slide 32 shows how the road will be rebuilt to adoptable standards on an adjacent piece of ground. This will allow the Feuins road to continue at the same width, with much a safer gradient of 1 in 10, turning on a gentle radius until the section identified by the Roads Department as dangerous, has been bypassed.

This will mean safe access for emergency services, public utilities, and home deliveries for all existing houses at the north end of Portincaple as well as the 12 proposed houses.

The new section of Feuins road will also branch onto the site at the mid-level, providing new access to the beach with public parking and termination of the road with a professionally engineered hammer head for turning of larger vehicles.

Slide 33 shows the woodland walks and designated pathways detailed by the Landscaping plan that will improve movement through the new managed woodland

space, turning this neglected and blocked site into a proper public open space and amenity.

Slide 34 shows how the open space gives safe descent down to the beach.

The new pontoon will facilitate easy access to the water at this strategic point, encouraging a healthy land & sea lifestyle for residents, improved right to roam for visitors, and connection to the greater core path networks by completing the link between the 3 loch way by foot or on bicycle, and Loch Long's Sea Kayak trail on water, thereby promoting green outdoor leisure and tourism.

Slide 35 shows the important Green transport credentials of the application, which come from improvement to road and utility infrastructure.

There will be Public electric charging points, and all houses will be electric car ready.

Improved turning will allow reconsideration of an extension of the local bus service if the Council or SPT consider it viable.

I have explained that minor departure from Policy DM1 is justified under SG LDP HOU1 because the proposals deliver specific planning gains. The policy also asks that any proposal should not overwhelm the townscape character, or the capacity of the settlement, so the next slides show the Context for Development within the village.

Slide 36 compares the existing and proposed settlement pattern side by side, showing the context and available space for development in plan.

The colours identify houses at the shore (blue) at the mid-level (pink) and at the high level (green). The proposed housing shown on the right, sits neatly between the upper and lower levels and corresponds to many other houses coloured pink in the overall settlement pattern of Portincaple.

The ROH states, 'It is considered that this site is capable of accommodating the scale of development proposed without detriment to the amenity of the surrounding area.'

The Built Heritage Conservation Officer's report also agrees that the application proposal provides 'a balance of mid-level properties at the north end of the village where, in their opinion, there is capacity for limited development.'

By way of comparison a recent 12 house proposal in Garelochhead currently sits on approximately 0.5Ha, so this proposal of 12 houses on 1.5Ha has 3 x more land available within the red line application boundary.

These diagrams therefore confirm that in terms of the plan, the houses have sufficient room and the arrangement does not dominate the pattern of Portincaple. Slide 37 and 38 show how it works in cross section.

These are accurate sections taken from the digital topographical survey, from the upper level of the Feuins road to the lower level of the loch and demonstrate that new housing does not block views from existing houses above, nor overlook any below. There is not only plenty of space between houses on plan, but also a 15m

drop between each level in section. This spacing is clearly better than the existing layout along the Feuins road.

The new unifying element of woodland will also not interfere with views from above, but will bed the new houses very nicely into the settlement. (Click 38)

The Built Heritage Conservation Officer's report states that 'the proposal to build the dwellings into the landscape will not only avoid underbuilding, but also adopts a more traditional response to siting, and respects landscape context.

Slide 39 is a true elevation from the new mid-level road, and shows all 12 houses and the 'entirety' of this application.

As well as improving the section, siting the houses down clearly reduces the impact of the houses from the new road.

The Conservation report adds 'Building smaller houses as semi-detached and terraced houses respects the scale of existing houses in Portincaple. In addition, varying roof heights and the interjection of a few pitched roofs results in massing appropriate to landscape and the setting of the existing built environment housing pattern.'

Slide 40 shows a view of Portincaple from the loch.

White render respects the finishes of many of the existing houses as seen in the picture.

The next slide 41 shows the development in the context of the same view. The use of timber provides a contrast to the white render, breaking up the elevations and introducing a softer complementary palette.

Having heard the positive case for this development, can I now compare this with the sustained campaign of misinformation from objectors which has falsely decried: widespread woodland destruction, overdevelopment, and deliberate misrepresentation of these well-designed proposals, and the integrity of the applicant and his team.

I would like to clarify the character and aims of Mr Olive.

He wishes to re-establish access across to Loch Goil, whilst fulfilling long held ambitions to create the greenest possible prototype housing to be used by others as an exemplar. He wants to deliver this project to the highest standard and already has a record for delivering exceptional green projects, for example in nearby Carrick Castle.

In familiar circumstances the case there went to a hearing due to unsubstantiated concerns by residents, the Community Council and politicians

However, planning permission was granted and the proposals built to an extremely high standard, complying with every condition set by the National Park. The Gold level of sustainability was achieved, but he went further and added a first and then a second, large array of solar PVs which will render the whole building complex not just sustainable, but completely carbon zero.

He is also building a hydroelectricity scheme at Invernodan, which will produce more than enough power to offset the entire electrical demand of Carrick Castle. Biodiversity is a passion for Mr Olive. He has instigated the planting of more than 2 million trees which, for absence of doubt, includes more than 100 hectares of non-commercial, Atlantic Rainforest. He has established pockets of 'true' indigenous mountain woodland by planting an additional 13,000 low-density broadleaf trees at high altitude and he has enriched the montane scrub by planting dozens of fenced enclosures near the upper treeline which create pockets of natural biodiversity, allowing native flora to seed and spread naturally on the hill.

Professional surveys and recording of the natural biodiversity at Carrick Castle show that within the last 5 years there has been a substantial regeneration in "Red List" endangered species, including the Golden eagle population, confirming that managed intervention can quickly reverse depleted biodiversity.

Not only has he done a commendable job re-wilding the land, but he has worked with the community, made friends, provided jobs and actively improved other assets in the village.

Councillors can ask him direct questions, but in the meantime does Mr Olive strike you as a person intent on environmental vandalism, or is he in fact actively combating climate change and making balanced and measurable changes to the local ecology and economy?

I'd like to finish now by drawing your attention to slide 42 and the Pro-forma letter that was dropped onto social media in March 2020 by the Green Party and posted to a large list of email contacts and members.

After presenting an inaccurate and distorted view of the proposals, objectors were then encouraged to click a button which automatically generated this objection. At the same time it did not facilitate viewing of the proposals or consideration of the site. There is no doubt that it was this mechanism that launched a thousand objections.

Although an objection letter, it paradoxically calls on the Council to, and I quote,

'Work with the local community to access support and funding to remove invasive species and support and protect biodiverse woodland and access to the shoreline. Work with the applicant and architect to ensure that the best practice in energy efficiency, renewable energy generation and building materials are used in future affordable housing development in Argyll and Bute.

Work with the local community to establish and improve active travel infrastructure in and around Portincaple.'

Given the truth of the central features of the proposals that I have just described to you, it should be noted that all the above can and will be achieved by the grant of Planning Permission for this application and the vast majority of objections therefore imply significant support for the Woodland management plan (WMP), the loch water district heating system, road improvement and the generally very Green credentials embedded in this highly sustainable, exemplar design.

The same objection letter also states

'Many aims of the developers are highly laudable, particularly the very high standards of energy efficiency and the groundbreaking use of loch-sourced heat. However, this is simply not the right location.'

Despite apparent recognition then of the positives of the proposals, these one thousand objections state that they are negated because 'this is simply not the right location,' but the contrary all the measures in this application are tailored directly to the location.

In fact the exact design could not exist if Portincaple; was not off gas-grid and adjacent to the loch with its heat source; if the woodland and paths along the alluvial fan and coastline were not already neglected and completely overgrown with Rhododendron; if there was not a dangerous private section of road serving the whole north end of Portincaple; if the village had not lost historical sea access to the Goil and to 'core-path networks' on land; and if an urgent requirement for housing in the local area was not required.

It is therefore exactly the right location where one 12 house proposal can make a huge difference.

That is perhaps why an examination of the list of objections shows that only 52 people out of the total of around 130 residents in Portincaple have objected to these proposals, which asks the question, why have around 60% not objected? Surely this is material in considering whether this is really even a consolidated local opinion or just a 'protest' vote from the most vocal residents?

The 'save loch long group' seem to argue that Loch Long, and Portincaple's entire ecosystem depends on rejecting this 12 house proposal, which is of course is fundamentally flawed. The science shows that to the contrary, this exemplar design addresses the issues of depleted biodiversity, as well as tackling climate change and fuel poverty, and the nucleus of the existing woodland ecosystem will be saved by these proposals and regenerate as a direct result.

I would argue very strongly that it is in fact the 'survival of our coastal communities,' and reversal of population decline in Argyll and Bute that is dependent on embracing bold ideas for off-grid energy solutions and undertaking careful environmental and infrastructure improvements in order to attract younger people and their families.

So I thank the councillors for your time, I hope you now understand the care and thought put into this application, and will take into account that apart from the Garelochhead Community Council, all other statutory consultees including the Roads department, the Biodiversity Officer, the Built Heritage Conservation Officer, the MOD, the HSE, Marine Scotland, Environmental Health, SEPA and Scottish Water all have not objected to this application, and I hope that you will support the officers recommendation to approve these proposals.

## **CONSULTEES**

### **Garelochhead Community Council**

With the aid of power point slides the following presentation was given by representatives from Garelochhead Community Council:

#### **Watson Robinson**

Good morning. My name is Watson Robinson and I am the Convenor of Garelochhead Community Council. I'd like to thank the Committee and the organisers for the opportunity to speak at this hearing today.

Before I go into the main body of my presentation today I would like to state clearly for the record that Garelochhead CC does not believe that today's hearing allows for fair representation of the community's overwhelming opposition to this planning application.

We would like to summarise the pertinent points of concern as follows:

Under the stay at home regulations currently in place, mixing between households and individuals meeting up are severely restricted. This causes significant difficulties for members of the community to adequately prepare for the hearing as well as restricting their ability to support one another during the hearing itself.

The objectors (residents) are lay-people, they are not a professional body, do not have professional planning expertise, and do not possess the resources to remotely access and exchange documents freely. They are currently unable to meet up to discuss and to research an effective presentation for the planned hearing. They are under government instruction to stay at home and some do not possess the necessary electronic communication equipment that would allow them to communicate remotely.

Effective consultation with private industry consultees or community advice consultants is severely restricted as many have temporarily closed or running on a reduced staffing level due to furlough and/or working from home.

The inability for the objectors to communicate together freely during the hearing nor be able to support each other nor offer advice to each other whilst responding to questions from professional bodies and organisations is unjust and does in no way constitute nor enable a fair and balanced hearing.

There are over 1110 objections to this proposal, which is agreed by all parties to be contrary to the adopted LDP. We feel that the objectors are being denied the opportunity to present their strongest possible case and that this process is not fair or just.

Given the current industry pressure on the Scottish government to further restrict construction work, there is no urgency for this hearing to take place. We note there is a very real possibility of holding a more 'normal' public hearing including perhaps a site visit in the next 2-3 months and strongly recommend that the hearing is postponed until a date that allows a fair hearing and minimises the chance for any future legal challenge with regard to due and fair process being followed.

The Community Council's presentation today will focus on three important key topics:

Firstly, as I've said, there is overwhelming local opposition to this planning application and we will explain to you the details of this and why we do not feel it has adequately been considered by the Planning officer.

We'd like also to discuss with you the rationale that has been presented in the report of handling for why a departure from the provisions of the local development plan is apparently warranted. We'll explain why we feel this is flawed and should be disregarded.

Finally, against the background context of the climate emergency we are facing, as well as the Scottish Government's current prioritised approach to the protection of semi-ancient woodland, we'll discuss the threat posed to the precious natural resources by this planning application.

I'll start by explaining to you about the strength of feeling on this matter in our community.

In order to understand why it's important to focus on this initially, I'd like to start with a reminder of the role and remit of Community Councils. Whilst they stand at the lowest tier of local government, as you can see in bold at the top of this slide, they have a key role to play as a voice for the local area. Community Councils are made up of friends and neighbours of local people and as such have a duty and an obligation to seek and reflect the interests of the community. The Community Council in Garelochhead is an example of how this works successfully in practice, having been operating actively and effectively for many years. We believe we are a trusted partner to local people and an important link between them and both the Council and the elected representatives. Our support and advice is frequently sought navigating the perceived complexities and bureaucracies of the system. Planning can be an emotive issue; it is well-known that humankind has a natural resistance to change, and in particular any suggestion of change to the places where we live and we call home can invoke strong feelings. The Community Council has therefore to take a neutral and objective approach when we are asked to consider a planning application that members of the community believe should be refused. In this instance there is overwhelming local opposition to the application and this is something that we, nor the council can ignore. The weight of community opposition should be taken into account as a material consideration in this case and we do not believe that it has been done by the Council Planning Department.

Comment was made that the Community Council was the only statutory body to object. This is because we are there to reflect our community no other statutory body has that or is expected to carry that out. So it is reasonable that we would object. Many points of objection have been raised formally by members of the public that have not been fully addressed. Some of these were simply dismissed by the planning officer with no attempt to justify or explain the conclusion that they were not relevant. This has certainly caused a significant amount of frustration within the community and has led to the questioning of how adequately or indeed how seriously the community's point of view has been taken into account. We have been contacted by several members of the public who have called into question the

impartiality of the council planners based on the Report of Handling that was issued for this application.

It is important to state that there is widespread support for the current, adopted, LDP which is based on sound principles and aims, and appears to offer the protections and guidance required to adjudicate on planning applications such as this. All those reading and referencing the appropriate documents have been able to identify clearly and robustly why this planning application should be refused. This is why so many objectors cannot understand why a recommendation for approval has been made. It also has to be said that we have real sympathies with the officer dealing with such a huge number of comprehensive and detailed objections. However, a lack of staffing and time to deal with such a volume cannot be an excuse not to engage with objectors or to ignore and dismiss relevant and evidenced objections.

On the next slide Fergus will highlight a few of the points of objection that were raised and dismissed without comment or explanation by the Planning Department, leading to, I'm afraid, an unfortunate deterioration in the public trust in the decision-making process.

### Fergus Madigan

Objectors have spent a huge amount of time and effort scrutinising both Scottish Government policy and the National Policy Framework documents to detail comprehensively where exactly contraventions exist. To dismiss these arguments without any reasoning is disrespectful. It offers no clue as to why so many members of the public are wrong; those members of the public who have concluded that this development contravenes these documents deserve a more complete explanation at the very least.

The numerous ways in which objectors believe that the LDP is contravened is also given very scant attention and the Report of Handling concludes that only DM1 is contravened and in a minor way. As such the Report of Handling fails to address adequately the genuine and sincere concerns of residents and the wider community that the LDP is indeed contravened. Robust and referenced arguments have been made by residents that both National and local policy have been contravened regarding for example: the location, scale and nature of the development; the impact on the local community; the introduction of day tripper facilities (bringing with it issues of litter, & lack of toilet facilities), the future use of the buildings and use of adjacent land, huge environmental concerns, road congestion and safety, and the lack of existing connectivity in the village.

These valid community concerns deserve to be taken more seriously than it appears they have been so far. The Planning Department state that they can only make a decision based on what is in front of them. What is in front of them is a planning application for 12 houses and public realm space that does not fulfil the obligation to provide affordable housing. On this basis a bus service, a heating system, a jetty, the MOD commitment and HMO licence must not be considered as they are not part of the current application, only future aspirations.

If there is a Section 75 for the MOD commitment, then why not also a Section 75 or Condition for the securing of a marine licence for the heating and jetty, a commitment to the provision of a bus service, and the HMO licence? It is not clear to us in the RoH what the Section 75 actually covers. Does the applicant have to

obtain a firm written commitment from the MOD and an HMO licence within 4 months? When does the 4 months start? And what is the penalty if that is not achieved?

If these future possibilities are considered as reasons for approval, then other future possibilities such as the use of adjacent land, future use of buildings, day tripper facilities, and traffic issues must equally be considered as reasons for refusal. The council has the powers under SG Circulars 4/1998 and 3/2012 to place restrictions on what can and cannot be done in the future with adjacent land and the buildings in the development. Why is this not being proposed?

### Watson Robinson

The second key point which we want to stress is that this application is contrary to the constraints of the local development plan.

I would ask you to consider the history of the delineation of the settlement boundary that occurred in 2003 and what the delineation was to provide. Although the council certainly met the statutory minimum in its consultation process, the very idea that a protective boundary around the village envelope being delineated without a single representation can only be accurately interpreted as an example where no meaningful nor effective consultation took place.

I ask you to consider the only available written guidance statement pertaining to Planning in Portincaple that is buried that was agreed upon by both the planning office and the representative of the Scottish Govt (The reporter) who made the following observation 'The Scottish Ministers appointed reporter made the following observation :

1. I note that the delineation of Portincaple's settlement boundary, as shown in the proposed local development plan, is unchanged from the one shown in the current adopted local plan. As there has been no significant change in circumstances which has occurred in the meantime, the issue for me to address is whether the boundary is inappropriate and, therefore, that its retention would not be justified.
2. Unless they are specifically allocated for housing development, the inclusion of particular areas of land within a settlement boundary does not mean that they will be appropriate for new housing development. None of the land within the settlement boundary of Portincaple has been allocated for housing development.
3. Policy LDP DM1(C) would apply within Portincaple's settlement boundary. It gives encouragement to "sustainable forms of development, ...up to small scale on appropriate sites". I consider that this provides a reasonable and appropriate framework within which to assess the merits of individual proposals. It would provide a sound basis for the refusal of proposals'

The planning office made a very similar yet more precise observation 'The Proposed Local Development Plan (CD012) has not altered the settlement boundaries at Portincaple from those which are identified in the current Adopted Local Plan (CD001). There were no objections to these boundaries at that time (2009) which were delineated in order to provide some opportunities for small scale infill and

rounding off development. The settlement boundaries therefore provide a framework within which development proposals can be assessed. The requirement that these be small scale infill and rounding off'. At the bottom of this slide you can see Argyll and Bute's definition of infill, which this proposed development clearly does not fulfil.

### Hilary Worton

As we've already stated, the Local Development Plan is something that is of vital importance in planning and community development and one which we fully support. Councils across the country have local development plans in place which protect and support the economic and cultural development of neighbourhoods. I'd like to spend a few moments describing the hamlet of Portincaple for those of you on the committee who have not had the opportunity to get to know it.

Portincaple is a small hamlet on the shores of Loch Long opposite the mouth of Loch Goil, almost within sight of the applicant's existing hotel/estate at Carrick Castle. Portincaple has some historical significance, being the landing/departure point for the ferry across to Mark, on the Ardgoil peninsula. According to local legend this may have originally been the route to market for cattle as well as for Victorian day trippers visiting local celebrity, James Grieve, at the time, Scotland's oldest man who lived at what is now the Mark Bothy. This history is well acknowledged and known locally and has never been 'lost'.

Today there is a single road which leads down to the beach providing access for residents and visitors as well as a well-used footpath across the hillside down to a popular site for fishing. The shoreline from the high water line is owned by Luss Estates, whilst the remainder of the land and property in Portincaple is all privately owned. The existing housing is exclusively single family houses on relatively large plots. The housing has built up slowly and organically over the past couple of hundred years. It's a place with no local amenities; no village hall, no street lighting, no pavements. There's a single track road through Portincaple leading from the main A814, but blink and you'd miss the turning, almost certainly because you're taking in the spectacular views across the loch from the top of the road. It's a place where residents of all ages feel safe to take their daily walk along the road and on the beach. Pre-lockdown, kids run around between one another's houses and everyone knows whose dog that is that's wandered into your garden today. In the heart of Portincaple is an area of ancient woodland, listed on the ancient woodland inventory and the housing has built up slowly around that woodland and the beach. It's home to families, extended families, retirees and a significant number of small independent business run from home offices. Portincaple is a positive generator to the economy of A&B. The addition of public realm space with picnic tables, parking and paths along with the additional requirements associated with HMOs will inevitably mean increased costs to the council.

Portincaple is a minor settlement in an area of panoramic quality. These sort of places are rightly protected from over-development in terms of control on the scale, and nature of any proposed planning applications. This means that no planning application can be permitted for more than 5 houses unless there are exceptional circumstances. The community should be able to have faith in the protection afforded by the local development plan.

What we are showing on this slide is an extract from a document dating back to 2014, when the current local development plan was being consulted upon. A

Portincaple resident at the time raised concerns about the potential for over-development at some point in the future and requested that further protection should be included within the LDP. This request was referred to the Scottish Ministers as part of the consultation process, and an extract from their Reporter's decision is shown on this slide. The Reporter asserted that the LDP as proposed and subsequently adopted did not need to be amended since this would be sufficient to prevent the exploitation of the special nature of this landscape and community. At that time they reassured the community that the LDP would protect Portincaple because no planning application for more than 5 houses could be approved, and that would be restricted to minor infill and rounding off. Portincaple currently has planning permission or planning permission in principle already granted and in place for 14 new houses on top of the 12 we are discussing here today. The 14 already granted have all been approved by the planning department within the terms of the LDP.

The planning application that we are discussing today would require a relaxation to be permitted by this committee to the protection afforded by the LDP. The Planning Officer's recommendation would require you to ignore the commitment previously given to the community of Portincaple by the Scottish Ministers Reporter that we are highlighting on this slide.

So let's now turn to understanding the rationale given by the planning officer to justify a deviation from the protection afforded by the LDP. The latest report of handling (supplementary report number 3) states that there is a specific local housing need that warrants this departure from the LDP. The Planning Officer asserts that there are 3 housing units in the plans that will meet the needs of the Ministry Of Defence, driven by the expansion of the naval base at Faslane and the Maritime Change programme. In addition the report states that a Section 75 order will be imposed on the developer. For the lay people present today, I'd like to briefly explain what a Section 75 agreement is. We've taken some professional advice and done a little research on this, since those of us on the Community Council are not planning experts.

Here's a definition:

In order to obtain planning permission, a planning authority may require developers to enter into a contract to offset adverse impacts of their project. Such a contract contains provisions designed to overcome obstacles to the grant of consent

In this particular case, what seems to be being proposed, to offset the negative impact of this development, is that there is no requirement for this development to include the usual statutory provision for affordable housing, but instead the developer will pay the council a sum of money, and in return the council can impose a requirement that the terraced housing in the plans is leased to the MOD to satisfy a need for additional housing for a period of 5 years. It is also worth pointing out here that this will be the first time that a commuted sum will have been accepted in lieu of affordable housing in Argyll & Bute. Here we have two questions for the committee: firstly, is £72k really an appropriate sum to release a developer from the obligation to provide affordable housing: And secondly, this is already a very controversial planning application - is this the most appropriate case to set this precedent?

Let's for a moment go along with this hypothesis. If this does go ahead, then please pause for thought and consider what the impact of this will be on Portincaple.

Remember how I just described the existing community. It is difficult to imagine how up to 15 individual MOD staff or contractors will not alter the existing character and distinctiveness of Portincaple. This development as envisaged by the Planning Officer's report would represent a dramatic and significant change to the very nature of this sleepy rural hamlet. Think now about how these new residents would get to work. The latest submission by the applicant's team wants us to believe that they will jump onto their bicycles and pedal off to work. The proposed development site we are talking about sits almost on the shore, at the bottom of a very steep hill. The topography of the landscape makes the prospect of commuting on foot or by bicycle unrealistic. Travel to the base from Portincaple would have to be by private vehicle. Any other suggestion is completely fanciful. Ask yourself, are these aspects of the plans being recommended to you really in line with the stated goals of planning policy being for the right development in the right place and a low carbon society? The folks we are representing here today certainly do not believe it is.

### Watson Robinson

We also have written statements from the Ministry of Defence stating that they have no interest in the housing at Portincaple. Members of our communities asked their MP, Brendan O'Hara, and their constituency MSP, Jackie Baillie to find out the reality of what, if any agreements have been made between the developer and the MOD. Both of the letters you can see on the screen now directly address this question, and they both have the same answer. The MOD state that 'The MOD has not commissioned any properties within this development, and no commitment has been made, nor has any agreement been entered into or inferred'

In fact they go further than that. They go so far as to say: 'the requirements of the establishment (ie the MOD) and the Portincaple development differ'.

Yes, you heard and read that right. The MOD state clearly here that their needs differ from what is on offer in Portincaple.

Why therefore you may ask does the Planning Officer's report of handling suggest that a condition would be imposed to insist that the housing in question is offered to the MOD? You may ask that indeed. Several members of our community have brought that exact same question to us. It seems completely illogical that this should be used as the justification to deviate from the LDP. We are left baffled by this and hope that the discussions here today will shed some light on this matter since the information that has been provided prior to today's hearing leaves important questions unanswered.

Let's take a look in a bit more detail at the information we have on the slide in front of us. Much has been made in the report of handling of the predicted increase demand for MOD housing owing to the Maritime Change programme. Brendan O'Hara MP, therefore specifically asked some key questions in his request to the Minister of State for Defence Procurement, Jeremy Quin MP:

- When asked about the current supply of service accommodation, Mr Quin's response indicates that they currently have a surfeit of such housing, with 145 premises currently unoccupied and plans to bring on stream accommodation for a further 68 service men and women early in 2021. When considering the longer term need for the stated 450-500 housing units, Mr Quin clearly states that the housing in Portincaple is not part of their plans.

It stretches the bounds of credibility for us to accept the MOD's need for housing as a valid justification to deviate from the LDP, and I would urge Committee Members to think long and hard about if they are happy to accept this rationale.

### Fergus Madigan

The final point I would like to discuss today is the impact on our natural resources.

As has already been mentioned, the site for this proposed development sits within a designated APQ, or area of panoramic quality. It currently comprises mostly woodland, listed on the Scottish National inventory of ancient woodlands. I'm sure that other speakers will follow with far more expertise that I have on this, but allow me to mention a few points by way of introduction to the subject and I'll leave it to other experts to complete the picture.

This type of woodland is known as Celtic Rainforest – and it's globally significant. It's the sort of precious landscape that people like David Attenborough make documentaries about. As I mentioned earlier, the existing houses in Portincaple have grown up around the woodlands that are in the heart of the hamlet, both literally and figuratively.

The Community Council welcomes the public statements from the new landowner of the site in question about his commitment to protecting our rich natural heritage. As I'm sure committee members are aware, one of the biggest threats to ancient woodland like the site the applicant now owns, and the adjacent plot next to it which he also owns, is from non-native invasive species, in particular rhododendron ponticum. We would expect therefore that he, like other property owners in Portincaple, will continue to work to keep the ponticum under control and allow the native species to reestablish and thrive successfully after some years of neglect on those sites. (It's perhaps worth mentioning at this point that we understand the applicant also has an exclusive option to buy another plot in Portincaple alongside the area in question that he has already purchased. The Community Council hopes he will be proactive in protecting and restoring the precious woodland areas across all the land he has an interest in in Portincaple).

We strongly support the Scottish government initiatives to protect and enhance these ancient woodlands and are proud to have a piece of this coastal temperate rainforest biome in Portincaple. It is considered to be globally rare and according to the Woodland Trust is considered to be more threatened than tropical rainforest.<sup>5</sup> We therefore strongly oppose the plans outlined in this application to build housing and car parking across this special landscape; whatever promises may be made for 'compensatory planting'.

### Watson Robinson

So to summarise, the Community Council's objection centres on three important key topics:

Firstly, as I've shown, there is overwhelming local opposition to this planning application. I've explained some of the details of this and how we do not feel local voices have been adequately considered in the Report of Handling.

Secondly, the Planning Officer is asking the Committee to agree to a deviation from the LDP based on a justification that is flimsy and opaque at best, and potentially also misleading and flawed. As has been well-documented in SHIP, the LDP and SDDF minutes, there is in fact more than sufficient housing land already allocated for the MOD expansion without Portincaple or any other windfall sites. Indeed the PPSL received a report from the Planning Department on 23.9.20 showing that there is more than enough housing land already identified in the Helensburgh and Lomond area in the current LDP to last until 2025.

Finally, the third important consideration we have put to you is the very real risk of irreparable ecological damage. I will leave it to other speakers from the Objectors teams to cover this in more detail and finish by asking, on behalf of the Community that the Committee refuses this application.

Many thanks for your time.

A short video prepared by the local community was then shown.

### **Roads**

The Council's Traffic and Development Officer, Donna Lawson advised she would address her comments submitted in respect of this application. She advised that the proposed development would be accessed via the existing public road, Feuins Road which, she said, had the capacity to serve the proposed development of 12 dwelling houses. In accordance with the 'Roads Development Guide' the residential road, Feuins Road, had the capacity to serve up to 100 dwelling houses before any extensive carriageway widening works would be required to be implemented. She advised that there were currently 58 dwelling houses within both the existing adopted section and the private access. Referring to an extract from the Roads Development Guide, which advised that for 50 – 100 dwellings the width of the road should be 4.8 metres, she said that Feuins Road had more width and passing places. She said that Feuins Road provided access to properties within a residential area and linked with the traffic distributor road (A814). She said that the definition of a residential road was a road with no through traffic, did not link to settlements, and did not lead to either industry or leisure destinations.

She referred to concerns raised regarding the existing bridge and culverts and the existing road and potential damage to them if the development went ahead. She advised that prior to any works commencing a full inspection and engineer reports of Feuins Road, the existing bridge, and culvert structures should be submitted by the developer to Argyll and Bute Council. Any remedial repairs required to Feuins Road, the existing bridge, and culvert structures as a result of construction traffic should be carried out within 12 months of completion of the development.

She also advised that full details of the proposed road alignment to the private access road should be submitted to, and agreed in writing with, the Planning Authority in consultation with the Council's Road Network Manager. Thereafter the proposed road alignment should be fully implemented in accordance with these details prior to construction of the first dwelling house. The road thereafter would be maintained by the Council.

She said that the realignment works would reduce the gradient and improve the alignment of the road, providing an adopted road from the end of the adopted road to the junction of the proposed development.

She also advised that the provision of car parking within the curtilage of each dwelling should be in accordance with the Council's Local Development Plan supplementary guidance SG LDP TRAN 6 Vehicle Parking Provision. She said that parking for each dwelling house should be constructed prior to occupation of each dwelling house. For Housing (Use Class 9) and Flatted Dwellings there should be 1.5 spaces per 1 bedroom unit, 2 spaces per 2-3 bedroom unit, and 3 spaces per 4 or more bedroom units. She advised that they tended to round these figures up and that the proposed development would more than accommodate the minimum requirement.

She concluded by advising that Argyll and Bute was very diverse in nature and environment and that every planning application was looked at on its own merit. One rule did not fit all, especially with the vast difference in traffic volumes, speeds, and types of vehicles using the roads. Engineering judgement was a must to ensure a safe environment for all road users.

## **SUPPORTERS**

### **John Urquhart**

Mr Urquhart gave the following presentation:

I am a retired teacher of Geography, convener of Helensburgh and District Access Trust and Vice Chair of the conservation charity Friends of Loch Lomond and the Trossachs, but I do not speak for these organisations here. I do not know Mr Olive.

- 1 I am concerned this application is being targeted for external political purposes in a similar way to the nearby application for Balloch's West Riverside site, where misleading information spread on social media has been used to whip up large numbers of objections, many of which are based on a proforma and more or less identical. Typically the misinformation includes unsubstantiated claims of threats to endangered species and ancient woodlands or imagined road traffic issues or breaches of the planning process.
- 2 I am also concerned about the use of sensational language designed to inflame opinion - slogans like "Save Loch Long" and statements like "Portincaple will be destroyed". When looked at dispassionately this kind of stuff has no basis in reality. The language seems particularly misplaced (even ludicrous) when set against the very real visual impact of large nearby facilities such as at Coulport, Finnart, Glenmallan and Glen Douglas, not to mention the blot of the abandoned torpedo station at Arrochar as well as the ecological damage being done by invasive rhododendron and the huge areas of commercial forestry monoculture which already disfigure substantial areas along the shores of Loch Long. There is also Loch Long's well documented marine litter problem. Any impact the development might have pales into insignificance when set against these issues.
- 3 On issues such as scale and setting, Portincaple's 4 separate nucleations gives an envelope with ample room for future development while the wide variety and

quality of existing architectural styles means there is little ground for the concerns raised about character and design.

- 4 Scenic quality concerns also have little foundation since the views looking onto Portincaple from the west are heavily compromised by the storage tanks and jetties of Finnart oil terminal and the MoD's Glenmallan Armaments jetty, currently being extended for the Navy's two new giant aircraft carriers. The views looking west from Portincaple towards Ardgoil and the knobbly outline of Argyll's Bowling Green are of course very attractive, but the new housing will have no impact on that.
- 5 Apart from the availability of some new state of the art green housing, what the public have to gain from this development are better management of the woodland, jobs in construction and the re-establishment of historic access to the foreshore which bit by bit has been denied by Portincaple residents. There is also the promise of a jetty, another lost historic feature which will be widely welcomed. There is also the possibility of planning gain. In this respect I would make the case for joining Portincaple to the area's wider path network with links to Garelochhead and the nearby Three Lochs Way, which is becoming popular as one of Scotland's suite of 29 "Great Trails". This would benefit Portincaple residents as well as the wider public.
- 6 In conclusion, it seems to me that there is little wrong with this application. In contrast there is a great deal wrong with the objections which are largely motivated by the entirely understandable, but essentially irrational ("NIMBY") fear of change which has been exploited by a largely external and politically motivated opportunistic campaign which perhaps has more to do with the coming election than any real concern for the environment. I am a strong supporter of the green agenda. I have already referred to the many serious environmental issues afflicting Loch Long. These are the issues Portincaple residents and the Green Party should be concerning themselves with, not the provision of 12 energy efficient homes.

## **OBJECTORS**

### **Ron Fletcher**

Mr Fletcher gave the following presentation:

Good afternoon,

My name is Ron Fletcher. I speak as chair of the Residents Association, on behalf of the community, but with limited time can only address a few of our objections. Before I took early retirement I was a site based Project Manager for one of the large national construction companies.

I moved to Portincaple in 1974, so have witnessed the slow, what could really be called "sustainable" and therefore easily assimilated, growth of the village. This proposal, if approved, would change that dynamic irrevocably and destroy it for ever. It's for that reason, amongst others, that not one household in the village, has written in support of this application. It demonstrates with clarity that this is against the

principle in para. 28 of Scottish Planning Policy 2014, which seeks, “the right development in the right place, it is not to allow development at any cost!”

The Report of Handling concludes this is only a MINOR departure from the LDP. However, taking the 12 dwellings, plus their 44 associated parking spaces, when set against the 58 houses and 120 residents in the village at present, would result in the following:

An approx. 20% increase in the number of dwellings in one go.

A possible 93% increase in residents if all 56 bedrooms were full, and a 75% increase in car traffic.

I would ask the elected members present, whether such huge increases would be welcomed if it affected the community where they reside. This is another reason why there have been no letters of support from Portincaple.

As a construction manager with 35 years' experience of both commercial developments and housing, there are a number of things which concern me and which are not clear from the Report of Handling. For example:

The drawings for the buildings, indicate extensive rock breaking, possibly up to 10,000 cu.m, because the proposed ground floor levels are below existing rock levels. This means many months of continuous noise and dust will occur during this operation, if percussive methods are used. This will be further compounded by the proposal to put the arisings through a crusher plant. We raised this as a material consideration in our objections, but it was not addressed at all in the R o H, and was not mentioned at all in either of the presentations by the planners or the developer. While conditions have been proposed e.g. 14 and 22, full details will only be submitted after permission is granted, which will be too late for residents to object. All this in a quiet, totally residential setting with many endangered species known to frequent the site.

Portincaple is a mainly linear settlement with many of the houses fronting on to Feuins Road. This is described by the Council as a single track, rural, residential road with passing places, (none signposted), providing access to a small number of dwellings, but not leading to a destination or linking to another settlement. It has no speed limit signs (so 60 is the theoretical limit), and it can just about cope with present traffic levels. The earlier video shows how a delivery can cause delays on the road, sometimes lasting between 20- 30 minutes. However, it's still quiet enough for children to learn to ride their bikes, or play along its length, under supervision, safely. This existing amenity will be destroyed if approval is granted, because all construction related traffic will use this route, so will condemn the residents to at least 2 years of disruption, while the works are ongoing. This also has possible serious consequences should one of the two ancient bridges on the adopted road suffer damage, or even worse a collapse, due to the incessant loading from constant heavy goods vehicles. No load assessments have been carried out on either of the bridges affected, so I fail to see how approval can be given in advance of a full safety and structural assessment being carried out by independent assessors, rather than a standard base line survey, as intimated in Condition 4.

Finally I turn to the mythological “9 material planning gains” document submitted by the developer, some 4 months after the application, in an effort to justify the

departure from policies LDP STRAT 1 and LDP DM1, although I noted that some new items had been added.

- 1 Lost history will be re-discovered. It was never lost, so can't be re-discovered.
- 2 Invasive Rhododendron will be removed. This could be done by the landowner, the Local Authority or community, so is a weak justification for development.
- 3 Lost connection to the water restored. It was never lost, so can't be restored.
- 4 Large part of road will be reconstructed etc. No work is proposed on the existing Feuins public road, so no safety improvement there. Only the residents of the 10 shore level properties, could be regarded as having an improved access but will have to endure 2 years of disruption.
- 5 Woodland created and restored etc. An irreplaceable semi natural ancient woodland is being destroyed to achieve this.
- 6 New open space and access to water, again, never lost (see 1,2, 3 and 5 above)
- 7 New District Heating scheme. The only benefit should it proceed will be for the new houses, with none for the existing community.
- 8 New highly sustainable Exemplar houses. Quite a statement for something not yet built
- 9 Land for bus turning and connection to core paths. Bus service has been tried previously but withdrawn due to lack of demand, and infrequent connections to regular services. Any connection to 3 Lochs Way would have to cross MOD land so is not guaranteed in any recognisable time span, if at all.

As chair of the Residents Association, I would respectfully ask you to refuse permission for this development.

### **Ian Cowan**

With the aid of power point slides, Mr Cowan gave the following presentation:

#### **Introduction**

Ian Cowan, qualified solicitor, 10 years as regional solicitor at SEPA, but practising as environmental and planning law consultant. Appearing on behalf of Save Loch Long Protect Portincaple Campaign Group and many of the 1000 + objectors.

We attend under strong objection that this hearing is procedurally unfair:

- remote hearing puts individual objectors at a disadvantage
- time allocation was completely disproportionate.

There was never enough time to cover all the points of objection to this proposal, so we are concentrating on following:

- Inadequate information provided on trees and woodland
- Unrealistic renewable energy proposals
- Key omissions and misjudgements in the ROH.
- Flawed justification for departure from the development plan

## Rory Hobbs

Good morning,

My name is Rory Hobbs. I am a senior Arboricultural Consultant and managing director of an established Arboricultural Consultancy company. I have a limited time and as such can only briefly highlight my concerns, however, I would be happy to take any questions following this statement and help direct anyone to relevant British Standard guidance in more detail. All slides used in this presentation can be found in the BS:5837 guidance document.

I have many years' experience working in the industry and provide professional advice to a range of clients including government bodies such as Highways England where I have recently developed their tree policy, multiple domestic and commercial clients and currently am employed by two local planning authorities to comment on arboricultural implications of development proposals and appraise arboricultural impact assessments, arboricultural method statements and condition discharge requirements.

I was engaged by a member of the Save Loch Long group who is a mutual friend and asked to give my opinion on this application provisionally as a desk top study from my office in Suffolk. After assessing the documentation provided, I then decided to travel to the site to fully understand what would/should be appropriate in this instance to satisfy a planning application under guidance provided by the BS:5837 2012; Trees in relation to design, demolition and construction document. This document is a UK standards publication and as such is accepted as relevant national standards body following the 2002 memorandum of understanding between the UK government and the British Standards Institution. It is also worth noting at this point that Argyll and Bute have correctly applied these guidelines in multiple previous planning applications as per public records.

But in this instance, it is clear that the requirements leading to the scheme design approvals as stated in this document have not been met.

The preservation of existing trees is a material consideration in the planning process, whether they are subject to existing statutory protection or not. Trees are at risk from the pressures of development. Damage can be sustained to both below and above ground parts of trees. Any failure to evaluate fully the impact of development at the earliest opportunity could lead to needless loss of tree cover. Under the UK planning system, local planning authorities have a statutory duty to consider the protection and planting of trees when deciding whether to grant approval to planning applications. The level of information required to help inform this decision varies between applications, however table B.1 (delivery of tree-related information into the planning system), shown here, gives a minimum detail of information that authority would be expected to seek.

In all cases, by this stage of a planning application, as a minimum requirement:

- a tree survey (of all trees within influencing distance of site as included in the topographical survey),
- a tree retention/removal plan (finalised),

- a tree constraints plan showing retained trees and their calculated Root Protection Area (in most cases a radius of 12x the diameter of the stem when measured at 1.5m)
- a strategic hard and soft landscaping plan including the location of new planting, and
- an Arboricultural Impact Assessment should have been completed and submitted.

On sites where large levels of mitigation would be required, it would also be usual at this point to receive a draft tree protection plan and method statement outlining key mitigation requirements to protect retained trees from damage during construction and begin to outline key responsibilities and provide an auditable time line of actions. This slide shows the sequence of when each element should be requested.

To date, only a survey of 188 of the 392 trees recorded on the topographical survey (inside the site boundary or within influencing distance of the site) has been submitted. The document states that the tree survey should include all trees included in the topographical survey. It has been noted that one section of trees not included in the tree survey will be directly impacted by the installation of a car park area well within the root protection area of those trees (AKT Partnership drawing ref 12864-01 rev D). Given the proximity of the carpark area to this section, some assessment of potential for harm to any retained trees or indeed if removal of trees would be required to facilitate the proposal should have been requested. There may be other groups of trees impacted by the development but without the benefit of information such as the sweep analysis for the entrance to the site, it would be impossible to satisfy that concern without a further request for information.

The survey contains a subjective tree categorisation for each tree (as per the slide cascade chart), no calculations for root protection areas have been provided (in the form of a tree constraints plan), no indication of trees to be retained/removed has been submitted and no assessment of the impact of the development on trees to be retained (if any) has been issued.

In short, no detail as to the volume of trees to be removed, potentially damaged or placed under future pressure for removal as a consequence of this development has been requested and as such approval would enable an open chequebook on tree removal under the discretion of anyone involved in the project. There is also no clear evidence that the findings of the report produced have been considered at any point within the project design phase.

At this stage it is important to say that the report would have likely been completed before the design stage as is the norm (and preferable). In most cases, the arboricultural consultant is engaged to complete a site survey only of the site as per the instruction of their client. The information would then be passed to the designer who would use the report to help inform them of site constraints. Once the draft proposal is finalised, the arboricultural consultant would then proceed to complete the impact assessment and subsequent arboricultural method statement and tree protection plan, often in communication with the planning authority. It is often the case (as I believe is likely in this instance) that the consultant is not engaged following the submission of the initial report to the designer. It is then the responsibility of the local authority to request further information (i.e. Arboricultural Impact Assessment, Arboricultural Method Statement) to help appropriately inform them of site issues and satisfy requirements at the feasibility stage before

progressing with the application. It is clear that this has not happened in this instance.

As of this time, I have not received a final drawing that overlays the tree locations and their constraints onto the final proposal so I am unable to give a full assessment of the site, but I would suggest from the information provided and during my two site visits, it is clear that this proposal would have a significant impact on the woodland and its current character. The woodland is a mix of broadleaf species and has been given the impressive designation of Ancient or Semi Natural Origin as a reflection of its character (not the age or condition or age of individual trees within it but as a reflection of its group as a whole) and is also recorded in the Ancient Woodland Inventory. The amenity value of the woodland is made all the more important given the surrounding softwood. It plays a crucial role within the wildlife corridor that currently exists along the entire east side of Loch Long.

It is likely that should trees be retained as part of the design, they would cause future conflict with the development due to their close proximity to structures. An assessment on pressure for future removal from issues such as light blocking, leaf litter and lifting of hard surfaces through secondary root growth or subsidence (though subsidence is extremely unlikely in this location given the soil type) have not been requested by the local authority at this stage. I would suggest that given some images showing an artist's impression of the final design, future pressure for removal of trees to allow views across the loch would be great indeed, should trees along the north west boundary closest to Inverallt and through to T6118 be retained.

To summarise, it is the ultimate responsibility of the local authority to safeguard the future of tree stock and prevent needless damage of removal of trees during development. The minimum level of information should be sought in any event to accurately assess this potential during the feasibility and design stage. As mentioned, it would also be appropriate at this stage on many sites of high amenity value to begin to draft method statements and tree protection plans. I cannot see how when applying this guidance, it can be seen that the Local Planning Authority have the information to accurately assess the impact of this development on the woodland. At no stage have I seen evidence of the input of a dedicated arboriculturalist on behalf of the Local Planning Authority which is highly unusual or have I been shown evidence of any consideration for the tree stock on site outside the original report produced in January 2019 by either the Local Planning Authority or indeed the designer of the project.

It is of my opinion only that should the guidance be applied in this instance following the final design, the proposal would exceed the capacity of this site to maintain its current woodland character. It is clear that high levels of encroachment into calculated RPA's would be required to facilitate the proposals and as such, an assessment of these activities alone is critical.

It is public record that the authority has applied BS5837 requirements in the past as per historic planning cases such as development at the Argyll and Bute Hospital (re 14/01083/PP) and application 16/02515/PP (which was a small scale erection of a dwelling in Helensburgh) where a request for further information on storage of site materials be provided in accordance with BS:5837. With this precedence set, it is unclear as to why this level of scrutiny has not been applied on this occasion where potential damage to or removal of large numbers of trees of good amenity value is possible. It shows a concerning inconsistency in requirements across sites in what

the authority deem appropriate information required to inform a decision and with a decision of this calibre and the future of a woodland of this value at stake, every opportunity should have been given for the client to provide ample information.

I ask the committee to consider the implications to the future of this woodland should approval be given, based on the current information provided to the local authority.

Ian Cowan

### Renewable energy systems

Planning gain no. 7 is a district heating system for the proposed 12 dwellings. The developer's consultants, Ramboll, recommended the installation of a water source heating system using pipework and supporting pillars to be installed in the loch. The system is totally dependent on a licence being granted by Marine Scotland, who have to consider, amongst other things, the potential impacts on Priority Marine Features such as horse mussels and firework anemones, both of which are reportedly present in the area. A 2016 report by SNH (now NatureScot) identifies firework anemones as being of 'international and possibly global importance'. A serious developer would have been in contact with the regulator to discuss their licensing requirements, but Marine Scotland has no record of any such contact.

If a marine licence is not granted Ramboll recommends the alternative would be to place photovoltaic panels on the roofs of the dwellings. It is suggested that the glare these would create is not appropriate in an Area of Panoramic Quality where development is not essential nor of economic benefit.

If a water source heating system is licensed, existing dwellings could link into it, but individual householders would bear the cost of doing this, and for adapting or replacing their heating systems to make it compatible. Unlike the developer they would not be eligible to claim Renewable Heat Incentive payments and the cost would mean community uptake is likely to be extremely limited.

It is suggested therefore that as there is no certainty that the water source heating system will be permitted, that air source heat pumps have been discounted by Ramboll and photovoltaic panels would not be in keeping with the Area of Panoramic Quality designation, that planning gain 7 is purely aspirational and should be discounted by the committee.

Any questions, please inform the Convenor and I will arrange for Paula Coopland to join the meeting.

### Key omissions in ROH

1. Page 2, section (C) – no planning history? This is wrong.

In 2019 the applicant submitted a pre-application enquiry and an EIA screening request for a 36-house development and a 22-bed hotel on this site and land to the south which he also owns. These were part of the planning statement that supported this application.

As the ROH says, there is nothing to stop a developer from using successive applications to achieve the proposal they want [and the current proposal is

economically unsustainable, as has been pointed out] so it is not surprising that many residents fear that this is phase 1 of a much larger development on land owned by the applicant.

2. Page 21, section (Q) – minor departure? No justification is given for classifying this as a minor departure, perhaps because it is not a minor departure.

The LDP states that in minor settlements or villages, only small-scale development is supported, meaning up to 5 houses. A minor departure might be 6 houses or 7, but not 12 – that is more than double the supported scale of development. And as Mr Fletcher hints, in the context of a village with only 58 dwellings, this is clearly a significant departure, and socially unsustainable.

3. Page 20, section (P) – determining issues

No mention of 3 key issues of road traffic, built heritage or ancient woodland, which make the proposal environmentally unsustainable. This omission is a result of flawed assessments which I will now describe.

### Flawed assessments in ROH

1. Pages 9-10, section (F) – in response to representations on roads and transport

Mr Fletcher mentioned the impact of construction traffic, but another major objection is that:

- once built, the development generates unsustainable levels of new traffic
- Feuins Road is a rural road with no passing places, no pavements and a 60mph speed limit
- road safety has not been properly assessed.

The ROH repeatedly responds that “The Area Roads Officer has offered no objections to the proposal”.

When consulted, the Roads Officer’s observed that

“In accordance with the ‘Roads Development Guide’ Feuins Road has the capacity to serve up to 100 dwelling house before any road widening works are required to be carried out. There are currently 58 dwelling houses.”

a. The Roads Development Guide says that 50 to 100 dwellings can be served by a “4.8 metre wide carriageway with passing places”. But in other correspondence, she wrote that Feuins Road is “a single-track road with passing places” – in which case, according to the Roads Development Guide, it can only accommodate up to 50 dwellings. In fact, within the village, the width varies between 4.3 and 4.6 metres wide, so it does qualify as a single-track road. But it has no passing places, so, as can be seen from these slides (6 and 7), an oil delivery can quickly and unpredictably cause congestion lasting up to 20 minutes, and the road does not meet the Council’s standard even for the 58 dwellings that already exist.

b. The Roads Development Guide allows for one car per dwelling in rural settings. No account has been taken of the fact that the development provides 44 parking spaces for just 12 houses, because of the multiple occupancy, meaning up to 44 additional cars travelling the full length of the public road, on top of the estimated 58

already using all or part of it. That represents an unsustainable increase in the number of trips along Feuins Road.

c. Scottish Planning Policy says that “Where a new development is likely to generate a significant increase in the number of trips, a transport assessment should be carried out” and “Planning permission should not be granted for significant travel-generating uses at locations which would increase reliance on the car and where direct links to local facilities via walking and cycling networks are not available or cannot be made available”.

The recommendation is therefore in direct breach of Scottish Planning Policy.

## 2. Page 33, Appendix A – assessment of impact on listed building

According to the ROH, Inverallt is a Category B listed building immediately to the northwest of the site (Slide 7). The Built Heritage Conservation Officer said nothing about listed buildings in her consultation response, so the following assessment in the ROH is by the planning officer:

“The principal elevations of the listed building are orientated towards Loch Long with the closest house in the proposed development sitting behind this at a higher level approximately 16.7m from Inverallt.”

This is what that will look like (Slides 8 and 9). It is incredible that the planning officer can find that the “would not have an adverse impact on the setting of the listed building.”

These photomontages, submitted by the applicant, show clearly that it will have a significant adverse impact on the setting of Inverallt.

The recommendation is therefore in direct breach of local plan policies.

## 3. Page 35, Appendix A – assessment of impact on ancient woodland

According to the ROH, ancient semi-natural woodland is “important”. Nevertheless, on the basis of the applicant’s tree survey, which Mr Hobbs has shown to be utterly misleading, the planning officer concludes that the removal of ancient woodland on this site is in accordance with policy.

However, according to Scottish Planning Policy, ancient semi-natural woodland is not just important, it “is an irreplaceable resource and ... should be protected from adverse impacts resulting from development”.

Another clear breach of Scottish Planning Policy.

Final point: Flawed justification for departure from the development plan

As the ROH says, local planning policy states that medium-scale housing development in a village or minor settlement “would only be supported by a deliberate attempt to counter population decline in the area, to help deliver affordable housing, or else meet a particular local housing need.”

Section (S) of the ROH (Reasoned justification for a departure to the provisions of the LDP) says that “an exceptional case has been demonstrated that the proposal would not only provide money for affordable housing by means of a commuted sum but would also result in the provision of housing to serve an identified housing need.” But provision for affordable housing is a requirement of the same policy, for all developments of 8 houses or more, so can hardly be used to justify a departure from another provision of that policy. The only real justification is that an identified housing need is said to be met. But there is no evidence that it will be met.

The ROH goes on to say: “The identified housing need relates to the Ministry of Defence’s Maritime Change programme which has ... created a need for housing for military personnel and houses will be made available within this development specifically for this purpose.” This benefit will supposedly be secured by the proposed section 75 agreement, for up to 5 years, but unless the MOD is a party to the agreement, it will be under no obligation to take up a single one of the 15 single living units reserved for them, and they are just as likely to remain vacant.

Even if this benefit is secured, the same policy states that such a departure is only justified where the proposal will “not overwhelm the townscape character, or the capacity, of the settlement and be consistent with all other policies ... of the Local Development Plan.”

This proposal obviously does “overwhelm BOTH the townscape character AND the capacity of the settlement” and is NOT “consistent with all other policies ... of the Local Development Plan” or indeed with Scottish Planning Policy.

It must be rejected.

Thank you for listening.

### **Ross Greer MSP**

Mr Greer responded to a number of points that Mr Jamieson made.

He advised that Mr Jamieson, on behalf of Mr Olive, dismissed the community’s objections characterised as some kind of vocal minority. If 40% of a community can be dismissed as unrepresentative what does that say of the supporters, none of which came from Portincaple. None of us, including the developers, are in any doubt about how the community feel here – overwhelmingly opposed to the development. 40% is remarkably high for individual objections.

Mr Jamieson suggested objections lodged through the portal on the Scottish Green Party site were somehow really supportive. Mr Greer advised that his role was to make it as easy as possible for the community to engage with the process which allowed objectors to send either a pro-forma or an objection in their own words.

He said that to dismiss those using the pro-forma was intellectual snobbery and dismissed the many people who would otherwise find it impossible to navigate complexities of local planning policy and national planning law to express their objection in a manner material to this process

He advised that Mr Jamieson also mentioned the points made about rhododendron removal in his objection and most of those submitted through the portal on the Greens' website.

This takes us to a key point in their argument – that environmental and ecological improvement of this site can only take place through their development – this is false. Local authority and communities are not dependent on private developers coming along before rhododendron can be removed – precisely why my objection includes proposals for what we can do instead of this development. Funding can be made available to communities, landowners and local authorities to eradicate invasive species. Eradication of invasive species should not and does not need to be transactional, only happening when a landowner or developer is looking to profit from a site decides it is in their interest. Therefore, it is not material to the developer's case

We also heard that the development would not overwhelm the character of Loch Long. As residents have demonstrated, it would overwhelm the character of Portincaple.

Mr Jamieson said this is the 'exact right location' because of an 'urgent need for local housing'. This is false, therefore not grounds on which to approve.

This takes us to wider point around housing. We have been told repeatedly that housing need is from the MoD – where is the evidence for this?

Evidence submitted to the contrary – this development would not meet the MoD's need – in their own words!

This is a point against the proposal, not in its favour.

No MoD need for this housing, there isn't any affordable housing, so it's not meeting that need either – so comes down to whether it's worth disregarding council planning policy for sake of small payment. This could set an unfortunate precedent in the future – to accept developments for a small sum.

One brief additional response, to the contribution made by Mr Urquhart.

Firstly I would suggest that it's rarely advisable for those outwith a community to police the language that a community uses to describe something which so materially affects them. If residents feel this will destroy their community, we should consider why they feel that way, rather than dismiss their concerns on the basis of language.

Mr Urquhart suggests this process has been driven by external political factors.

Wrong on two counts.

Firstly, the community have already demonstrated their overwhelming opposition and their leadership of the campaign.

Secondly, the fact that none of Portincaple's parliamentarians live in Portincaple does not make our objections external. Most councillors on this Committee will

represent a number of different communities whilst only living in one. It does not make their representation any less legitimate. The same applies to MSPs and MPs.

We were all asked by the community to help them – and we did.

I would also draw members' attention to the submission by Michael Russell, neighbouring constituency MSP, who has past experience with this developer, leading to his expressing considerable concern in regards to this development.

The suggestion that I have objected to this development for purely electoral reasons is wearily familiar. I am sure councillors are familiar with those who do not know you casting aspersions as to your motivations too.

The reality is that all of Portincaple's MSPs and its MP object to these proposals.

We are not working against each other for political advantage. We are working together, at the request of our community.

I would like to finish with two additional points of objection not previously covered.

Firstly, as per my written submission, David Nairn of Clyde Porpoise CIC has clearly identified that nearby Loch Goil is one of few known homes to the Sea Squirt *Styela Gelatinosa*. Due to military restrictions the bed of Loch Long has not been examined for many years, but it is highly likely that the sea squirt population extends to this part of the loch. Adding to the existing challenges posed by differences in temperature caused by the climate crisis, sea squirts are highly vulnerable to changes in water composition that can be affected by loss of flora close to the shore.

For these reasons, the application clearly fails the tests set out in policy LDP3.

I also ask that particular consideration is given to brown long-eared bats, a European protected species. These have been present in the local area for many years, as shown by surveys done on surrounding properties. The survey conducted as part of the application was completed during a period of hibernation for this species. Given the likelihood of a protected species present on the site, development without a full and satisfactory bat survey in this location would be unlawful. Scottish planning policy states that planning permission must not be granted for development that would be likely to have an adverse effect on a European protected species.

To round off, this development would not deliver the planning gain it claims.

It is clearly in breach of planning policy – both local and national and it would fundamentally change the character of Portincaple, whose residents overwhelmingly oppose it,

I would ask that councillors take on board the material considerations we have outlined and, on this basis, reject this development.

## **MEMBERS' QUESTIONS**

Councillor Redman commented that one of the objectors had stated there was a European Protected Species that would stop development. He asked if Officers would agree with this. He also asked if this would still apply now the UK were no

longer in the EU. Mrs Curran-Colthart confirmed that the UK adopted European Law as part of the transition in the Brexit process so nothing changed in this respect and those species were still afforded protection. She advised that there was mitigation in terms of the timing for developers to work around these protected species but they must be under licence from Nature Scotland (formerly SNH). In terms of the bat survey, she confirmed that she had seen the report and responded to it at the time. She said the report was appropriate and that the survey was carried at the optimum time to give the best results. She said that any impacts could be mitigated and that she had noted from the landscape strategy that more bat boxes would be put in. Through the clearance of the rhododendrons there would be less vegetation, but still be plenty of foraging for them. The bats would also continue to forage within the gardens so this issue was not a deal breaker.

Councillor McCuish referred to more than 5 dwellings being the figure to trigger a proposal being a minor departure to the LDP. With more than double this figure proposed, he asked why this was still classed as a minor departure. Mrs Davies advised that when Planning Officers determine that something is a departure from policy consideration had to be taken as to whether the departure was strategic and going to affect the strategic aims of the LDP. She said that in this case there was capacity for 12 dwellings so the proposal was considered to be a minor departure.

Councillor McCuish asked if there would be anything to stop the developer coming back in again with another application for more development on the site. Mrs Davies said there would be nothing to stop the developer submitting a further application. She said it would be considered against the policies in the LDP along with any other material considerations.

Councillor McCuish sought and received confirmation from Mr Olive that he had no plans to develop any more of the site.

Councillor Devon referred to statements made about the overwhelming objection to this application. She sought clarification on how many objections had come from the village itself. Mr Robinson advised that the Community Council had looked at the electoral role which listed 94 adults in the village. He said that 53 of these adults had taken the time to object. He commented that a lot of the villagers were elderly and he advised that some people would struggle, or not go to the bother, or have the capability to access the Council's site, to submit their own objection. He pointed out that when that was taken on board, and when considering that not everyone had IT, or the ability to access it, this was a rather large percentage. He said it was probably closer to 55 – 60% that have objected. Mr Cowan advised that 90% of the 3,000 objections received came from residents or from their friends and family. He acknowledged that some people would have put in more than one objection. He also added that this area of land was the subject of a community right to buy application which 52% had signed up to. He said the community were keen to use this for woodland uses and not for this type of development.

Councillor Colville referred to slide 5 of the Planning presentation which showed an aerial view of the site. He pointed out a fairly steep earth bank and received confirmation from Mrs Davies that this did not form part of this application. Mrs Davies highlighted on the slide where the site was.

Councillor Colville sought and received confirmation from Mrs Davies that she had no concerns about the suitability of the site. She said that sufficient information had

been submitted to satisfy Planning Officers that this site could be developed sensitively without impacts on amenity.

Councillor Colville sought assurance from the Applicant that the earth bank would not be disturbed. Mr Jamieson referred to the alluvial fan and its location. He said it was nothing to do with the site itself. He advised that an extensive site investigation report had been undertaken with over 20 trial pits. There was very shallow top soil for most of the site. Rock would be taken away to make the base for the houses. He advised that the house in front of the site had nothing to do with their project and excavations of the bank behind the house had nothing to do with their project.

Councillor Colville questioned how suds drainage would work if it would just be going into rock. Mr Jamieson advised that drainage plans had been submitted to SEPA. SEPA were originally concerned that discharge would go into the burn. It had since been confirmed that it would go into coastal waters. The standard model was accepted by SEPA.

Councillor Colville, referring to the steep earth bank, asked Mr Fletcher to comment on how stable the ground was likely to be. Mr Fletcher said there were a couple of things to mention first. He said that a huge amount of rock removal would have to take place. He referred to the area in the slide showing where the vegetation had been cleared and advised that based on ground floor levels of the new buildings which would be between 1.7 and 2.7 below the existing rock level, he calculated that 9500 cubic metres would require to be removed. He said the rock itself was Columbian gist rock. He said that as the rock level was 0.5m in height in most places he could not see how surface drainage of roof water would be handled.

Councillor Colville referred to affordable housing and the section 75 legal agreement. He asked the Planning Officer how much weight could be given to the MOD requirement which would only last 5 years. Mrs Davies advised that when looking at this application regard was given to policies in the LDP. Policy SG LDP HOU 1 states that where a proposal involves large scale housing development in a Key Rural Settlement, or medium scale and above in a Village or Minor Settlement, there is a general presumption against development. These larger scale developments would only be supported by a deliberate attempt to counter population decline in the area, to help deliver affordable housing, or else meet a particular local housing need. She advised that they were aware from the Strategic Housing Investment Plan (SHIP) that the naval base was growing and have stated there was requirement for more housing. There is no contract in place between the developer and the MOD but the developer has always been keen to pursue this. Given the SHIP document and the fact of the MOD having a future accommodation model where they want to house people outside the base, it was reasonable to accept this proposal as a justification for a minor departure from policy.

Councillor Colville asked if a section 75 agreement had ever been approved before for affordable housing. Mrs Davies thought this may have been taken up in the past but the development had not gone ahead.

Councillor Douglas sought clarification around the affordable housing element of the proposal and what this meant. She asked how much validity there was to the claim of the MOD as letters produced by objectors clearly stated there was no need yet this departure was based on that need. Mrs Davies said that 25% affordable housing was required as part of the policy if a proposal was for 8 units or more. The

Applicant was asked to consider a Registered Social Landlord (RSL) on site but there was no uptake on this so moved down to the level of a commuted sum which would go into the Helensburgh and Lomond fund and used to fund housing elsewhere. The commuted sum was £72,000. In regard to MOD housing, Mrs Davies drew Members' attention to supplementary report number 3 which quoted a response received from Jeremy Quin dated 12 October 2020 in reply to Brendan O'Hara MP. It was stated that currently estimated over the next 5 years the base would require 450 to 500 single living accommodation (SLA). Mrs Davies said she believed this was an identified need.

Councillor Douglas sought comment from objectors. Mr Cowan said affordable housing was a requirement of policy and could not be used as justification to depart from the LDP. He said the only justification for departure from the LDP was the alleged need of the MOD. He referred to the letter from Jackie Baillie MSP to the Community Council which said the MOD need differed from what the provider was developing. He said that was why the community could not understand or believe that the MOD would take up this offer. He said that if the section 75 agreement forbid them from leasing or selling the units to anyone else this would mean the houses would remain empty for 5 years and then the developer could sell them if he wanted.

Councillor Douglas commented that she still did not have clarity on the quite serious issue around departure for so many reasons. She said she really wanted clarity around the situation of the MOD requirement of need. Mrs Worton advised that the Community Council shared her confusion over this. She said it was unclear where the link was being made and that was why the Community Council had approached Jackie Baillie MSP and Brendan O'Hara MP to see if they could seek clarification on this from the MOD. This was done and copies of the letters received from the MOD were provided. These were also submitted to the Council. The MOD were asked for their current capacity and their future needs and if the proposal would meet any of that need. She said the MOD were very explicit with their numbers. It was very clearly said that the need was 450 but none of these would be satisfied by the proposed development. The letter to Jackie Baillie MSP refers to the FAM pilot which would allow service personnel to opt to live in private market accommodation of their choosing. The letter states that the MOD has not commissioned any properties within this proposed scheme and no commitment has been made, nor any agreement entered into or inferred.

Councillor Green said he had 2 questions on the same theme. He said he was surprised that the commuted sum was £72,000 - £24,000 per unit. He sought and received confirmation from Planning that there was a methodical way to how this was calculated. Mr Lodge explained that this involved the equivalent value of land adjacent to the site. He said that in 2013 the Council commissioned the District Valuer to carry out calculations for the whole of Argyll and Bute. In terms of Helensburgh the difference between the cost of development of a private house on land and affordable housing on land was calculated to be £24,000 per house.

Councillor Green asked if this figure would be updated in line with inflation. Mr Lodge advised that this was the figure that was currently being used and that it was up to the developer if he wished to question that and commission the District Valuer for an updated calculation. He said that no updated calculation has been asked for since 2013 as market in land has been pretty static and did not justify recalculating. He said this was something that would need to be done in the future.

Councillor Green referred to the properties identified as suitable for MOD occupation and asked the developer if there was a timeline proposed for that. He asked if there was a general agreement in place at the moment that once planning permission was in place the developer would look at getting this agreement or would it only be secured once the properties were built. He also asked if no agreement was secured with the MOD was there an alternative plan for those units. Mr Jamieson referred to the MOD letters in response to the question asked by both Jackie Baillie MSP and Brenda O'Hara MP about whether not the MOD had a contract with the developer. Mr Jamieson advised that they had never said anything about having a contract with the Navy. He said that they'd had many discussions and the MOD had said, and which, he pointed out, was in the letter to Jackie Baillie MSP as part of the explanation about the FAM pilot, there was no need for a contract with the MOD. Referring to the section 75 agreement, he said that they may go into contract with the MOD or they may just market the properties directly to Navy personnel or others on the base that could make use of the FAM grant.

Councillor Green asked the developer if there were any alternative plans. Mr Jamieson advised that in the same letter referred to above and in discussions with the Navy, the MOD had advised of their accommodation needs and the accommodation was designed with Navy personnel in mind. Mr Jamieson said he thought that there would be a big take up for these properties.

Councillor Moffat asked Planning Officers how critical the water source heating system would be to granting this planning application. Mrs Davies said that the water source heating system was a positive thing in terms of tackling climate change but was not critical to the determination of this application.

Councillor Moffat sought and received confirmation from Mrs Davies that the road would be realigned through the woodland to the other side of the private access to where the houses were.

Councillor Moffat referred to it being said that any remedial repairs to the Feuins Road, the bridge and culverts had to be completed within 12 months of completion of the project. She questioned why such repairs could not be carried out at the time of any damage. Ms Lawson advised that the reason for putting it within 12 months was to ensure that an assessment was carried out at the end of the project. She advised that any repairs found during that assessment would have to be completed within 12 months. She also advised that if any damage occurred during construction which was deemed to be dangerous or in need of urgent repair this would be done whilst the works were ongoing.

Councillor Freeman sought and received confirmation from Mr Jamieson that the total cost of the development would be just over £3m.

Councillor Freeman sought and received confirmation from Mr Jamieson that Mr Olive owned the piece of land to be brought up to adoptable standard. Mr Jamieson pointed out that although the road would be realigned through woodland, it was identified in the woodlands inventory that there were very few trees at that part of the site.

Councillor Freeman referred to the section 75 agreement and affordable housing. He said that normally 25% of a development was looked at for affordable housing.

He suggested that if the Council was to take 25% of the total cost of the project this would come to £750,000 if the project cost £3m. He said that the £72,000 on offer was only a fraction of what it would cost the developer to develop on the site. He asked Planning if they would agree this was saving the developer money. Mrs Davies advised that the 25% related to the number of units not the amount of money. She said this was done in the same way in other areas.

Councillor Freeman referred to the MOD requirements detailed in the letters and correspondence available to Members. He said that the MOD had clearly confirmed at this time they have service family accommodation lying empty with 105 unoccupied units. He said they were also in the process of converting further units for personnel and the correspondence clearly stated that this proposal was not in their plans at this time. He asked if Mrs Davies could confirm if the developer had approval, then built these homes, and then offered them to the MOD and they said 'no thanks', that the developer would be free after 5 years to sell as he sees fit. Mrs Davies said the section 75 agreement did not exclusively require the developer to go to the MOD. The developer could go direct to the people who worked at the MOD and that there were a range of ways the developer could provide this housing requirement. She said that the reason for the section 75 agreement was to ensure that this happened. She referred to a previous application for Homes for Heroes that did not have a section 75 agreement and on that occasion the development just went mainstream and Planning Officers were trying to prevent that from happening again.

Councillor Freeman said that the proposal appeared to come across as barracks accommodation. He asked Mrs Davies if she would agree that a large amount of military personnel living in a small community would be out of keeping with the current residents of that community. Mrs Davies said that part of the proposal was for 3 units with 5 bedrooms viewed as Class 9. She said that was how the proposal had been assessed and that there was a potential that there will be a need for HMO licensing.

Councillor McCuish asked how much consultation the developer had with the local community. Mr Olive advised that right at the beginning he voluntarily made a presentation to the local Community Council about possibilities for the site. He said he came away from that meeting with the view that the community did not want a commercial development on this site and that they wanted a smaller scheme. He said that he had listened to them and reacted to their request. He advised that since then he has had a number of correspondences, particularly with Watson Robinson the Chair of the Community Council, and he said that he had urged Mr Robinson to pass on his enthusiasm to help this area become reinstated as a native woodland. He said that there was a lot of rhododendrons, not just on the site, but in other people's private gardens. He advised that he has suggested several times that everyone get together as a community and apply for community funds to eradicate this invasive species not just from his site but from other sites. He said that he has received no response to this suggestion. He advised that he has also had one or two bits of correspondence with individual members of the community and in each case he replied by letter or email as appropriate. He said that he had tried as far as possible to engage with the community. He said that he was afraid that there was an element of the community determined to consider something quite different to what was being proposed.

Councillor McCuish asked Mr Robinson the same question. Mr Robinson acknowledged that Mr Olive and consulted with the community. He advised that the

Community Council certainly did communicate with Mr Olive early doors. He said that Mr Olive came along to the Community Council AGM in July 2019. He said that they had made sure that everyone that would be affected was in attendance at the meeting. He said that they had a fair number of local residents in attendance. He said that at that time, when Mr Olive showed his proposal, a lot of people present were horrified and upset. He advised that the Community Council had also tried to engage with Mr Olive prior to this to find out what be proposed for the land. He said their lives had not been the same since. He confirmed that Mr Olive has communicated by email and that he has passed these on to the community. He said that the Community Council has hidden nothing or kept anything to themselves and that they have always done their very best to engage. He said they have not only engaged with Mr Olive and engaged with local people, but they have also engaged with one or two people that have supported the proposal and engaged with the architect and his representatives. He said that the Community Council have done all they could and obtained all the relevant information for the community.

Councillor Blair sought and received confirmation from Ms Lawson that there were no weight restrictions that she knew of on the bridges. She confirmed that the Council had bridge inspectors and a monitoring schedule and that they would continue to assess while works were carried out. Any concerns raised would be investigated and made safe.

Councillor Colville sought and received confirmation from Mr Jamieson that Mr Olive owned the private road.

Councillor Colville asked Ms Lawson if she could confirm how many passing places were on Feuins Road. Ms Lawson said she could not as every time she had gone out to count them people have been parked in them. She referred to a caravan and trailer. She said that the road had various widths and it was her understanding that there were adequate passing places.

Councillor Freeman asked Mr Robinson if he would agree that there was one small pull in at the top of the road that was used as a lay by and from there all the way down to the far end there were no passing places. He also referred to a small turning area and entrances to properties. Mr Robinson said that Councillor Freeman was correct to say there were no passing places on Feuins Road. He said that there was no way that this road was adequate for this development.

Councillor Kinniburgh referred to pictures shown of the road today and of vehicles having difficulty passing. He asked if it was still Ms Lawson's view that the road was wide enough. Ms Lawson advised that she had taken the opportunity of looking on google maps which showed that from the bend to the private road there were 4 localised widenings. She said that people were parking there and suggested that passing place signs may be required to be put up to stop people from parking in them.

Councillor Kinniburgh asked if there was a requirement to upgrade the road going into Portincaple. Ms Lawson said there was no requirement to upgrade the existing road. There was only a requirement to upgrade the private road as the gradient was very steep and it was to be made up to adoptable standard.

Councillor Kinniburgh sought clarity on the section 75 agreement. He asked if the section 75 agreement needed to be agreed with the MOD. Mrs Davies said it did not

need to be agreed with the MOD. She said there were a number of ways in which the Applicant could let the units to MOD personnel. She said the section 75 agreement was there to try and secure units for the identified housing need.

Councillor Kinniburgh sought and received confirmation from Mrs Davies that the section 75 agreement related to 3 units.

Councillor Kinniburgh sought and received confirmation from Mrs Davies that the terms of the agreement meant the units could only be let, not sold.

Councillor Kinniburgh asked if it would be possible for the developer to not do anything with the units for 5 years and then sell them. Mrs Davies said this would be possible but she hoped that the developer would want to move on the section 75 agreement as they have always advocated that they wanted houses associated with the MOD expansion. She said that this was something they brought to the table.

Councillor Kinniburgh sought and received confirmation from Mrs Davies that the section 75 agreement would be solid for 5 years to see if the identified need was going to happen. She said that the developer feels that it will happen. She said it helped justify the departure from the LDP.

Councillor Moffat sought and received confirmation from Ms Lawson that local residents had off street parking in their driveways. Ms Lawson said that the properties she has seen all had private driveways but she did not know if they were easy or not to use. She said that the passing places were not parking spaces.

Councillor Moffat redirected her question to Mr Robinson. Mr Robinson said that Ms Lawson had continued to refer to caravans and a trailer in passing places. He said there were no passing places. He said the caravan she referred to was his and he had it parked in an area he had dug out. He said Ms Lawson was misleading the Committee with her own opinion which, he said, clearly held no water.

## **SUMMING UP**

### **Planning**

Howard Young advised that as indicated the application was for 12 houses and associated works. No hotel was proposed as part of the development. The key determine issues related to the siting, design and scale of the proposal; roads and access issues; flooding and drainage issues; impacts on trees; impacts on biodiversity, protected species and the landscape which is designated as an Area of Panoramic Quality; and the principle of a medium scale development in a minor settlement and the justification for departure.

Portincaple is defined as a village in the LDP. The proposal is for 12 houses, which is defined as medium scale within the plan. Policy DM 1 is supportive of small scale development on appropriate sites. As 12 dwelling houses constitutes medium scale development the proposal is a departure from Policy DM 1. However, it is considered that a development of this scale could be accommodated on this site without detriment to the amenity of the surrounding area. Other than breaching the 5 dwelling limit stipulated in the policy, there would be no other reason to resist the proposed development. There would be nothing to prevent the Applicant from applying for this proposal in groups of 5 or less houses. This piecemeal approach to

development has the potential to result in a poorly coordinated scheme with the added disadvantage that the Council are not able to take advantage of planning gain for affordable housing.

The proposed development is located within the mid level area at the northern end of the settlement and would look over the top of the lower level houses and site below the top level houses.

There are no statutory or non-statutory designated areas for nature conservation within the boundaries of the application site. A number of supporting documents have been submitted in relation to the natural environment. The Council's Biodiversity Officer has been consulted on this application and is satisfied with the supporting information subject to conditions.

It is considered that the proposed woodland management plan will add to the biodiversity of the area. In terms of landscape capacity it is considered that the landscape has the capacity to absorb the scale of this development.

With reference to Affordable Housing a sequential approach is taken. ACHA was approached but in terms of their timetable they could not take on the build of the 3 units. Consideration was then given to the commuted sum approach. Much as Planning would like to take development land value of the site, under the Community Land Act we can longer take the value of land.

The Roads Officer has offered no objection to this proposal subject to conditions.

Planning Officers are required to assess all applications in terms of Section 25 of the Town and Country Planning (Scotland) Act 1997 and against Local Development Plan policies and other material considerations. It goes without saying that this has been done in a professional manner. Material considerations include woodland management plan and other improvements. The 3,000 objections are also a key material consideration. Other Councils have a cut off when they no longer consider representations. Argyll and Bute Council does not think that this a fair thing to do. We have communicated any last minute representations in reports or verbally. Officers do their best to advise on the various viewpoints of representatives, even if submitted on the day of a hearing. Objectors have also had the opportunity to speak at the hearing today.

In conclusion the proposal has been assessed as a minor but justified departure from policy give the scale of the development proposed. The proposal accords with all other LDP policies and there are no other adverse material considerations which would indicate that planning permission should be refused.

### **Applicant**

Mike Hyde, on behalf of the Applicant, summed up as follows:

Thank you for giving me the opportunity to sum up on behalf of the applicant. It has been a long day so I will be as quick as I can.

This is an application for the erection of 12 houses on land within the boundaries of an identified settlement, where there is a presumption in favour of new development. It should not therefore have been such a contentious proposal.

However, the Council's systems have been swamped by objections to the application that have been engineered by the Scottish Green Party. These have largely been submitted by people who have no detailed knowledge of either the application, or the application site, and they should thus be given limited weight.

The applicant could have avoided controversy by simply applying for 5 houses in the first instance, and then another 5, and each of these applications would have been fully supported by Policy DM1 of the Local Development Plan.

Instead, in order to have an economically viable development, he has applied for 12 houses. In doing so, he has also provided the Council with the opportunity to secure a wide range of public benefits, which would otherwise not have been a possibility.

Just because the application proposal is for more than 5 houses, this does not mean that it cannot be supported. It also cannot be assessed on the basis that it might be 'Phase 1' of a larger development. In law, every planning application must be considered on its own individual merits.

As your officers have stated, Policy HOU 1 of your Supplementary Guidance states that "housing development, for which there is a general presumption against, will not be supported unless an exceptional case is successfully demonstrated.

Exceptional cases can include a deliberate attempt to counter population decline in the area, helping to deliver affordable housing, or otherwise meeting a particular local housing need.

Meeting the housing needs of the Faslane base is recognised in the Council's Strategic Housing Investment Plan (SHIP) which states that "ensuring sufficient and suitable capacity within the local housing system to address the anticipated increased demand will be a priority for the SHIP over the next 5 to 10 years."

Meeting this specific need is also identified in the Council's Proposed Local Development Plan, which designates Helensburgh and Lomond as a growth area in the new spatial strategy. Policy 01 of the Proposed Plan removes the 'upper limit' of 5 houses in a Village/Minor Settlement. The Council have accepted that having this arbitrary limit in place has, in other locations, led to a piecemeal approach to development, without the Council being in a position to secure any public benefits.

Both the SHIP and the Proposed Local Development Plan are material planning considerations, and the Committee must therefore take them in to account.

The current proposal will deliver affordable housing, via the payment of a 'commuted sum' of £72,000, and will also meet a particular housing need, i.e., it will meet the demand for new housing in the area that will be required as a direct result of the expansion of the Faslane base. This does not mean that there has to be direct involvement by the base, the fact is that 3 of the houses will be available for occupation by navy personnel or other base staff and, as your Planning Officer has advised, could be privately rented. Both will be secured through the signing of a S75 Planning Obligation.

In terms of the principle of the development your officers have therefore concluded that there are compelling and justifiable reasons to approve the application as a

minor departure from the provisions of the Local Development Plan. They have also advised that other than breaching the 5-dwelling limit contained in Policy DM1, there is no other planning reason to refuse the application.

With respect to the site-specific issues none of the consultees with professional expertise in the relevant areas have raised any objections to the application.

Your Biodiversity Officer has supported the proposals, and the application is accompanied by a detailed Woodland Management Plan. This notes that the survival of the woodland in the long term will be dependent on the ongoing removal of *Rhododendron ponticum*, which will in turn allow the biodiversity value of the woodland, enriched under this proposal, to be sustained. Where trees do need to be felled, in order to accommodate the development, these will be replaced on a 3 to 1 basis with appropriate native species. In the long term, the biodiversity value of the woodland will increase significantly.

Your Conservation Officer has said that the proposed development is appropriate for this site from a design point of view. There will be no adverse impact on the Area of Panoramic Quality, and the Landscape/Seascape assessment published in March 2013 specifically notes that there are opportunities for additional housing development associated with the alluvial fan at Portincaple.

A specific question has been asked about rock removal. The Design Statement makes it clear that any rock removed will be used and regraded within the site boundary. A condition is recommended to require further details of this to be submitted prior to the commencement of development.

Your Roads Officer has confirmed that Feuins Road has sufficient capacity to accommodate the additional traffic that would be generated by the 12 new houses. The proposed new access to the site will also resolve a recognised highway safety concern, i.e., the steep and potentially dangerous section of the private road beyond the end of the adopted public highway. Once completed the section of new road will be of a standard that will enable it to be adopted by the Council. With respect to parking provision the development goes beyond the requirements of the current policy, by providing additional visitor parking and electric charging points.

Finally, there have been no objections to the application on the grounds of flood risk from either SEPA or the Council's Flood Officer.

For all of these reasons, your planning officers have recommended that this application should be approved as a minor departure from the provisions of Policy DM1 of the Local Development Plan. This on the basis that, as set out in Policy HOU 1 of the Supplementary Guidance, it will both secure the provision of affordable housing and will meet an identified housing need.

In addition, the granting of planning permission, subject to the proposed Section 75 Agreement and the imposition of the recommended conditions, will secure the implementation of a long-term Woodland Management Plan, improvements to a potentially dangerous section of road, the provision of informal public access to the lochshore and the installation of an innovative loch water district heating system.

The application proposal has been described as an 'exemplar' development, i.e., one that will set the future standard for low-carbon sustainable development throughout Argyll and Bute.

I would therefore request that you agree with your Planning Officer's recommendation in this instance, and that you grant planning permission for the erection of the 12 houses proposed, subject to the prior conclusion of the Section 75 Agreement and the imposition of the suggested conditions.

Thank you.

### **Consultees**

#### **Garelochhead Community Council**

To answer Mr Hyde, a presumption in favour of sustainable development does not change the status of the LDP. Planning applications need to be determined in accordance with the LDP unless there are other material considerations. Regarding the query about roads – some houses do not have driveways and no suitable off street parking. It was pointed out that rhododendrons was not listed as an evasive species on the Council's website in 2015. It was noted that this had now been updated. Reference was made to the residents of Portincaple having to remove fly tipping annually. Reference was also made to illegal camping and fly tipping along the A814. The community would not want to encourage further day trippers. Reference was also made to comments from Mr Urquhart about the Three Lochs Way. Portincaple has no transport links and it would be easier to access the Three Lochs Way 6 miles further on at Garelochhead. It was difficult to establish new paths on MOD land, railway etc. This would have to be given serious consideration. Reference was also made to the developer's previous application for a hunting lodge which was now being advertised on Airbnb as a wedding venue.

In terms of commuted sums. A question was put in an foi to the council. It asked for a list of all approved planning applications in Argyll and Bute where commuted sums have been accepted in lieu of providing 25% of the project as affordable housing. The response was that no commuted sums have been paid to the Council.

I am afraid the presentation by the planning department has not taken into account several important considerations.

This development is described as infill by both planning and the applicant. Can I remind you that the definition of infill in Argyll and Bute's own glossary is to allow no more than the number houses that border the development plot to be built. This number is four. Thus this aspect of the LDP is breached.

The density of this development in comparison to existing housing density style and type is completely out of keeping despite protestations to the contrary.

The increased access to the shore through the increased provision and development of tourist and day tripper facilities - picnic tables, public seating, public realm space and paths has been ignored by planning and by roads who stated clearly that they thought the Feuins road is currently purely residential and will continue to be after the development. This is manifestly untrue given what has been said. As such, this is not purely a development of 12 houses as stated by the planning officer, and the

impact on the character of the existing settlement of HMOs and the public realm space has simply not been addressed.

Allowing 12 houses rather than five just means proposals will come in batches of 12 not 5.

It is important to point out that neither planning nor the developer acknowledges that the Clyde seascape study also warns of visual clutter in this stretch of Loch long.

Rather than stop piecemeal development it encourages larger developments in minor settlements and poses a danger elsewhere in Argyll and Bute.

SHIP has been referenced by planning and the developers but it is important to note that the SHIP steers development to towns and key settlements and does not identify Portincaple for any housing development. As stated in our presentation earlier the council itself has identified that there is more than enough land to address all housing need and the MOD has stated this development is neither in their planning or desired.

The heating system among many other aspects of this development are speculative so the assertion that they will be delivered is incorrect. The developers make much of this as central to the development yet it cannot be guaranteed at this stage. The future plan for a jetty is not part of this proposal so has to be disregarded at this stage.

The formal and increased public access to the water very much touted as an important part of this development will impact significantly and negatively on the existing character of the settlement. There has been no consultation with the community by the council or developer with regard to turning the hamlet into a tourist development.

We ask the committee to give due and thorough consideration to the presentations of the residents and those representing them. These are ordinary people, they are simply people like you and me, trying to protect and preserve Portincaple for future generations by outlining its unique characteristics and explaining why such a widespread and well informed movement has mobilised to protect and preserve a clearly very unique minor settlement in an Area of Panoramic Quality. There is good evidence that there is a wisdom in crowds.

To try to convey what it means to live in Portincaple, and what it provides has not been easy. It is a hideaway, a bolthole, a place of solitude and serenity, the very type of settlement that fulfils a need in the modern world and is a vital cog in the wheel of housing diversity. Portincaple is also an economically active collection of freehold detached houses isolated by any form of transport except for car. As has been clearly demonstrated, you cannot cycle or walk safely out of Portincaple due to the narrowness and lack of shoulders on the A814. We need to stress that this is the wrong development in the wrong location.

We have all listened carefully to the arguments for and against this development, and it is clear that there is an overwhelming acceptance that Portincaple is both unique and beautiful. The characteristics which make this minor settlement so unique will be irreparably damaged if this application is approved. The development will provide no affordable housing for the area and there is a distinct absence of any

evidence that this development is either desired or required to accommodate the expansion of HMNB Clyde. Indeed there is a wealth of evidence, much of it from the council's own documentation, that it is not. As such we do not believe that there is a clearly defined need that would justify a departure from the LDP in this case.

We would urge you to focus on the justification for departure and on whether or not the material considerations clearly and unequivocally meet the criteria for approval as a justified, minor departure from the LDP.

We can summarise the case for refusal the objectors have collectively proved as follows:

- There is no community support for this development;
- It has been shown to be contrary to planning policy, other laws and policies;
- It is not in keeping with the context or scale of the area;
- It will have a negative impact on APQ and ancient woodland;
- It will have a negative impact on the amenity of properties;
- The layout and density is totally inappropriate for the area;
- It will cause traffic congestion, access and safety problems;
- It will make it much more difficult to refuse similar proposals that contravene DM1 in the future;
- It will create a precedent making it difficult to resist commuted sums in future applications;
- It will impact on environmental health, an APQ and the natural environment
- It will create visual clutter from the loch;
- It will not be able to be serviced by local infrastructure;
- It will have a damaging, cumulative impact alongside other previously approved applications.

We would implore you to ignore the expert marketing and lobbying by the applicant and to dismiss the suggestion of supposed planning gains which are speculative at best and wishful, cynical marketing, at worst and to refuse this application.

Thank you for your time.

### **Roads Officer**

Ms Lawson advised that Feuins Road was residential and had the capacity for an additional 12 dwellings. She said it would still be residential as it did not feed any industry or leisure or sporting destinations. She said that the road and bridges would be inspected and assessed for any damage during and after construction. The parking proposed was well within the requirements of policy SG LDP TRAN 6 so from a Road's point of view, Feuins Roads was capable of handling the proposed development.

### **Biodiversity Officer**

Mrs Curran-Colthart advised that in terms of the surveys carried out these were appropriate. The proposed management plan for the woodland, including tree planting and landscaping proposed would raise the biodiversity of the area. In terms of choice of species, there would be a lot more variety to enjoy.

## Objectors

### Ron Fletcher

Comments in reverse order rather than as originally raised.

### Biodiversity

The Biodiversity Officer said she was happy with the surveys but most of the surveys submitted by the applicant were generally carried out at the wrong time of year.

### Roads

Suddenly the category of leisure was introduced as a descriptor of rural road classification. The additional visitor parking spaces, plus the over supply of places relative to the 12 houses could be interpreted as leading to a leisure destination. I've already addressed the concerns about the capacity of the road to support the extra traffic demand.

### New drawings

Some new information was introduced during earlier presentations, which had not been in the public domain previously. Drawings displayed totally new.

### Submitted information

Throughout the period from when the application was submitted, it has been a story of late, incomplete, inaccurate or misleading documents being supplied and accepted by the Council. If that had been the case when I was in employment, I would have quickly lost my job.

### Alluvial fan

Various presentations mentioned the alluvial fan at Portincaple. For clarity that is at the mouth of the burn which reaches the loch down past Ferry House, not in the location hinted at by the developer.

### Rock Work

Neither the Planners nor the developer mentioned the huge amount of break out/excavation required, (c10,000 cu. m), to achieve the formation levels proposed, when describing the various cross section drawings in their presentations.

### Planning gains list

Again new items were introduced during the applicant's presentation which were not in the public domain previously.

### Section 75 agreement

The confusion regarding this item is understandable, and further compounded by the statement in the MH Planning Document, submitted with the application last year. On Page 17, item 7.19, refers to "Argyll Homes have expressed an interest in taking

over the responsibility for the affordable homes once the Navy have ended their 10-year lease”.

### Consistency

Finally I would bring to the attention of elected members, some of whom may have been involved at the time, that on land directly opposite the entrance to this site, an application for 3 houses was made under reference 17/03205/PPP. This was withdrawn following discussion with the council because the houses were located in part of an ancient woodland area. A site inspection was carried out by officers and a TPO was subsequently issued.

The houses were relocated within the plot and the application resubmitted under reference 18/01787/PPP and it was given approval at a subsequent PPSLC meeting. The terraced block in this application is situated within an area of ancient woodland, so in the interest of consistency and democratic integrity, it should have been moved to a new location, on advice from the officers concerned, when the original pre-application meetings were held and before the site layout drawings were put into the public domain as part of this application.

### Precedent

I would ask the elected members to carefully consider the precedent that may be set for the whole of the rest of Argyll and Bute, should they grant approval today.

Thank you Chair that concludes my summing up.

### **Ian Cowan**

1. Feuins Road is a single-track road, less than 4.8 metres wide for much of its length, with no passing places, as has been made very clear. It is not even suitable for 58 dwellings, let alone the extra 44 cars that the proposal is capable of generating, and would be likely to generate.
2. Affordable housing is a requirement so cannot be used to justify what is a significant departure.
3. The architect repeated that the developer has never claimed that an agreement was in place with the Navy or MOD. Developer's planning statement para 7.19 refers to a "10-year lease" with the Navy.
4. The MOD claims to have a housing need, but it owns many properties in the area which have been vacant for years, so the need is questioned.
5. It is clear that the MOD knows about, but has no specific interest in this development.

### **Ross Greer MSP**

The Applicant again asked you to give limited weight to the applications lodged through Green portal. Those include objections lodged by Portincaple residents. My team made this process more accessible for those who, for reasons of technology, knowledge or confidence, would otherwise be unable to engage. To give lesser weight to submissions made by those most likely to otherwise be marginalised and excluded would be completely inappropriate.

With reference to Councillor Devon's question about the number of objections and their connection to Portincaple, I am aware of a number that came from elsewhere in Argyll and Bute and would again refer Councillors to the submission from Michael Russell MSP, referring to his previous experience and that of other communities in Argyll and Bute with this developer. That experience, particularly of a development going beyond what was originally presented to the council, is quite relevant here. Past experience only strengthens the case for rejection.

Building new houses is not helping to tackle the climate crisis and meet council climate policies unless they are somehow absorbing more carbon and other greenhouse gases than they and their occupants are generating - which these are not. They just produce less than normal but will still mean increased emissions – in this case particularly from private cars. If they are replacing old, inefficient housing stock it might represent a net saving but these are not Council or housing association stock, replacing older stock, so that's not really the case.

There are plenty of material grounds on which to reject. All acknowledge this breaches local planning policy - granting it despite that seems to rest on the single argument about housing need, specifically MoD housing need, which has been revealed as essentially speculative. Council planning policy, agreed after extensive community consultation and only with the agreement of elected members, should only be overridden when the benefit is clear and unquestionable. In this case it is not, it is deeply uncertain and there is clear evidence against it.

Councillor Freeman has pointed out the substantial number of vacant properties the MoD have themselves with which to fulfil much of their housing need.

The Portincaple community are concerned that, if this development is granted, it will fundamentally change the character of their home – and not for the better.

The development is simply unnecessary and it is clearly unwanted.

On the basis of the material considerations set out over the last seven hours, I would ask that you protect Portincaple and reject the proposal.

The Chair asked everyone who had participated if they had received a fair hearing.

The Planning Officers and Applicant confirmed that they had received a fair hearing.

Mrs Worton advised that Garelochhead Community Council did not believe they had received a fair hearing. She said there had been great discussions today but they felt they had been significantly hampered in terms of preparing for this hearing and that feedback had been very difficult.

The Roads Officer and Biodiversity Officer confirmed that they had received a fair hearing.

Mr Fletcher advised that he had not received a fair hearing.

Mr Cowan advised that in the circumstances, reluctantly he would say he had received a fair hearing but in terms of the bigger picture he did not think the community had been properly served by this process.

Mr Greer said he was very grateful for the work of Officers and that he echoed the words of Mr Cowan.

## **DEBATE**

Councillor Freeman referred to the volume of last minute paperwork submitted. He also referred to the Community Council meeting in 2019 and confirmed that he was in attendance but took no part in the discussion in relation to the proposed development. He said that when the presentation was given by Mr Olive there was anger on that night and it was clear that there were residents from Portincaple in tears. He then referred to roads issues and advised that he had looked up the Council's own mapping system which showed photographs of Feuins Road. He said that the photos showed that lots of properties on Feuins Road did not have their own off street parking and it was quite clear that there were no passing places. He said that the only way to secure passing places would be for the Council to go down the route of compulsory purchase as there was no other place to put passing places. He advised of there being a number of empty MOD properties in Helensburgh and Rhu and that the MOD had just finished demolishing approximately 100 houses in Rhu. He said it was clear that they had no need for them. He referred to planning gain and advised that the upgrade of the A814 onto Feuins Road was not planning gain. He said this upgrade has been in the Council's Capital Programme for some time and had nothing to do with this application so could not be considered as planning gain. He advised that Community Councils were required to reflect the views of the community and that he had no doubt whatsoever that Garelochhead Community Council and Portincaple Residents Association had 100% represented the views of the community and that no one in that area supported the application. He said that he would put far greater weighting on the views of the local community than from those from other countries or elsewhere who were unlikely to ever see the development. He said that the Committee were required to assess all applications based on the LDP unless there were material considerations to do otherwise. He referred to the issues raised about affordable housing and planning gain. He pointed out that policies LDP DM 1 and SG LDP HOU 1 were quite clear. He said he did not think the affordable housing issue was, in his view, being used as it should and it really concerned him that a developer could end up offering 5% or 10% of the value of the development if delivery of onsite affordable housing was not possible. He advised that he had listened to all the representations and he congratulated all those who had made them. He said that having considered all the issues he had a motion which he would email to Officers and which he intended to table at the appropriate time.

Councillor Douglas said that the standard and quality of the presentations given had been excellent. She advised that she had concerns about the impact that this development would have on the community and not just the environment around it. She referred to the number of adults in Portincaple being 92 and then referred to the number of dwellings proposed and the number of adults likely to occupy these. She calculated that 9 units with 2 adults in each would be 18 adults and 3 units with 5 adults would be 15 adults. She said she thought the increase to the area would be really high and that this high a percentage had to be taken into account. She also referred to Councillor Freeman describing the 3 units as barracks and she said she thought this would have an impact on the community too. She said that she too had a motion ready but would like to hear what Councillor Freeman said first. She advised that what stuck in her mind was the video prepared by the local community and one resident describing what it was like to live in Portincaple – 'living together

and being together'. Councillor Douglas said this was what it was all about and that she thought this development would totally impact on the residents 'living together and being together'. She referred to this being a medium development in a small community.

Councillor Moffat advised that for the first time her sole aim of this was to look at how this would affect the community because the Committee were used to considering applications for 400 houses in places such as Oban where, she said, the impact was not as strong on the community. For this proposal, she said, this was quite a large percentile of the area being developed. She advised that she could not see this being of benefit to the people and could only see it harming their way of life. She said she did not think there was anything that could draw her to approve this and advised that the proposal was the wrong size, in the wrong place, at the wrong time.

Councillor Colville said that he had took on board what Mr Young had said in his summing up. He had emphasised that the number of representations received was a material consideration. He said he too was impressed with the presentations made, particularly the one from the Save Loch Long Protect Portincaple Group. He said his concern was the use of the MOD requirement as identified need appeared to be weakened. He said he thought it unlikely this would be implemented with 5 years. He advised that from what he had heard, the influx of navy workers was not going to happen immediately. It could happen in 5 years but there was no guarantee. He referred to comment made that if this proposal was being assessed against the LDP2 it would be more acceptable. He pointed out that the reality of this was this was under review and has been challenged so may not be the case and may be thrown out. He said the Committee needed to deal with current LDP. He advised that one of the issues that caused him concern was the scale of the development. He referred to slide 5 of the Planning Officer's presentation and said that he had counted 12 houses in that picture. He advised that to build another 12 in the middle of that area, the scale and massing of the development, seemed not to fit with that.

Councillor Kinniburgh thanked everyone for their presentations made today. He commented that handling a hearing in this manner was a difficult process. He said that the main aim of a hearing was to make sure that everyone had a fair hearing and listening to all the arguments put forward, he believed that this had been carried out today. He advised that listening to the various arguments he was finding it difficult in reaching a decision. He advised that he had reservations about the section 75 agreement as he was unclear on how that would be implemented. He understood that it put the requirement on the developer to produce houses for the MOD but he advised that he was unclear on how that could be properly implemented. The other issue he said he had was on the access. He advised that he had listened to what the Roads Officer had said and that he respected her view and that passing places could be made available, but looking at the development as a whole, he said there would be quite an increase in traffic. He said he would wait to hear Councillor Freeman's motion.

Councillor Blair said that he too had reservations and concurred with the comments made by his colleagues. He said there appeared to be surplus MOD properties that were being knocked down. He referred to organisations not wanting to pay for accommodation for employees. He said he would wait to hear the motion before deciding.

Councillor Freeman read out the following Motion which had been circulated to the Committee:

Members of the Planning, Protective Services and Licensing Committee (PPSLC) note the contents of the report and all the representations that have been made with regards to Planning Application 20/00094/PP for the erection of 12 dwellinghouses, alterations to vehicular access and the installation of a private drainage system within the settlement boundary of Portincaple.

Members note that:

- a. Officers have confirmed that this proposal is a medium scale residential development within Portincaple which is classified as a minor settlement within the Local Development Plan (LDP). As such, the proposed development fails to comply with Policy DM1 which only supports small scale developments in minor settlements which, in terms of dwellings, equates to a maximum of five units.
- b. Officers have confirmed that supplementary guidance policy SG LDP HOU 1 presumes against medium scale housing development in villages / minor settlements and that these larger scales of development would only be supported by a deliberate attempt to counter population decline in the area, to help deliver affordable housing, or else meet a particular local housing need.
- c. Officers state that the proposal would not overwhelm the townscape character or the capacity of the settlement and have stated that the identified housing need relates to the Ministry of Defence's (MoD) Maritime Change Programme which has resulted in all UK submarine operations being delivered from the Clyde which has created a need for housing for military personnel and that houses will be made available within this development specifically for this purpose.
- d. Officers state that in the circumstances set out at c. above, it is considered that there are compelling and justifiable reasons to approve this application as a minor departure from Policy DM1. Officers confirm that Policy SG LDP DEP 1 seeks to minimise the occurrence of departures to the Local Development Plan and to grant planning permission as a departure only when material considerations so justify. Officers confirm that the argument that this proposed development will help to address the housing need created by the MoD's Maritime Change Programme justifies a minor departure from this policy.
- e. Within correspondence from the MoD dated 12 October 2020, details have been provided on MoD general housing needs and housing availability within the Helensburgh & Lomond Area. The MoD have confirmed that there are two types of properties available to Service personnel within the travel to work area which includes 515 Service Family Accommodation (SFA) of which 145 are unoccupied. Although they have confirmed that the majority of the Single Living Accommodation (SLA) is located within HM Naval Base Clyde, 57 SFA houses have been converted to SLA which accommodates 114 personnel and that a

further 34 SFA are due to be converted to SLA to accommodate a further 68 personnel. All these properties are located within Helensburgh.

- f. Although the MoD correspondence confirms that they are undertaking a period of options analysis and are seeking to understand the development options that may be available via MoD owned estate, Defence Infrastructure Organisation (DIO) surplus housing, Council owned land and properties and private land, including new developments for housing, no decisions have been made nor implied. The MoD have confirmed that they have spoken with the developer concerning the Portincaple proposal and obtained a high understanding of the project but no further action has been taken.
- g. The MoD have confirmed that “When the time comes, this proposal will be analysed along with any other options and proposals within the travel to work area, but no further developmental sites have been included in the planning at this stage”.
- h. Officers have stated that the affordable housing requirements will be addressed via a total commuted sum of £72,000 (three units at £24,000 each) and that this will be used to fund affordable housing off-site and elsewhere within the Helensburgh and Lomond Housing Market Area.

PPSLC agrees that:

- a. The proposed development fails to comply with Policy DM1 which only supports small scale developments in minor settlements which, in terms of dwellings, equates to a maximum of five units.
- b. The Proposed development fails to comply with supplementary guidance policy SG LDP HOU 1 that presumes against medium scale housing development in villages / minor settlements.
- c. The proposed development does not meet a specific identified local housing need that would allow a departure from supplementary guidance policy SG LDP HOU 1 to be supported.
- d. The proposed development does not meet any specific housing need at this location relating to the MoD as they have confirmed in correspondence that they currently have 145 unoccupied properties in the Helensburgh / Rhu area and that further properties are due to be converted to accommodate a further 68 personnel.
- e. The proposed development has not been included by the MoD in their planning assumptions relating to local housing need.
- f. The proposed payment of a commuted sum of £72,000 would be a very minor contribution to any other affordable housing development within the Helensburgh

& Lomond Housing Market Area (out with Portincaple) and, based on current estimated costs, is unlikely to even meet 50% of the cost of one affordable unit.

- g. Portincaple falls within an Area of Panoramic Quality (APQ) and as such, is a sensitive location. Historic Scotland's New Design in Historic Settings such as APQ's states that "Scotland's historic villages, towns and cities are celebrated for their unique natural and man-made character" and that "It is important not only to identify and protect their character and setting but also to ensure that new development responds to their existing form and layout". The proposed development and its scale is out of character with the existing form and layout at Portincaple and therefore fails to comply with Policy LDP3 (Supporting the Protection, Conservation and Enhancement of our Environment), Supplementary Guidance SG LDP ENV 13 (Development Impact on Areas of Panoramic Quality (APQ)) and Historic Scotland's Design Guide for historic villages / settlements and APQs.

Given the information above, the PPSLC agrees that:

- a. The proposed development fails to comply with Policy DM1 and supplementary guidance policy SG LDP HOU 1 and that no information has been provided by the developer and / or the MoD on housing need that would justify a departure from policy.
- b. The relatively insignificant contribution via a commuted sum to affordable housing within the Helensburgh & Lomond Housing Market Area would provide no benefit to the Portincaple settlement. When assessed against the negative impact of the proposed development on the Portincaple settlement, the reduced weighting placed on affordable housing delivery does not merit consideration of an exceptional case status to justify any departure from Policy DM1 and supplementary guidance policy SG LDP HOU 1.
- c. Given that Portincaple is a sensitive area and falls within an Area of Panoramic Quality (APQ), the proposed development and its scale are out of character with the existing form and layout at Portincaple and therefore fails to comply with Policy LDP3 (Supporting the Protection, Conservation and Enhancement of our Environment), Supplementary Guidance SG LDP ENV 13 (Development Impact on Areas of Panoramic Quality (APQ)) and Historic Scotland's Design Guide for historic villages / settlements and APQs which requires the character and setting to be protected and also to ensure that new developments respond to their existing form and layout and as such, would have a negative impact on this unique community.

Given the above, the PPSLC agrees to refuse this application.

Peter Bain, Development Manager, and David Logan, Head of Legal and Regulatory Services confirmed that this Motion was competent.

The Motion was seconded by Councillor Lorna Douglas and as no one was otherwise minded the Committee resolved accordingly.

## **DECISION**

The Committee unanimously agreed to refuse planning permission for the following reasons:

1. The proposed development fails to comply with Policy DM1 and supplementary guidance policy SG LDP HOU 1 and that no information has been provided by the developer and / or the MoD on housing need that would justify a departure from policy.
2. The relatively insignificant contribution via a commuted sum to affordable housing within the Helensburgh & Lomond Housing Market Area would provide no benefit to the Portincaple settlement. When assessed against the negative impact of the proposed development on the Portincaple settlement, the reduced weighting placed on affordable housing delivery does not merit consideration of an exceptional case status to justify any departure from Policy DM1 and supplementary guidance policy SG LDP HOU 1.
3. Given that Portincaple is a sensitive area and falls within an Area of Panoramic Quality (APQ), the proposed development and its scale are out of character with the existing form and layout at Portincaple and therefore fails to comply with Policy LDP3 (Supporting the Protection, Conservation and Enhancement of our Environment), Supplementary Guidance SG LDP ENV 13 (Development Impact on Areas of Panoramic Quality (APQ)) and Historic Scotland's Design Guide for historic villages / settlements and APQs which requires the character and setting to be protected and also to ensure that new developments respond to their existing form and layout and as such, would have a negative impact on this unique community.

(Reference: Report by Head of Development and Economic Growth dated 10 August 2020, supplementary report number 1 dated 13 August 2020, supplementary report number 2 dated 18 August 2020, supplementary report number 3 dated 19 January 2021, supplementary report number 4 dated 25 January 2021 and supplementary report number 5 dated 25 January 2021, supplementary report 6 dated 25 January 2021, submitted and supplementary report number 7 dated 26 January 2021, tabled)