

Argyll and Bute Council
Comhairle Earra-Ghàidheal Agus Bhòid

Executive Director: Douglas Hendry



Kilmory, Lochgilphead, PA31 8RT
Tel: 01546 602127 Fax: 01546 604435
DX 599700 LOCHGILPHEAD

10 March 2021

NOTICE OF MEETING

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held **BY SKYPE** on **WEDNESDAY, 17 MARCH 2021** at **11:00 AM**, which you are requested to attend.

Douglas Hendry
Executive Director

BUSINESS

- 1. APOLOGIES FOR ABSENCE**
- 2. DECLARATIONS OF INTEREST**
- 3. MINUTES**
 - (a) Planning, Protective Services and Licensing Committee 17 February 2021 at 11.00 am (Pages 3 - 6)
 - (b) Planning, Protective Services and Licensing Committee 17 February 2021 at 2.00 pm (Pages 7 - 10)
 - (c) Planning, Protective Services and Licensing Committee 17 February 2021 at 2.30 pm (Pages 11 - 18)
 - (d) Planning, Protective Services and Licensing Committee 17 February 2021 at 3.00 pm (Pages 19 - 24)
 - (e) Planning, Protective Services and Licensing Committee 17 February 2021 at 3.30 pm (Pages 25 - 26)
- 4. MR PETER DAALMAN: ERECTION OF RETAINING WALL TO INCLUDE RECESS FOR BIN AND SOLID FUEL STORAGE AREAS AND INSTALLATION OF FLUSH KERBS: 38 ELLENABEICH, ISLE OF SEIL (REF: 20/01847/PP)**

Report by Head of Development and Economic Growth (Pages 27 – 48)

5. PROPOSED PROGRAMME OF PLANNING TRAINING FOR MEMBERS

Report by Head of Development and Economic Growth (Pages 49 – 52)

6. EXTENSION OF RELAXATION OF PLANNING ENFORCEMENT IN RESPONSE TO COVID-19

Report by Executive Director with responsibility for Development and Economic Growth (Pages 53 – 64)

7. INDICATIVE REGIONAL SPATIAL STRATEGY: SCOTTISH GOVERNMENT FEEDBACK

Report by Executive Director with responsibility for Development and Economic Growth (Pages 65 – 84)

REPORT FOR NOTING

8. APPEAL AGAINST PPSL DECISION - MR RAPALLINI - CLYDE BAR, HELENSBURGH (REF: 20/01028/PP)

Report by Executive Director with responsibility for Legal and Regulatory Support (Pages 85 – 92)

Planning, Protective Services and Licensing Committee

Councillor Gordon Blair
Councillor Mary-Jean Devon
Councillor Audrey Forrest
Councillor Kieron Green
Councillor David Kinniburgh (Chair)
Councillor Roderick McCuish
Councillor Alastair Redman
Councillor Richard Trail

Councillor Rory Colville (Vice-Chair)
Councillor Lorna Douglas
Councillor George Freeman
Councillor Graham Hardie
Councillor Donald MacMillan BEM
Councillor Jean Moffat
Councillor Sandy Taylor

Contact: Fiona McCallum

Tel. No. 01546 604392

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held BY SKYPE
on WEDNESDAY, 17 FEBRUARY 2021**

Present: Councillor David Kinniburgh (Chair)

Councillor Gordon Blair	Councillor Kieron Green
Councillor Rory Colville	Councillor Graham Hardie
Councillor Mary-Jean Devon	Councillor Donald MacMillan BEM
Councillor Lorna Douglas	Councillor Jean Moffat
Councillor Audrey Forrest	Councillor Alastair Redman
Councillor George Freeman	Councillor Richard Trail

Attending: Patricia O'Neill, Governance Manager
Peter Bain, Development Manager
Matt Mulderrig, Development Policy and Housing Strategy Manager
Sandra Davies, Major Applications Team Leader
Howard Young, Area Team Leader – Helensburgh & Lomond
David Moore, Senior Planning Officer

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Roderick McCuish and Sandy Taylor.

2. DECLARATIONS OF INTEREST

Councillor David Kinniburgh declared a non-financial interest in item 4 of the Agenda (Mr Gary Mulvaney: Alterations and Extensions to Dwellinghouse and Erection of Detached Games Room: 91D East Princes Street, Helensburgh (Ref: 20/02200/PP)) as he was an employee of the Applicant. He left the meeting and took no part in the determination of this application.

3. MINUTES

- a) The Minutes of the Planning, Protective Services and Licensing Committee held on 20 January 2021 at 11.00 am were approved as a correct record.
- b) The Minutes of the Planning, Protective Services and Licensing Committee held on 20 January 2021 at 2.00 pm were approved as a correct record.
- c) The Minutes of the Planning, Protective Services and Licensing Committee held on 20 January 2021 at 2.30 pm were approved as a correct record.
- d) The Minutes of the Planning, Protective Services and Licensing Committee held on 20 January 2021 at 3.00 pm were approved as a correct record.
- e) The Minutes of the Planning, Protective Services and Licensing Committee held on 26 January 2021 were approved as a correct record subject to the following changes:

With reference to the first paragraph in Debate section,

- The second sentence should read “Councillor Freeman 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.”
- The sentence which reads “He advised of there being a number of empty MOD properties in Helensburgh and Rhu and that the MOD had just finished demolishing 100 houses in Rhu” should have the word “approximately” added between “demolishing” and “100”.
- The sentence which reads “He said that he would put far greater weighting on the views of the local community than from those from other countries or elsewhere” should have “who were unlikely to ever see the development” added to the end.

Having previously declared an interest in the following item the Chair, Councillor David Kinniburgh, left the meeting and the Vice Chair, Councillor Rory Colville, chaired the proceedings from this point.

4. MR GARY MULVANEY: ALTERATIONS AND EXTENSIONS TO DWELLINGHOUSE AND ERECTION OF DETACHED GAMES ROOM: 91D EAST PRINCES STREET, HELENSBURGH (REF: 20/02200/PP)

The Area Team Leader spoke to the terms of the report. The site comprises a single storey detached dwellinghouse with a detached garage within the settlement boundary of Helensburgh, outwith the Conservation area. The proposal involves the demolition of the detached garage and the erection of an extension on the east gable comprising a single storey garage attached to a two storey extension. The proposed development is considered to be acceptable with regard to all relevant material considerations including national and local planning policy. No representations have been received and it is recommended that planning permission be granted subject to the conditions and reasons detailed in the report of handling.

Decision

The Committee agreed to grant planning permission subject to the following conditions and reasons:

1. The development shall be implemented in accordance with the details specified on the application form dated 24th November 2020 and the approved drawing reference numbers 1 – Location Plan, 2 – Existing Site Plan, 3 – Existing Elevations, 5 – Down takings, 6 – Proposed Site Plan Rev. E, 7 – Proposed Elevation, 8 – Proposed Elevations of Games Room and stamped approved by the planning authority unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

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

2. Prior to the completion of the dwelling hereby approved 2 no. car parking spaces shall be provided in the location shown on plan 06 Rev E and retained thereafter to the satisfaction of the Planning Authority.

Reason: In order to ensure that off street car parking is provided in accordance with policy SG LDP 6.

(Reference: Report by Head of Development and Economic Growth dated 3 February 2021, submitted)

Councillor Kinniburgh returned to the meeting and chaired the proceedings from this point.

5. TAYLOR WIMPEY UK LTD AND HELENSBURGH GOLF CLUB: PROPOSAL OF APPLICATION NOTICE FOR RESIDENTIAL DEVELOPMENT, INCLUDING AFFORDABLE HOUSING, DEMOLITION OF EXISTING CLUBHOUSE AND ERECTION OF NEW CLUBHOUSE, REVISION OF NEW AND RETAINED GOLF HOLES PROVIDING A REFRESHED 18 HOLE GOLF COURSE AND CREATION OF NEW 6 HOLE PAR 3 GOLF COURSE: HELENSBURGH GOLF CLUB, 25 EAST ABERCROMBY STREET, HELENSBURGH (REF: 21/00029/PAN)

The Senior Planning Officer spoke to the terms of the report. A proposal of application notice (PAN) has been submitted for a residential development, including affordable housing, demolition of existing clubhouse and erection of new clubhouse, and revision of new and retained golf holes at Helensburgh Golf Club, East Abercromby Street, Helensburgh. The site comprises a part of Helensburgh Golf Course which includes both a number of existing holes and also the clubhouse with the fairways being located between belts of mature trees. The adopted Argyll and Bute Local Development Plan under LDP PROP 2 identifies the site as Housing Allocation H2004 – Helensburgh East, Helensburgh Golf Course with an indicated capacity for 300 units to include 25% affordable housing. The report summarises the policy considerations as well as potential material considerations and key issues based upon the information received to date.

It is recommended that Members note the content of the report and submissions and provide such feedback as they consider appropriate in respect of this PAN to allow these matters to be considered by the Applicants in finalising any future planning application submission.

Decision

The Committee noted the content of the report and agreed that the following issues should be taken into consideration by the Applicant in finalising any future planning application submission:

- a) 25% Affordable Housing to be included within the development site;
- b) Consultation with Registered Social Landlord on the most appropriate siting of the Affordable Housing within the site;
- c) Provision of electric car charging points – preferably a car charging point located at each unit;

d) The core path/public right of way which bisects the site forming part of the Old Luss Road to have at least a hard core finish and to continue this finish onto the A818 road; and

e) Inclusion of sheltered housing or mixed community housing on the site.

(Reference: Report by Head of Development and Economic Growth dated 2 February 2021, submitted)

6. UPDATE ON SCOTTISH GOVERNMENT NPF4 POSITION STATEMENT

A report highlighting the recently produced Scottish Government NPF4 Position Statement was before the Committee for consideration. The Position Statement provides an update on progress made towards production on the draft NFP4 which is anticipated in Autumn 2021. Comments are invited on the Position Statement by 19 February 2021 and the report contained proposed comments for endorsement by Members.

Decision

The Committee agreed to note the contents of the NPF4 Position Statement and endorse the proposed comments detailed in Appendix 2 of the report for submission to the Scottish Government.

(Reference: Report by Executive Director with responsibility for Development and Economic Growth dated 22 January 2021, submitted)

7. FQ3 2020/21 PERFORMANCE REPORT

A paper presenting the Planning, Protective Services and Licensing Committee with the Development and Economic Growth Service (PPSL only) FQ3 2020-21 (October – December) Performance Report and accompanying Scorecard was considered.

Decision

The Committee reviewed the FQ3 2020/21 Performance Report as presented.

(Reference: Report by Executive Director with responsibility for Development and Economic Growth dated January 2021, submitted)

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held BY SKYPE
on WEDNESDAY, 17 FEBRUARY 2021**

Present: Councillor David Kinniburgh (Chair)

Councillor Rory Colville	Councillor Donald MacMillan BEM
Councillor Mary-Jean Devon	Councillor Jean Moffat
Councillor Lorna Douglas	Councillor Alastair Redman
Councillor Kieron Green	Councillor Richard Trail
Councillor Graham Hardie	

Attending: Patricia O'Neill, Governance Manager
Sheila MacFadyen, Senior Solicitor
Angela Blazye, Applicant

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Gordon Blair, Audrey Forrest, George Freeman, Roderick McCuish and Sandy Taylor.

2. DECLARATIONS OF INTEREST

Councillor Mary-Jean Devon declared a non-financial interest in this application. She advised that she did not know the Applicant but the vehicle in question was the only vehicle on the island that could take her wheelchair. Councillor Devon left the meeting at this point and took no part in the determination of this application.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF TAXI OPERATOR LICENCE (A BLAZYE, SALEN, ISLE OF MULL)

The Chair welcomed everyone to the meeting. In line with recent legislation for Civic Government Hearings, the parties (and any representatives) were given the options for participating in the meeting today. The options available were by Video Call, by Audio Call or by written submission. For this hearing the Applicant opted to proceed by way of Audio Call and joined the meeting by telephone.

The Chair outlined the procedure that would be followed and invited the Applicant to speak in support of her application.

APPLICANT

Mrs Blazye advised that she lived at Glenforsa, Salen on Mull and that she had lived there for 3 years and ran another business in Craignure. She advised this was not a new licence per se but it was new to her. She said that there had already been an established business on the island for many years and the previous owners wished to retire. Mrs Blazye said that she had bought the business and the vehicle. She said she would not be over stretching the availability of taxis on the island. She advised that she would be moving the business from its current base in Tobermory to Glenforsa. She advised that all other taxis on the island were based in Tobermory. She said that by moving this vehicle to Glen Forsa it would be better

placed to serve the east coast of the island and also the Craignure Ferry which did not currently have any taxi serving it. She said that there was an unmarked taxi rank there but it was never used. She explained that it could be very expensive to call a taxi from Tobermory to collect you from Craignure and then travel back to Tobermory. She said that her other business was a café in Craignure and that they had many people coming in to buy one cup of tea and then sit for 2 hours as the ferry and bus timetables did not marry up at all. She advised that foot passengers were often surprised by that and were totally stuck waiting for a bus. She said that in many instances a taxi would come in useful in that respect. She also advised that this taxi was the only one on the island accessible to wheelchairs and that she did know from the previous owner that Councillor Devon was a frequent customer.

MEMBERS' QUESTIONS

Councillor Trail asked who would be driving the taxi. Mrs Blazye said that she would be driving the taxi and that she would also be looking for someone else to be a second driver.

Councillor Trail sought and received confirmation from Mrs Blazye that she did not currently hold a Taxi Driver's Licence. She explained that she had been told to await the outcome of this application first.

Councillor Trail referred to the section on the application form that asked for confirmation of a MOT certificate which Mrs Blazye had indicated was not applicable. He asked why this was the case. Mrs Blazye explained that taxis on the island did not require a MOT as there was a separate inspection run by the Council.

Councillor Kinniburgh sought clarification from the Council's Senior Solicitor on what had been said about taxis not requiring a MOT on Mull. Mrs MacFadyen said she would need to check this out. Councillor Kinniburgh commented that he was aware of West Dunbartonshire Council operating that kind of system and taxis in West Dunbartonshire did not need a MOT as they were inspected by the Council. Mrs MacFadyen confirmed that Argyll and Bute Council did inspections but she thought that a MOT was still required. She agreed to clarify this if the Licence was granted.

Councillor Colville sought and received confirmation from Mrs Blazye that she had described the vehicle as a van on her application form as this was how it was described in the log book. She said it was a Euro taxi, the same vehicle that has been running for a number of years, and that it was fitted out as a taxi and was Covid secure.

Councillor Kinniburgh sought and received confirmation from Mrs Blazye that a lot of the time she would be based at Craignure and in the evenings she would be at Glenforsa Hotel. She confirmed that it was her intention to sit on the rank.

Councillor Kinniburgh sought and received confirmation from Mrs Blazye that her other business was a tea room at Craignure which was located opposite the waiting area for ferry passengers. She explained that she would be looking to employ a second driver so that she could continue to run the café business with her husband. She hoped to do a bit of both. She confirmed that they did have extra staff in the café.

Councillor Kinniburgh asked Mrs Blazye if she had a second driver in mind. Mrs Blazye said this would be new employment for someone and that she had floated the idea past a couple of people who seemed interested. She said that she was waiting for lock down to finish before employing anyone as she would not want them to go to any expense when they were not currently busy. She said she would be employing someone who lived on the island.

Councillor Kinniburgh asked Mrs MacFadyen to confirm if this vehicle was the only wheelchair accessible taxi on the island of Mull. Mrs MacFadyen said the Council did not hold an official list of which taxis were wheelchair accessible or not. She advised that from the information that was held, there were currently 7 vehicles but this was for the whole of the Oban, Lorn and the Isles area and she could not say how many were on Mull.

SUMMING UP

Applicant

Mrs Blazye advised that this has been a successfully run, well established business on the island and that she expected to provide the same service and would not be stepping on anyone else's toes.

Ms Blazye confirmed that she had received a fair hearing.

DEBATE

Councillor Trail said that he would be happy to grant this Licence.

Councillor Moffat advised that Councillor Devon had said this was the only taxi suitable for a wheelchair. She confirmed that she was more than happy to grant the Licence.

Councillor Hardie said he agreed with his fellow Councillors and was happy to grant the Licence.

Councillor Douglas agreed with Councillor Moffat that if as advised this was the only taxi suitable for wheelchair use she would take that as clarification that the other wheelchair accessible taxis were elsewhere and not on Mull.

Councillor Green said this would be really good for the island and the application had his support.

Councillor Redman and Councillor MacMillan also confirmed that they were happy to support the granting of this Licence.

Councillor Kinniburgh said he too thought it would be good for the island. He explained that he had sought clarification from the Legal Team on the number of wheelchair accessible taxis on the island so that the comment made by Councillor Devon could not have been seen as influencing his decision. He advised that he had no reason to doubt what the Applicant had said and would have no hesitation in granting this Licence in this instance.

DECISION

The Committee agreed to grant a Taxi Operator's Licence to Mrs Blazye.

(Reference: Report by Head of Legal and Regulatory Support, submitted)

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held BY SKYPE
on WEDNESDAY, 17 FEBRUARY 2021**

Present: Councillor David Kinniburgh (Chair)

Councillor Rory Colville	Councillor Donald MacMillan BEM
Councillor Mary-Jean Devon	Councillor Jean Moffat
Councillor Lorna Douglas	Councillor Alastair Redman
Councillor Kieron Green	Councillor Richard Trail
Councillor Graham Hardie	

Attending: Patricia O'Neill, Governance Manager
Sheila MacFadyen, Senior Solicitor
Mark Franks, Applicant
Kenneth McAuley, Objector
Lisa McCandlish, Objector
Allan McCandlish, Objector

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Gordon Blair, Audrey Forrest, George Freeman, Roderick McCuish and Sandy Taylor.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF TAXI OPERATOR LICENCE (M FRANKS, HELENSBURGH)

The Chair welcomed everyone to the meeting. In line with recent legislation for Civic Government Hearings, the parties (and any representatives) were given the options for participating in the meeting today. The options available were by Video Call, by Audio Call or by written submission. For this hearing the Applicant, Mr Franks, and one of the Objectors, Mr McAuley, opted to proceed by way of Audio Call and they both joined the meeting by telephone. Mr McCandlish, Objector, had opted to proceed by way of Video call but subsequently proceeded by way of Audio Call and he, along with his wife, also joined the meeting by telephone.

A further Objector, Mr Moy, did not request an invite to join the meeting.

The Chair outlined the procedure that would be followed and invited the Applicant to speak in support of his application.

APPLICANT

Mr Franks advised that he was here today to ask the Committee to see fit to approve his application for a Taxi Operator's Licence for a wheelchair accessible taxi. He said that there was an inadequate supply in Helensburgh and pointed out that this was a seaside town with many care homes. He referred to the Objectors saying

there were 6 wheelchair accessible vehicles and said he would beg to differ. He said he only counted 4 with one vehicle in Kilcreggan, one in Alexandria and another Operator with 2 vehicles. He referred to one Operator's car not being tested by VOSA so the DVLA had been unable to issue a new log book stating that the car was wheelchair accessible. He advised that he has phoned TOA and they have had nothing available. He said that care homes have had to phone Dumbarton and other areas to book wheelchair accessible vehicles. He referred to the survey saying there were not enough wheelchair accessible vehicles and advised that disabled people were being discriminated against. He advised that Inverclyde and West Dunbartonshire had 75% more wheelchair accessible vehicles than Helensburgh. He said that he had spoken to a few care homes and they had indicated that they would use a local service and that they currently found it difficult to get wheelchair accessible taxis. He said that he knew of 2 plates that would not be renewed due to bereavements. He advised that he has held a Private Hire Operator's Licence for over a year and that he was told to await the outcome of this hearing before applying for a taxi driver's badge in case this was not granted. He said he put his application in during the pandemic and that he worked 24/7, 7 days a week. He said that he did not think it was fair that other taxi drivers could object as they would be biased. He commented that of course they would object as they would not want any more taxis on the road in competition. He said that during the pandemic they have chosen not to come out and work. He said that during the pandemic Mr McAuley purchased a new vehicle. He also said that Mr McCandlish had stated his family were relying on benefits and handouts. He advised that he knew that Mrs McCandlish was employed by Scotrail.

QUESTIONS FROM OBJECTORS

Mrs McCandlish referred to Mr Franks having a wheelchair accessible vehicle on the road between October 2020 and December 2020. She asked why Mr Franks had then taken this car off the road. Mr Franks explained that his private hire vehicle had a mechanical issue and while he was waiting for this to be resolved he used his black cab.

Mrs McCandlish referred to Mr Franks stating that the care homes required wheelchair accessible vehicles. She asked Mr Franks where his business would come from due to the Covid restrictions. Mr Franks said that he had done a survey on Facebook asking nursing homes for their requirements and they had indicated that they needed wheelchair accessible vehicles. He said it did not matter if this was today, tomorrow or next week, they still needed them.

OBJECTORS

Mr McAuley

Mr McAuley referred to his letter of objection. He advised that the Council's own survey stated that there were too many taxis in Helensburgh, even wheelchair ones. He said he was sure there were 8 but the Council would have the correct information. He advised that due to the current situation with Covid 19 it has been widely reported that the trade was running at a 50 – 70% reduction. He referred to a previous hearing for an application for the same type of vehicle submitted by Mr Haddow which had not been granted. He said that since then, about 2 meetings ago, the situation had gotten worse. He advised that this has been recognised by the central government by granting a one off benefit to taxi drivers as they have

realised how hard things are. He said he felt that putting any more taxis on the road would only make a bad situation worse.

Mrs McCandlish

Mrs McCandlish referred to her letter of objection. She said that there had been at least a 50% reduction in trade due to the Covid restrictions. She advised that since the updated survey was carried out there has been no significant unmet demand for taxis. She referred to Mr Franks advising that she worked for Scotrail and advised that over the last 18 months she has not seen anyone travelling on the train with a wheelchair who would get a taxi into town. She said they would find it very difficult to get into town without a taxi. She said over the last 18 months she has not seen any wheelchair passenger. She referred to the current climate and asked if Mr Franks would hand back his Private Hire Licence if this Licence was granted or if he would keep both.

Councillor Jean Moffat left the meeting at this point to attend another meeting.

MEMBERS' QUESTIONS

Councillor Trail sought and received confirmation from Mr Franks that at the present time he was driving his private hire vehicle on a regular basis.

Councillor Trail sought and received confirmation from Mr Franks that his private hire vehicle was a different vehicle to the vehicle he was seeking a Taxi Operator Licence for.

Councillor Trail sought and received confirmation from Mr Franks that if he was granted this Licence he would operate both vehicles and that he had another driver who was willing to come on board the minute this Licence was granted.

Councillor Kinniburgh sought and received confirmation from Mr Franks that he would be putting an additional vehicle on the road.

Councillor Kinniburgh asked the Council's Senior Solicitor, Mrs MacFadyen, if she could confirm how many wheelchair accessible vehicles there were in Helensburgh and Lomond. Mrs MacFadyen said she did not have specific figures but would estimate there were 5 taxis in the area which were wheelchair accessible.

Councillor Colville sought and received confirmation from Mr Franks that he planned to renew his Private Hire Licence when it expired this year and that he would run 2 plates if this Licence was granted.

Councillor Kinniburgh asked Mr Franks if his Private Hire Vehicle was wheelchair accessible. Mr Franks said it was not. He advised that it could carry 8 passengers but not a wheelchair.

Councillor Kinniburgh asked Mr Franks if it was because of the position of the seats that prevented the vehicle from carrying a wheelchair. Mr Franks said yes. He explained that the seats were forward facing and that only one row came out. He said he would not be converting it to be wheelchair accessible.

Councillor Trail asked Mr Franks how many people with wheelchairs, did he think, would go to the taxi rank compared to those who would phone for a taxi, including the care home. Mr Franks said he could not give specific numbers but all he could say was that he had observed people walking about the town with wheelchairs. He said passengers from the train would ring on a number of occasions.

Councillor Trail referred to business with the care homes and suggested that this could easily be done by private hire rather than taxi. Mr Franks advised that with a private hire you could not pick up off the street. He said that he wanted to be able to pick up anyone from the street including those that required a wheelchair accessible vehicle. He also wanted to be able to sit on the taxi rank as well as take calls from the care home.

Councillor Trail sought comment from the Objectors on how many times people requiring wheelchair accessible vehicles would be picked up on the street. Mr McAuley said that he had done a straw poll with around 12 drivers and all said they could not remember the last time they had seen a person with a wheelchair at the rank. Mrs McCandlish said that she worked at the train station in town and that if there was anyone on the train that required assistance they pre-booked prior to leaving their house or they phoned the taxi company to come to the station.

Councillor Colville asked Mr Franks why he had applied for a Taxi Operator's Licence when he already had a Private Hire Operator's Licence. He commented that he would have thought a Private Hire Licence would offer more flexibility given the findings of the survey report which said there were plenty taxis in the Helensburgh and Lomond area. Mr Franks advised that the problem with private hire was the driver could not pick up anyone on the street and they could not ply for hire so this limited what a Private Hire Operator could do. He said that he would use the wheelchair accessible vehicle for around the town and would use his private hire vehicle for out of town runs to Glasgow and the airport as it could carry more than 5 people.

Councillor Colville asked what the ratio of business Mr Franks expected between the ranks and the nursing home. Mr Franks said he would hope it was 50:50. He said there were not really any wheelchair accessible taxis in the town that sat on the rank and the ones that did came from places 15 miles away. He said they could not supply the demand.

Councillor Devon sought and received confirmation from Mr Franks that there would maybe be one wheelchair accessible taxi on the rank at any time.

Councillor Kinniburgh sought and received confirmation from Mr Franks that there were wheelchair accessible vehicles on the rank. Mr Franks said that if they came into the area they would sit at the rank but they would not be there all the time.

Councillor Kinniburgh sought and received confirmation from Mr Franks that there were only 2 private hire vehicles that were wheelchair accessible. He said one was not being used at the moment as there was no driver for it.

Councillor Kinniburgh referred to the current time and asked Mr Franks if it would be wise to employ another driver. Mr Franks said yes if the person wanted to receive an income.

Councillor Kinniburgh referred to hearing that business had dropped by 50 – 70% which suggested that there were enough taxis on the road without hiring another driver and asked Mr Franks to comment. Mr Franks advised that he could not speak for the person who had the other wheelchair accessible taxi. He said he was only going by what he has been told that this person had 2 wheelchair accessible taxis and a private hire. He had a driver for one taxi but not the other.

Councillor Kinniburgh sought and received confirmation from Mr Franks that there were wheelchair accessible vehicles on the rank and there was a private hire vehicle which was wheelchair accessible.

Councillor Kinniburgh asked Mrs MacFadyen how many wheelchair accessible vehicles have been put on the road in Helensburgh since the survey was carried out. Mrs MacFadyen gave an estimate of 6 private hires which were wheelchair accessible. She said she did not have the figures for how many were operating when the survey was carried out. She said the estimate was worked out on the address of the Operator.

Councillor Kinniburgh asked Mr McAuley if he was aware of how many wheelchair accessible vehicles were in operation on the road. Mr McAuley said that he knew that Trident had 2 taxis every day on the road all the time and one of these drivers was a neighbour of Mr Franks. He said that Trident had 3 taxis and one private hire. He also advised that Mr Burlass had one, Helensburgh Private Hire had 2 and Rosneath Taxis had 1 which made a total of 8. He said he thought that was fairly accurate. He advised that Trident had taxis on the rank every day and that they had 2 drivers who said they could not remember the last time they had picked up a wheelchair at the rank and that they had all been through pre bookings and phone calls.

Councillor Kinniburgh asked Mr Franks to comment on what Mr McAuley had said. Mr Franks advised that the neighbour he was referring to was under scrutiny as he believed the vehicle had not been to VOSA to be checked so had not been issued with a log book that said it was wheelchair accessible. He said he did not believe it was wheelchair accessible.

Councillor Colville referred to the survey saying that it was common for wheelchair accessible vehicles to be pre booked which, he said, was at odds with what Mr Franks was saying. He asked Mr Franks how much weight should be given to what he had said as opposed to what was contained in the survey. Mr Franks said that a Private Hire Licence would not allow him to pick up off the street. He referred to it being said that there was already wheelchair accessible taxis on the road and advised that if he was not allowed to pick up off the street this brought his numbers down. He said he could see no reason not to grant one more Licence for a wheelchair accessible taxi.

Councillor Kinniburgh asked Mr Franks what percentage of business would be for wheelchair users as opposed to others. Mr Franks said he did not want to discriminate against disabled people and could not put a number on it. Councillor Kinniburgh asked if the majority of Mr Franks' business be non-wheelchair accessible business. Mr Franks advised he would say about 75%.

SUMMING UP

Objectors

Mrs McCandlish

Mrs McCandlish advised that there has been 5 wheelchair accessible taxi licences granted since May 2019. She referred to Mr Franks calling into question garages carrying out taxi inspections and said that taxis were not passed without being in the best condition and to say that one from Trident was not, did not put him in a good light. She then referred to the nursing homes and advised that as the country was still in lock down she failed to see why anyone in the nursing home would want to go out as they were the most vulnerable people in the community. She said that surely a taxi being brought to the home would be far better than going into town or to the rank to get one.

Mr McAuley

Mr McAuley advised that for Mr Franks to say that 50% of business at the rank would be from wheelchair users was a joke. He referred to the previous Halcrow Survey done in 2014 and said at that time there was only one wheelchair accessible taxi and that the area now had 8 which, he advised was more than enough. He referred to Mr Haddow applying for the same thing not even 3 months ago and that his application had been refused. He advised that since then things have gotten worse and that the Scottish Government had set up a special fund to claim from as they recognised that the industry was on its knees.

Applicant

Mr Franks said that his vehicles were Covid secure with full screens. He said that he would work 24/7, 7 days a week. He advised that the pandemic would not last forever and said that with the rollout of the vaccine the trade would soon be back to normal. He advised that none of the Objectors had wheelchair accessible vehicles and that 2 plates would shortly be handed back due to bereavements so that would mean 2 less taxis plates in area as well.

When asked, all parties confirmed that they had received a fair hearing.

DEBATE

Councillor Trail advised that in this day in age with mobile phones, he could scarcely believe that a wheelchair user would not have pre-arranged any pick-ups well before travelling. He said that he thought there were more than enough vehicles for hire in the Helensburgh and Lomond area and would not like to see another on the road.

Councillor Devon said that she had listened to the debate from both sides and had noted what had been said about the taxi fund the Scottish Government had brought out because business had dropped, which allowed drivers on benefits to claim. As a wheelchair user, she said that she would always phone and plan her journey ahead. She advised that she was not minded to approve this application.

Councillor Douglas said that she felt that under the current circumstances with Covid 19 and even putting that aside, the Committee have been over this before. She said

there seemed to be ample provision of wheelchair accessible taxis within the area at this moment in time and that she would not be in favour of supporting this application.

Councillor Hardie said that he agreed with his fellow Councillors and was inclined not to approve.

Councillor Redman said he was leaning the other way as he believed that competition was good. He advised that he was always wary when people in the same industry objected. He said of course they would object as they would not want the competition. He advised that he was minded to approve as he believed choice and competition was good and he did not like consumer choice to be limited.

Councillor Green said he was a bit torn with this one. He advised that he had taken on board the comments made and the opportunity was there for anyone to apply for a licence with each case considered on its own merits. He said that a good case had been given for granting this Licence and for him it was finely balanced. He advised that he was inclined to think that he would be supportive of granting the Licence.

Councillor Colville referred to the reasons why the Committee were here today and that the granting of licences needed to go through a process. He said that he did not think it would be appropriate to grant this Licence at this time.

Councillor MacMillan said he agreed with Councillor Colville.

Councillor Kinniburgh advised that having heard what has been said today the Committee did need to take account of the LVSA report which said there was no unmet demand for taxis. The Applicant has tried to overcome this by presenting his case for a wheelchair accessible vehicle but by the Applicant's own admission there were wheelchair accessible taxis on the rank. From what he had heard, Councillor Kinniburgh said this was every day and that was a major consideration when coming to his decision. He advised that he took on board what Councillor Devon said about booking wheelchair accessible vehicles in advance. He said that he was 100% sure this would be the case for anyone in need of a wheelchair. He said he did not think the amount of business Mr Franks would get from wheelchair users would be high and that the majority of his business would be from non-wheelchair users. He said you just needed to look in any town and count the number of people walking about and the number that were using wheelchairs, and you would see that the majority of business would be from people not requiring a wheelchair accessible taxi.

Motion

To agree to refuse Mr Franks' application for a Taxi Operator Licence as there was no significant unmet demand for taxis in the Helensburgh and Lomond area.

Moved by Councillor David Kinniburgh, seconded by Councillor Rory Colville

Amendment

To agree to grant a Taxi Operator Licence to Mr Franks.

Moved by Councillor Alastair Redman, seconded by Councillor Kieron Green

A vote was taken by calling the role.

Motion

Amendment

Councillor Colville
Councillor Devon
Councillor Douglas
Councillor Hardie
Councillor Kinniburgh
Councillor MacMillan
Councillor Trail

Councillor Green
Councillor Redman

The Motion was carried by 7 votes to 2 and the Committee resolved accordingly.

DECISION

The Committee agreed to refuse Mr Franks' application for a Taxi Operator's Licence as there was no significant unmet demand for a taxi in the Helensburgh and Lomond area.

(Reference: Report by Head of Legal and Regulatory Support, submitted)

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held BY SKYPE
on WEDNESDAY, 17 FEBRUARY 2021**

Present: Councillor David Kinniburgh (Chair)

Councillor Mary-Jean Devon	Councillor Donald MacMillan BEM
Councillor Lorna Douglas	Councillor Jean Moffat
Councillor Kieron Green	Councillor Alastair Redman
Councillor Graham Hardie	Councillor Richard Trail

Attending: Patricia O'Neill, Governance Manager
Sheila MacFadyen, Senior Solicitor
Sgt Wendy McGinnis, Police Scotland
Catherine Crowe, Licence Holder's Solicitor

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Gordon Blair, Rory Colville, Audrey Forrest, George Freeman, Roderick McCuish and Sandy Taylor.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: REQUEST FOR SUSPENSION OF TAXI DRIVER LICENCE (NO. 5105) (J LEACH, DUNBEG)

The Chair welcomed everyone to the meeting. In line with recent legislation for Civic Government Hearings, the parties (and any representatives) were given the options for participating in the meeting today. The options available were by Video Call, by Audio Call or by written submission. For this hearing Police Scotland and the Applicant's Solicitor opted to proceed by way of Audio Call and they both joined the meeting by telephone.

The Chair outlined the procedure that would be followed and invited Police Scotland to speak in support of the Chief Constable's complaint.

POLICE SCOTLAND

Sgt McGinnis referred to a letter from Police Scotland dated 7 January 2021 which advised of a request from the Chief Constable that, in terms of Paragraph 11(1) of Schedule 1 of the Act, that the Committee suspend Mr Leach's Taxi Driver Licence. The Chief Constable complained, in terms of Paragraph 11(2)(a) of Schedule 1 of the Act that Mr Leach was no longer a fit and proper person to hold the Licence. In addition the Chief Constable asked the Committee to order the immediate suspension of Mr Leach's Licence, in terms of Paragraph 12(1) of Schedule 1 of the Act, on the grounds that the carrying on of the activity to which his licence relates was likely to cause a serious threat to public order or public safety. In support of the Chief Constable's request the letter referred to an incident which took place on 5

August 2020 which resulted in Mr Leach receiving a Procurator Fiscal fine and having his driving licence endorsed.

QUESTIONS FROM THE LICENCE HOLDER

Ms Crowe referred to the Fiscal fine and asked Sgt McGinnis to confirm if this was the lowest level of fine and endorsement that the Fiscal could have imposed. Sgt McGinnis advised that Mr Leach received a fine of £100 and his driving licence was endorsed with 3 penalty points. She said that she could not comment on the level of the penalty imposed by the Procurator Fiscal.

LICENCE HOLDER

Ms Crowe advised that Mr Leach was a married man with one step child whom he supported financially. Mr Leach's Taxi Driver's Licence was granted on 18 November 2019 and would expire on 17 November 2022. In respect of the incident that occurred, which Ms Crowe said happened over 6½ months ago, she advised that a member of the public had made a formal complaint to the Police and after Mr Leach attended the Police station he was charged and the penalty imposed was a Fiscal fine and his driving licence endorsed. Ms Crowe advised that this was the lowest penalty available in terms of what she understood could have been imposed. She advised that it was her submission that this was a reflection of the incident which occurred. She said that her client had apologised refutably and was very remorseful over what had happened. Given the passage of time since the incident, Ms Crowe advised that she would say it would be unreasonable for the Committee to grant the immediate suspension of Mr Leach's Taxi Driver's Licence and asked that the Committee consider not suspending the Licence. She said that her client was clearly remorseful and that this was his livelihood and only source of income. She advised that Mr Leach was the sole provider and supported both his wife and child, who was in their final year at University. She said that there had been no further criminal proceedings and that she was content that Mr Leach was a fit and proper person to hold a Taxi Driver's Licence. She asked the Committee not to suspend his Licence. She pointed out that this had been a one off incident and that she did not consider Mr Leach to be a serious threat to public safety.

MEMBERS' QUESTIONS

Councillor Trail asked if Ms Crowe could explain Mr Leach's version of events of what happened on that occasion on the pedestrian crossing. Ms Crowe explained that Mr Leach had admitted his guilt and did so by paying the fine. She advised that at the time of the incident a member of the public alleged that Mr Leach had failed to stop to make sure they had been able to cross the road safely. She said that the taxi was 17 metres away from the crossing and travelling at between 26 – 30 mph. Referring to the stopping distances in the Highway Code, she advised that in the interests of public safety, Mr Leach had believed it would have been more dangerous to try and stop. He believed this would have put the pedestrian and the passenger in his car in a more dangerous situation so he continued to drive through the crossing.

Councillor Trail commented that Mr Leach was travelling fairly quickly and questioned if Mr Leach was surprised by the pedestrian stepping out on the road and asked if he was able to avoid hitting the pedestrian just by carrying on. Ms Crowe referred to the location of the crossing in question. She advised that it was in the centre of Oban with Lidl supermarket on one side of the road and a garage on the

other. She advised that there was always a lot going on at that location with comings and goings from the garage and the supermarket. She said that it was the case that her client carried on through the crossing to avoid hitting the pedestrian.

Councillor Trail sought and received confirmation from Ms Crowe that no one had been injured as a result of the incident.

Councillor Kinniburgh asked Sgt McGinnis how such an incident would be dealt with by the Police if it was reported to them by someone. Sgt McGinnis explained that when the incident occurred the witness, who was the person crossing the road, went to speak to Mr Leach but did not get the response they were looking for so reported the incident to the Police and gave a witness statement. Police Officers reviewed CCTV footage and noted and confirmed that the accused had failed to stop as stated by the witness so Mr Leach was reported to the Procurator Fiscal.

Councillor Kinniburgh sought confirmation from Sgt McGinnis that because of the response of the Taxi Driver to the complainer, this had led to the complainer going to the Police. Sgt McGinnis read out the Police report which stated that the witness had begun crossing the road during the time the taxi entered the controlled area of the crossing and that the witness had reached a 1/3 of the way across the crossing when the vehicle failed to stop. The witness had gone to the rank, approached the vehicle and challenged the driver who appeared to be dismissive.

Councillor Kinniburgh sought confirmation from Ms Crowe that the witness was 1/3 of the way across the crossing. Ms Crowe said she was not aware of that.

Councillor Kinniburgh sought and received confirmation from Sgt McGinnis that the CCTV footage backed up what the witness had said. Referring to the Police report, she said that the CCTV footage captured the incident in HD and that the vehicle had failed to stop when the witness had already started to cross and continued without any common sense. It was noted that the accused was clearly not speeding and that the crossing had not been busy so the pedestrian should have been easily seen.

Councillor Kinniburgh sought and received confirmation from Sgt McGinnis that the penalty issued was an alternative to court proceedings.

Councillor Hardie asked Ms Crowe if her client had any other serious criminal convictions in respect of driving. Ms Crowe advised that her client had not made her aware of any and that she had not seen any previous convictions. She said that Mr Leach was a very experienced taxi driver and that he was extremely remorseful and very upset with regard to what had happened.

Councillor Kinniburgh commented that the situation described by Sgt McGinnis appeared to him to be very serious and asked if the Procurator Fiscal had issued the fixed penalty and endorsed the driving licence on admission of guilt or if he would have viewed the CCTV footage in order to reach the decision. Sgt McGinnis confirmed that the CCTV footage could have been viewed as it was lodged but she could not confirm if it had been viewed by the Procurator Fiscal or if the fine was offered on reading the case.

Councillor Kinniburgh referred to the Licence Holder's Solicitor saying this was the minimum fine handed out and sought comment from Sgt McGinnis. Sgt McGinnis referred to the victim impact section of the Police report and advised that the witness

at the time had said they were concerned about the manner of driving by the accused and had tried to speak to him about that. The witness had said they did not want to get the driver into trouble but wanted to make sure he moderated his driving in the future. Sgt McGinnis suggested that this may have had something to do with the level of penalty imposed.

SUMMING UP

Police Scotland

Sgt McGinnis advised that the facts of the matter were that on 5 August 2020 Mr Leach, while driving his licensed taxi, drove without due care and attention which resulted in him receiving a Procurator Fiscal fine of £100 and 3 points on his driver's licence.

Licence Holder

Ms Crowe said that given the passage of time, she would submit to the Committee that it would be unreasonable to grant the immediate suspension of Mr Leach's Taxi Driver's Licence and asked the Committee not to suspend his Licence. She said that her client was extremely remorseful and had paid the fine and accepted his guilt of this incident which, she said occurred over 6½ months ago. She said that this matter had caused him and his family great stress and anxiety. She pointed out that he was the sole earner and provided for both his wife and step child, who he was supporting financially through their final year at University. She asked the Committee to find her client a fit and proper person to hold a Taxi Driver's Licence and to not suspend it.

When asked, both parties confirmed that they had received a fair hearing.

DEBATE

Councillor Trail said that he hoped that Mr Leach had learnt his lesson and commented that if only he had expressed his remorse at the time when the person came to the rank, he might not have been in this bother. Councillor Trail advised that he did not approve of people driving through crossings with pedestrians on it but said he thought that this had been a mistake on Mr Leach's part and did not warrant removal of his Taxi Driver's Licence.

Councillor Redman agreed with what Councillor Trail had said. He commented that mistakes happened and he said he believed that Mr Leach would be a lot more cautious in the future and that he appeared to be genuinely remorseful. He advised that it would be wrong of the Committee to condemn the man so harshly and that he was a great believer in second chances. He confirmed that he was minded not to support the suspension of the Licence.

Councillor Green said he was mindful that the Committee expected that people with Licences should be driving to an approved standard. He echoed what had been said before about a lesson being learned. He pointed out that just because this was a fairly quiet part of the world, it did not mean you could not pay attention to what was on the road and he hoped that had been taken on board. Bearing in mind the comments made by the Police and Solicitor, he said he was minded to not approve any suspension.

Councillor Hardie said he agreed that he thought it would be harsh to suspend the Licence. He commented that Mr Leach had shown remorse and knew he had made a mistake. He confirmed that he would not approve suspending the Licence.

Councillor Douglas said she wanted to reinforce what others had said and that she would not wish to suspend this Licence.

Councillor MacMillan confirmed that he was of the same opinion.

Councillor Moffat said she was in total agreement with the rest of the Committee.

Councillor Kinniburgh said that he tended to be in agreement with the Committee now but half way through the hearing he was of a mind to suspend the Licence. He advised that he was glad that the Committee had managed to tease out the circumstances of what had happened. He said that this was a serious thing that had happened. He advised that what had changed his mind was the comment from Sgt McGinnis about the witness not wanting anyone to get into trouble. He confirmed that he was satisfied from what he had heard that the Licence should not be suspended. He said that he hoped Ms Crowe would take the message back to Mr Leach that the Committee viewed this as a serious incident that had happened. He advised that he thought that Mr Leach had learnt his lesson. He moved that the Licence not be suspended and no one was otherwise minded.

DECISION

The Committee unanimously agreed not to suspend Mr Leach's Taxi Driver Licence.

(Reference: Report by Head of Legal and Regulatory Support, submitted)

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held BY SKYPE
on WEDNESDAY, 17 FEBRUARY 2021**

Present: Councillor David Kinniburgh (Chair)

Councillor Mary-Jean Devon	Councillor Donald MacMillan BEM
Councillor Lorna Douglas	Councillor Jean Moffat
Councillor Kieron Green	Councillor Alastair Redman
Councillor Graham Hardie	Councillor Richard Trail

Attending: Patricia O'Neill, Governance Manager
Sheila MacFadyen, Senior Solicitor
Sgt Wendy McGinnis, Police Scotland

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Gordon Blair, Rory Colville, Audrey Forrest, George Freeman, Roderick McCuish and Sandy Taylor.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: REQUEST FOR SUSPENSION OF TAXI DRIVER LICENCE (NO. 5977) (R GRAHAM, CAMPBELTOWN)

The Chair welcomed everyone to the meeting. In line with recent legislation for Civic Government Hearings, the parties (and any representatives) were given the options for participating in the meeting today. The options available were by Video Call, by Audio Call or by written submission. For this hearing Police Scotland opted to proceed by way of Audio Call and joined the meeting by telephone.

The Council's Senior Solicitor, Mrs MacFadyen advised that the Licence Holder had been given notice of this hearing, which was sent Recorded Delivery on 2 February 2021 and should have been received within 14 days. On checking today when the notice was received it had been established that the Recorded Delivery notice was not delivered until 5 February 2021. As the requisite period of notice had not been given Mrs MacFadyen recommended that the Committee continue consideration of this matter to give the Licence Holder the opportunity to attend.

DECISION

The Committee agreed to continue consideration of the request for Suspension of the Taxi Driver's Licence.

(Reference: Report by Head of Legal and Regulatory Support, submitted)

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Argyll and Bute Council
Development and Economic Growth

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

Reference No: 20/01847/PP

Planning Hierarchy: Local Development

Applicant: Mr Peter Daalman

Proposal: Erection of Retaining Wall to Include Recess for Bin and Solid-Fuel Storage Areas and Installation of Flush Kerbs

Site Address: 38 Ellenabeich, Isle of Seil

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of retaining wall
 - Installation of flush kerbs
-

(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission be granted subject to the conditions and reasons appended to this report.

(C) HISTORY:

18/01695/PP & 18/01667/LIB

Erection of 1 metre high slate boundary wall, metal gates and fencing, installation of 2 folding parking bollards and formation of tarred area and patio area – Refused: 13/12/18

14/00693/PP & 14/00694/LIB

Alterations and extension – Granted: 23/05/14 & 01/07/14

10/00370/PP

Installation of septic tank – Granted: 22/04/10

(D) **CONSULTATIONS:**

Conservation Officer

Letter dated 24/11/20 advising that “*The proposal consists of two elements which have the potential to impact on the listed dwellinghouse (as well as the setting of other listed buildings in the immediate area) and the conservation area. These are: the proposed retaining wall; and the gravel area bounded by a kerb.*

A Conservation Area Appraisal and Management Plan was subject to public consultation in late 2017 and approved by PPSL in 2019. This is now a material consideration.

I note that a number of (duplicate) objections state that as the proposed wall is not of traditional slate it is not compliant with the Conservation Area Appraisal and Management Plan. However section 6.3.6 of the Management Plan clarifies that while “the predominant boundary wall type is dry stone slate however some rendered walls can also be seen”. For this reason I have no objection to the proposed materials of render with slate coping.

However, I have a concern in terms of the proposed height of the wall, which is 1 metre above the higher level of ground. Whilst number 38 is not one of the houses within the main rows on Front or Back Streets (along which stricter adherence to the height of neighbouring walls would require to be followed), the property still sits within the central character area of the village where traditional walls bounding small garden areas in front of houses are generally very low. On the basis that the proposed wall is 1.55 metres from the lower level of ground (and the tops of the bins and fuel storage to be screened would therefore sit considerably lower than the top of the wall) I would encourage this wall to be lowered somewhat. It would then, in my opinion, integrate sufficiently with the surrounding area and comply with policies LDP SG ENV 16(a) and ENV 17.

In terms of the proposed landscaping this causes concern in terms of the impact on the conservation area (and compliance with policy LDP SG ENV 17). The central part of the conservation area does not feature large areas of private landscaping and this could have a negative impact on the character of this part of the village. However the proposal for a flush kerb and pebble gravel may be relatively low impact and acceptable – further details of the proposed materials (and samples) should be provided to ensure the area would not appear over landscaped and not in keeping with the general character of the rest of the area”.

Planning Authority Comment: As a result of the comments made by the Conservation Officer during the processing of the application, the height of the wall has been reduced by 35cm resulting in a wall which now measures 65cm in height when measured from outwith the site (the public view) and 1.2 metres high when measured from inside the site of the dwellinghouse (the private view), the difference being due to the fact that the existing dwellinghouse and its immediately surrounding land sits in a shallow ‘hole’ with respect of the height of the ground immediately surrounding it. There is an existing small flight of steps which leads down from the higher level to the lower level and these steps are to be retained within the proposed development.

With regards to what the Conservation Officer deems as ‘landscaping’ in her response, it should be noted that the majority of these works do not form part of the planning application, being deemed ‘de minimis’ in nature and not requiring the benefit of planning permission. The note on the site plan is for indicative purposes only.

The proposal with respect of this ‘landscaped area’ is twofold: Primarily to simply carry out localised repairs to an existing and long-established area of compacted hard-core and gravel within the land ownership of the applicant. These works are extremely minor in nature. They will not change the character or appearance of this part of the site and will not facilitate any change of use of the land. These minor repair works therefore do not

require planning permission and, consequently, do not form part of the current planning application.

Secondly, to demark the boundary of this existing hard surfaced area by the laying of flush kerbing around its perimeter. Whilst the proposed kerbing is also minor in nature and will have no materially harmful impact of the character or appearance of the conservation area, these works are considered to constitute 'development' and they do, therefore, form part of the current application for planning permission.

Nevertheless, it is the settled opinion of officers that the proposed flush kerbs within an existing area of hardstanding will have no materially detrimental impact upon the character and appearance of the site or its surroundings, including on the quality of the conservation area or the setting of the adjacent listed building.

Access Officer

E-mail dated 27/01/21 advising that, "*Having looked at the application which is for a low wall parallel to the gable end wall of the house I have concluded that there is no impact on public rights of access. Any Public Right of Way to the southwest of the house is not constricted such that it cannot be used by the public. The small area enclosed by the wall is not one where the public have a right of access under the Land Reform Scotland Act 2003 because it would impact on the reasonable privacy that anyone occupying the house would expect. Again there is a significant area remaining across which people can walk or cycle past the building*".

Seil and Easdale Community Council (SECC)

E-mail dated 22/12/20 setting out two main areas of concern as detailed below.

"The Wall

The visual appearance in relation to its surroundings (white dash rendered finished and natural slate cope to match the house), it is questioned why a slate wall could not be used and the opinion of the Conservation Officer is sought on this matter.

A number of people have raised concerns with the height of the wall as the application states it is a 1 metre high retaining wall yet it is only 1 metre high above the retained level whereas it is actually 1.55 metres high from the new path on the drawings.

The layout of the wall has also raised concerns as it will project out 2.125 metres from the gable end. It is subjective (as is the height), whether the wall projects or is recessed, but the concerns are what the impact of the wall will be (combined with parked vehicle(s)) on the access to cottages 39, 40, 41 and 30a from the 39a side. Concerns have also been raised about access to the residential caravan and other properties further along the tramway, with regard to access for emergency services and utilities vehicles. Several people mentioned the fire fatality there some years ago where the access was along this tramway.

Lastly, the cumulative effect of this application, and other small changes, similar to this one, on the Conservation Area.

Demarcation of the Property Boundary with a Flush Kerb and Gravel Infill

This is the most contentious issue and concerns were raised as to why this part of the application was described as de-minimis by the applicant, when the same area had been part of a previously refused application, albeit with a different finish material (18/01695/PP, 18/01667/LIB). The resulting visual appearance of the area concerns residents, when the

infill is contained by the kerb (the surrounding area is a mix of grass, slate rubble and pea gravel and type 1 finishes).

The suitability of a concrete recessed kerb in a Conservation Area, and whether this may be damaged with vehicular access.

The safety aspect of the kerb stone has raised many concerns as it is believed the kerb will sit proud after settlement, as the area is slate rubble and subject to settlement/movement. This may well become uneven and therefore a trip hazard in an unlit area of the conservation village.

The compatibility and impact of the proposal with the current and previous use of the immediate area for the surrounding properties for general use and parking. The restriction of access to surrounding properties for general emergency and utility vehicles (British Telecom, Scottish Water and Scottish Power for Easdale Island) all require access through this area to the shoreline past number 30a. Furthermore, concerns were raised allowing a precedent to be set, if this proposal were allowed, on the rest of the Conservation Area.

Accordingly the community council requests that Argyll and Bute Planning department consider all of the above in their determination. We would also request that the issue of 'de-minimis' be considered with a full application, bearing in mind the previous history, and number of concerns raised by residents. The community council recommends that this be undertaken with a site visit by the planning, conservation and access officers attending the site to fully familiarise themselves with the area before determination of the application. The community council appreciates that Covid 19 restrictions may delay this but feels it is very important it takes place.

A considerable amount of time and effort was spent by the community council, and the community, in consultation with Argyll and Bute, when drawing up the Ellenabeich Conservation Area Appraisal & Management Plan (October 2017). The community would like the final adopted document to be taken into full consideration".

Planning Authority Comment: As detailed above, as a result of the comments made by the Conservation Officer during the processing of the application, the height of the wall has been reduced by 35cm. The Conservation Officer confirmed her acceptance to the proposed rendered finish and slate coping stone proposed to the retaining wall. It is not considered that the proposed wall will have any materially harmful impact upon either the character and quality of this part of the conservation area or on the setting of the applicant's dwellinghouse which is a Category B listed building.

It is not considered that the proposed wall or the flush kerbing will change the way in which vehicles use the existing parking area. Neither is it considered that any part of the proposed development will impede access to other properties. This opinion has been confirmed by the Council's access officer. The proposed low boundary wall is located very close to the applicant's dwellinghouse such that the distance between the south west wall of the dwellinghouse and the proposed wall is, for the most part, only one metre. In addition, there is clear evidence that the boundary now proposed to be demarked by a low wall was once defined by a low hedgerow in approximately the same position. Notwithstanding this, in the unlikely event that parking becomes an issue, with the shared access becoming blocked, this is a civil matter between affected parties.

With regard to the flush kerbs and pebble gravel shown on the site plan, it should be noted that the pebble gravel does not form part of the planning application, this repair/resurfacing of an existing hard-standing area being deemed 'de minimis' in nature and not requiring the benefit of planning permission.

Whilst the proposed new flush kerbing should properly be described as engineering works requiring planning permission, the impact of these works has been fully addressed. The proposed flush kerbing is minor in nature and it is the opinion of officers that the proposed flush kerbs within an existing area of hardstanding will have no materially detrimental impact upon the character and appearance of the site or its surroundings, including on the quality of the conservation area or the setting of the adjacent listed building. Neither is it considered that the proposed flush kerbing will have any detrimental impact upon public safety, the very nature of the kerbs being flush with the running surface of the land on both sides. Whilst it is acknowledged that the land on one side or the other (or both) might settle over time, this would be a maintenance matter for the applicant.

The specific details of the proposed flush kerbs can be appropriately addressed by planning condition to ensure their suitability.

With regard to the previously refused applications referred to, these were for a much larger scheme which incorporated a fence, gates and folding parking bollards which the Planning Authority deemed would have a materially detrimental impact on the property and wider CA and APQ. The current proposal is solely for a low height retaining wall which is considered in full in Appendix A of this report.

The site has been visited by officers and it is not considered that a further site visit is required in advance of the application being determined.

The above represents a summary of the comments made. Full details of the consultation responses are available on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

(E) PUBLICITY:

The proposal has been advertised in terms of Conservation Area, Listed Building, Site Notice and Neighbour Notification procedures, overall closing date 14/12/20.

(F) REPRESENTATIONS:

22 objections from 18 households have been received regarding the proposed development.

Mr Paul Lawson, Tigh an Duin, Ellenabeich, Easdale, Oban, PA34 4RF (18/11/20, 25/11/20 & 08/12/20)

Mrs Sheila Lawson, Tigh an Duin, Ellenabeich, Easdale, Oban, PA34 4RF (28/11/20)

Mr Michael Shaw, Kilbrandon Farm, Balvicar, Isle of Seil, PA34 4RA (19/11/20)

Douglas Robertson, 42 Ellenabeich, Easdale, Oban, PA34 4RQ (20/11/20 & 29/11/20)

Annabel Robertson, 42 Ellenabeich, Easdale, Oban, PA34 4RQ (20/11/20 & 29/11/20)

Holly Robertson, 42 Ellenabeich, Easdale, Oban, PA34 4RQ (20/11/20)

Melissa Robertson, 18/7 Montague Street, Edinburgh, EH8 9QX (20/11/20 & 30/11/20)

Craig Pharo, 41 Ellenabeich, Easdale, Isle of Seil, PA34 4RQ (23/11/20)

Mr James Ellis, 7 Tramway Cottages, Ellenabeich, Easdale, PA34 4RQ (26/11/20)

Mrs Elizabeth Ann Ellis, 7 Tramway Cottages, Ellenabeich, Easdale, PA34 4RQ (26/11/20)

Sally Knight, 18 Ellenabeich, Isle of Seil (25/11/20 & 07/12/20)

William Ross, 15 Falcon Mews, Ely, Cambridgeshire, CB6 3EB (27/11/20)

Mrs Rhona A. Munro, The Old Engineering Works, Ellenabeich, Isle of Seil, PA34 4RF (24/11/20)

Derek D. Campbell, 66i Turners Avenue, Paisley, PA1 2NZ (27/11/20)

Catherine Campbell, 37 Elmbank Road, Langbank, Renfrewshire, PA14 6YT (27/11/20)

Jane MacQueen, Barbeag, Connel, Oban, PA37 1RN (27/11/20)
Neil MacQueen, Greengarden, Cullipool, Isle of Luing, PA34 4TX (27/11/20)
Ruth Odling, 61 Ellenabeich, Isle of Seil, PA34 4RQ (30/11/20)
Denise Stacey, Braehouse, Ellenabeich, Seil, PA34 4RF (30/11/20)
Mr Ritchie McCorkindale, 36 Ellenabeich, Easdale, PA34 4RQ (28/11/20 & 02/12/20)
Gordon McNab, Stevenson Kennedy, Linndhu House, 19 Stevenson Street, Oban, PA34 5NA (30/11/20)
Alison Chadwick, 41 Ellenabeich, Isle of Seil (13/12/20)

Summary of issues raised

A large content of the objections received to the application relate to the “**Surfacing of the Parking Area and the Installation of Flush Kerbs**” details of which are summarised below.

- The parking area is to be bordered with a ‘new flush kerb to site perimeter’ of which there are no details of height size and material.
- The visual appearance of the proposed parking area would not be in keeping with the local conservation area and it could only impact and alter the traditional and historical aspect of this conservation area.
- There is no street lighting in this part of the village and therefore after dark these kerb stones could be a health and safety hazard to both traffic and pedestrians alike.
- Whilst kerb stones may be appropriate on a public road, there is no place for kerb stones on an access road in a conservation village, especially ones that could potentially cause injury.
- What will happen if the adjoining owners wish to improve their area at some point – it could end up like crazing paving where they would have to do the same, put another kerb next to the Daalmans kerb and fill in their area with gravel.
- In the ‘Conservation Area and Appraisal Management Plan for Ellenabeich, under the ‘Quality of New Developments, Building Alteration and Extension’ section (page 22) it states ‘new boundary treatments should use traditional materials and be of appropriate design to suit the locality. Kerb stones do not suit the locality and are certainly not traditional materials.
- The Conservation Officer should make a point of visiting the site to fully understand the negative impact the kerb and gravel will have in the proposed location as it is not in keeping with the general character of the area.

Planning Authority Comment: With regard to the flush kerbs and pebble gravel shown on the site plan, it should be noted that the pebble gravel does not form part of the planning application, this repair/resurfacing of an existing hard-standing area being deemed ‘de minimis’ in nature and not requiring the benefit of planning permission.

Whilst the proposed new flush kerbing should properly be described as engineering works requiring planning permission, the impact of these works has been fully addressed. The proposed flush kerbing is minor in nature and it is the opinion of officers that the proposed flush kerbs within an existing area of hardstanding will have no materially detrimental impact upon the character and appearance of the site or its surroundings, including on the quality of the conservation area or the setting of the adjacent listed building. Neither is it considered that the proposed flush kerbing will have any detrimental impact upon public safety, the very nature of the kerbs being flush with the running surface of the land on both

sides. Whilst it is acknowledged that the land on one side or the other (or both) might settle over time, this would be a maintenance matter for the applicant.

The specific details of the proposed flush kerbs can be appropriately addressed by planning condition to ensure their suitability.

Design and Finish of the Proposed Wall

- The detail of the proposed wall is not a traditional slate-built wall and is not compliant with the 'Conservation Area Appraisal & Management Plan for Ellenabeich, October 2017.
- The extra 1 metre bin area, extending in total to 2 metres from the gable elevation of the dwellinghouse, is too much and surely amounts to 'building' on this access road, which in turn starts to encroach on the parking area.
- There is no detail on the proposed finish of the proposed stairs leading from the parking area to the walkway below.

Planning Authority Comment: In her response to the application the Conservation Officer notes the objections which state that the proposed wall is not of traditional slate and therefore is not compliant with the Conservation Area Appraisal and Management Plan. However, the Conservation Officer clarifies that Section 6.3.6 of the Management Plan clarifies that while "*the predominant boundary wall type is dry stone slate however some rendered walls can also be seen*". For this reason the Conservation Officer raised no objection to the proposed materials of render with slate coping.

It is not considered that the proposed retaining wall, within the confines of the applicant's ownership, will significantly encroach on the parking area.

With regards to the proposed stairs, there was historically a small set of slate and stone steps on site which will be replaced on a like for like basis.

General

- The applicant is now a member of the Community Council and it is felt that, as a member, he should be aware of the historical and sensitive area he lives in. It is felt that his application has not been made in 'good community spirit' and is detrimental to the area in question.
- As a community it has been agreed that it would be a good thing to lay chips over the entire surface of the access road as this would enhance the look of the immediate area as well as the entire conservation village of Ellenabeich. Unfortunately the applicant does not seem to be willing to engage in any discussion regarding this matter.
- The applicant and agent have responded to a number of third parties advising that their submissions are false and misleading.

Planning Authority Comment: Whilst these comments are noted by the Planning Authority, they are not material considerations in the determination of this planning application.

Neighbour Notification Plan Inaccurate

- The map supplied by the applicant and included in the Neighbour Notification is false and clearly misleading.

Planning Authority Comment: The map produced for Neighbour Notification procedures is produced by the Planning Authority and not the applicant. The map is for indicative purposes only with the Neighbour Notification schedule clearly stating where and how the actual detailed application drawings can be viewed by interested parties.

Ownership Inaccuracies

- The applicant does not own all of the land outlined in the application.

Planning Authority Comment: The applicant has confirmed that all land identified as being within his ownership i.e. outlined in red is true and accurate.

Original Deed of Sale – Implications on Legal Rights of Access

- The proposed development is in contravention of the original deed of sale which the applicant agreed and submitted to when he purchased the property.
- The area of ground on which the wall is proposed has been defined in the title deeds of No.38 as part of an area of ground which was conveyed "*for amenity purposes only and shall not be built upon in any way or obstructed*".
- It has always been made clear that the ground should not be built on with the proposed wall contravening the burden set out in the title deeds which affects rights of access belonging to neighbouring properties by law.
- The breach of title conditions may result in neighbouring properties seeking interdiction action.

Planning Authority Comment: These comments are noted by the Planning Authority, however, they are not material considerations in the determination of this planning application but separate civil issues between affected parties.

Timing of the Application(s)

- Issue is taken with the timing of the application. I trust that it is merely fortuitous that the applicant chose to make the application during a global pandemic, when a large proportion of the most immediate neighbours are respecting national travel restrictions, and have not had the opportunity to have knowledge of/scrutinise their neighbour notification. They should not be prejudiced in this matter simply because they have respect for their community. In the spirit of fairness, I would urge your department to allow a suitable extension to the application.

Planning Authority Comment: The relevant publication of the application was fully undertaken by the Planning Authority. This included Neighbour Notification, display of Site Notices and publication in the local press, the Oban Times. There is no need for an extension of time for the application to be determined. It is assumed that reference is being made to some of the neighbouring properties being second homes and, if so, then it is the responsibility of the owner to ensure a suitable form of mail redirection is in place.

Previous Pre-Application Discussion with the Planning Authority & Inaccuracies on the Application

- The application states that there has been pre-application discussion with the Planning Authority where the department states it would be supportive of a rendered wall with no mention of any parking area.
- The application form states that there is no altered vehicle access to or from a public road or any changes to public paths, rights of way or affecting any public right of access.
- With regards to parking spaces currently existing or proposed the agent has noted 'Not Applicable', however the site plan specifically indicates that the parking area is within the application. How can the agent make such claims while knowingly be aware of the proposed parking area.
- The agent is apparently unaware that there are not currently, nor have there ever been any actual allocations of parking spaces in this area of the village and I doubt that there is any historic evidence to support his claim. Residents in this area park in accordance with respect and common courtesy for each other. There have been times when the applicant has been requested to move his vehicle to allow local residents access to their property due to the location and angle with which he has deliberately parked his vehicle.
- The application form states that the existing wall is to be replaced, this statement is inaccurate as there is not an existing wall and one has never existed. The area currently comprises of mud, scree and vegetation of at least 10 years and more recently debris from the applicants refurbishment of the property.

Planning Authority Comment: These comments are noted by the Planning Authority. All of the relevant material planning considerations have been fully and properly assessed.

Full Conservation Assessment

- The application must not be granted until a full conservation assessment is obtained and made publicly available.

Planning Authority Comment: It is not quite clear what is meant by this statement. The application has been considered in terms of the adopted 'Argyll and Bute Local Development Plan, 2015 and all other material considerations together with input from the Council's Conservation Officer.

Two Applications – Planning Permission & Listed Building Consent

- Whilst there are two applications, one for planning permission and one for listed building consent, neither application mentions the introduction of a large gravelled parking area adjacent to the property and they almost infer an attempt to conceal the inclusion of the parking area

Planning Authority Comment: The application for listed building consent (LBC) has since been withdrawn as the proposed retaining wall is no longer connected into the existing wall thereby negating the need for LBC. The parking area is discussed in more detail elsewhere in this report.

Restriction of Access

- The Argyll and Bute Outdoor Access Manager should be consulted on the proposal as it would appear that an attempt is being made to deliberately restrict resident's vehicular access to their properties.
- There are a number of other cottages around No.38 that require vehicle access through the proposed parking and kerbed area, these vehicles include oil tankers, coal and log deliveries, building supply lorries, delivery vans, BT, Scottish Water, Scottish Power vehicles, emergency vehicles and private vehicles.
- The access is misinterpreted on the drawings by showing the vehicle access to be a small strip of land outwith Mr Daalmans parking area, this section marked 'access road' incidentally drops to 1.6m at one point. The access road does not in fact include the area in question.
- There is historical evidence of a pathway and open access in this vicinity going back to 1871 as a means of access around the village.
- The applicant has told neighbouring properties on several occasions that they have no rights of access over the area of ground in question which is clearly incorrect as evidenced by title deeds submitted to the Planning Authority. The application appears to be an attempt to limit the established right of access even further.

Planning Authority Comment: The Council's Access Officer was consulted on the proposed development and he concluded that there is no impact on public rights of access advising that any Public Right of Way to the southwest of the house is not constricted such that it cannot be used by the public. The small area enclosed by the wall is not one where the public have a right of access under the Land Reform Scotland Act 2003 because it would impact on the reasonable privacy that anyone occupying the house would expect. The Access Officer advises that there is a significant area remaining across which access is afforded.

It is not considered that any part of the current planning application has been designed in such a way as to impede any existing access routes.

Private access rights set out in title deeds is not a matter for the Planning Authority but a separate civil matter for affected parties.

Should the applicant deliberately restrict resident's vehicular access to their properties, this is a civil matter between affected parties.

The above represents a summary of the issues raised. Full details of the letters of representation are available on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- | | |
|---|-----------|
| (i) Environmental Statement: | No |
| (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: | No |
| (iii) A design or design/access statement: | No |
| (iv) A report on the impact of the proposed development e.g. retail impact, transport impact, noise impact, flood risk, drainage impact etc: | No |

(H) PLANNING OBLIGATIONS**(i) Is a Section 75 agreement required: No**

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

(J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application**(i) List of all Development Plan Policy considerations taken into account in assessment of the application.**Argyll and Bute Local Development Plan, 2015

LDP STRAT 1 – Sustainable Development

LDP DM 1 – Development within the Development Management Zones (*Minor Settlement Zone of Ellenabeich*)

LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment

LDP 9 – Development Setting, Layout and Design

Supplementary Guidance

SG 2 – Sustainable Siting and Design Principles

SG LDP ENV 13 – Development Impact on Areas of Panoramic Quality (APQs) (*Knapdale and Melfort APQ*)

SG LDP ENV 14 – Landscape

SG LDP ENV 16(a) – Development Impact on Listed Buildings (*Category B Listed Building*)SG LDP ENV 17 – Development in Conservation Areas & Special Built Environment Areas (*Ellenabeich Conservation Area*)**(i) List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 3/2013.**

Argyll and Bute Sustainable Design Guidance, 2006

Scottish Planning Policy (SPP), 2014

Conservation Area Appraisal & Management Plan for Ellenabeich (October 2017)

Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997

Historic Environment Policy for Scotland (HEPS), 2019

Managing Change In The Historic Environment: Boundaries

Managing Change In The Historic Environment: Setting

Argyll and Bute Proposed Local Development Plan 2 (November 2019)

Consultation Responses

Third Party Representations

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

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

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

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

(O) Requirement for a hearing: **No**

In deciding whether to hold a discretionary hearing Members should consider:

- How up to date the Development Plan is, the relevance of the policies to the proposed development, and whether the representations are on development plan policy grounds which have recently been considered through the development plan process.
- The degree of local interest and controversy on material considerations, together with the relative size of community affected, set against the relative number of representations and their provenance.

22 objections from 18 households have been received regarding the proposed development.

It is the opinion of the Planning Authority that the representations received, together with officer assessment of the relevant planning issues contained within this report, provide all the information required to enable Members to make an informed decision based on all of the material planning considerations in this case, not least the fully adopted 'Argyll and Bute Local Development Plan' 2015 and the direct relevance of key planning policies contained within it.

In this instance it is not considered that the objections raise any complex or technical issues that have not been addressed in the current Report of Handling and it is not considered that a discretionary local hearing would add value to the planning process.

The determining factors in the assessment of this application are whether or not the scale and design of the proposed retaining wall and the proposed flush kerbing is acceptable for its site and surroundings, including its impact upon the setting of the Listed Building, the character of the Conservation Area and the setting of the wider Area of Panoramic Quality.

In this instance the proposed very small scale development is wholly in accordance with the adopted Local Development Plan.

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

Planning permission is sought for the erection of a low retaining wall adjacent to the gable elevation of 38 Ellenabeich, Isle of Seil which is a Category B Listed Building situated within the Ellenabeich Conservation Area and Knapdale and Melfort Area of Panoramic Quality.

As a result of the comments made by the Conservation Officer during the processing of the application, the height of the proposed wall has been reduced by 35cm resulting in a

wall which now measures 65cm in height when measured from outwith the site (the public view) and 1.2 metres high when measured from inside the site of the dwellinghouse (the private view), the difference being due to the fact that the existing dwellinghouse and its immediately surrounding land sits in a shallow 'hole' with respect of the height of the ground surrounding it. There is an existing small flight of steps which leads down from the higher level to the lower level and these steps are to be retained within the proposed development.

The wall is positioned at the edge of the informal parking area adjacent to the gable end of the dwellinghouse which is set at a higher level than the dwellinghouse. The proposed retaining wall incorporates recesses which are to be used for bin and solid fuel storage purposes. The proposed wall also incorporates a small set of stairs leading from the parking area to the pedestrian access which runs directly along the gable elevation of the dwellinghouse which has been increased in width by approximately 30cm. The proposed wall is to be finished in a white wet dash render with a natural slate coping stone.

The site plan shows new flush kerbs to the perimeter of the applicant's land holding adjacent to the parking area for the dwellinghouse with a new grey pebble gravel finish laid within these kerbs.

The pebble gravel does not form part of the planning application, this repair/resurfacing of an existing hard-standing area being deemed 'de minimis' in nature and not requiring the benefit of planning permission.

Whilst the proposed new flush kerbing is also very minor in nature, these should properly be described as engineering works requiring planning permission and the impact of these works has been fully addressed.

In terms of the adopted 'Argyll and Bute Local Development Plan' (LDP) 2015, the application site is located within the minor settlement of Ellenabeich where Policy LDP DM 1 gives encouragement to small scale development on appropriate sites subject to compliance with other relevant policies and supplementary guidance (SG).

The dwellinghouse is a Category B Listed Building situated within the Ellenabeich Conservation Area (CA) and Knapdale and Melfort Area of Panoramic Quality (APQ) where Policy LDP 3 requires Supplementary Guidance (SG) LDP ENV 16(a), SG LDP ENV 17 and SG LDP ENV 13 to be considered in any development proposals which collectively seek to ensure that the scale, location and design of developments do not have a significant adverse impact on the setting of Listed Buildings and do not detract from the character of the CA and APQ.

Policy LDP 9 seeks developers to produce and execute a high standard of appropriate design and ensure that development is sited and positioned so as to pay regard to the context within which it is located. SG 2 expands on this policy seeking to ensure that the design, scale and materials used are appropriate in relation to the existing house and neighbouring properties and seeks to ensure that inappropriate or unsympathetic development does not damage the property or its setting.

The determining factors in the assessment of this application are whether or not the scale and design of the proposed retaining wall and the proposed flush kerbs are acceptable for its site and surroundings, including its impact upon the setting of the Listed Building, the character of the Conservation Area and the setting of the wider Area of Panoramic Quality.

The proposal has elicited 22 objections from 18 households.

In this instance it is considered that the proposed retaining wall is an acceptable addition adjacent to the gable end of the dwellinghouse with its design and finishes ensuring that

it will not detract from the setting of the Listed Building or the wider Conservation Area and Area of Panoramic Quality within which it is proposed.

The proposed flush kerbing is minor in nature and it is the settled opinion of the planning authority that the proposed flush kerbs within an existing area of hardstanding will have no materially detrimental impact upon the character and appearance of the site or its surroundings, including on the quality of the conservation area or the setting of the adjacent listed building. Neither is it considered that the proposed flush kerbing will impede public access or have any detrimental impact upon public safety, the very nature of the kerbs being flush with the running surface of the land on both sides. Whilst it is acknowledged that the land on one side or the other (or both) might settle over time, this would be a maintenance matter for the applicant.

The specific details of the proposed flush kerbs can be appropriately addressed by planning condition to ensure their suitability.

It is recommended that planning permission be granted.

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

(R) Reasons why planning permission should be granted

The proposed retaining wall is considered to be an acceptable addition adjacent to the gable end of the dwellinghouse with its design and finishes ensuring that it will not detract from the setting of the Listed Building or the wider Conservation Area and Area of Panoramic Quality.

The proposed flush kerbing is minor in nature and it is the opinion of officers that the proposed flush kerbs within an existing area of hardstanding will have no materially detrimental impact upon the character and appearance of the site or its surroundings, including on the quality of the conservation area or the setting of the adjacent listed building. Neither is it considered that the proposed flush kerbing will impede public access or have any detrimental impact upon public safety, the very nature of the kerbs being flush with the running surface of the land on both sides. Whilst it is acknowledged that the land on one side or the other (or both) might settle over time, this would be a maintenance matter for the applicant.

The specific details of the proposed flush kerbs can be appropriately addressed by planning condition to ensure their suitability.

The proposal accords with Policies LDP STRAT 1, LDP DM 1, LDP 3, LDP 9 and Supplementary Guidance SG2, SG LDP ENV 13, SG LDP ENV 14, SG LDP ENV 16(a), SG LDP ENV 17 of the adopted 'Argyll and Bute Local Development Plan' 2015 and there are no other material considerations, including issues raised by third parties, which would warrant anything other than the application being determined in accordance with the provisions of the development plan.

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

N/A

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

Author of Report: Fiona Scott **Date:** 01/03/21

Reviewing Officer: Tim Williams **Date:** 02/03/21

Fergus Murray
Head of Development and Economic Growth

CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 20/01847/PP**GENERAL**

1. The development shall be implemented in accordance with the details specified on the application form dated **30/09/20**; supporting information and, the approved drawings listed in the table below unless the prior written approval of the Planning Authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Plan Title.	Plan Ref. No.	Version	Date Received
Location Plan	2023 01		09/11/20
Site Plan As Existing	2023 02		09/11/20
Site Plan As Proposed	2023 03	A	
External Wall As Proposed	2023 04	A	
Retaining Wall As Existing	2023 05		09/11/20

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

Note to Applicant:

- This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]
- In order to comply with Sections 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start. Failure to comply with this requirement constitutes a breach of planning control under Section 123(1) of the Act.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.

Both the Notification of Initiation and Notification of Completion forms referred to above are available via the following link on the Council's website:

<https://www.argyll-bute.gov.uk/planning-and-environment/make-planning-application>

DETAILS OF MATERIALS

2. Before any works commence on site, full details of the materials to be used for the slate wall copings and the flush kerbing shall be submitted to and approved in writing by the planning authority. The required materials shall include the submission of samples where such submission is considered necessary by the planning authority. Thereafter, the development shall be implemented using the materials as agreed.

Reason: In order to ensure that the materials to be used in the development are appropriate to their setting within the conservation area and in respect of any impact upon the setting of the adjacent listed building.

Note to Applicant:

- The planning authority would welcome the submission of a sample of the gravel proposed to be used within the *de minimis* repair/resurfacing of the existing parking area.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 20/01847/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

In terms of the adopted 'Argyll and Bute Local Development Plan' (LDP) 2015, the application site is located within the minor settlement of Ellenabeich where Policy LDP DM 1 gives encouragement to small scale development on appropriate sites subject to compliance with other relevant policies and supplementary guidance (SG).

The dwellinghouse is a Category B Listed Building situated within the Ellenabeich Conservation Area (CA) and Knapdale and Melfort Area of Panoramic Quality (APQ) where Policy LDP 3 requires Supplementary Guidance (SG) LDP ENV 16(a), SG LDP ENV 17 and SG LDP ENV 13 to be considered in any development proposals which collectively seek to ensure that the scale, location and design of developments do not have a significant adverse impact on the setting of Listed Buildings and do not detract from the character of the CA and APQ.

Policy LDP 9 seeks developers to produce and execute a high standard of appropriate design and ensure that development is sited and positioned so as to pay regard to the context within which it is located. SG 2 expands on this policy seeking to ensure that the design, scale and materials used are appropriate in relation to the existing house and neighbouring properties and seeks to ensure that inappropriate or unsympathetic development does not damage the property or its setting.

The proposal has elicited 22 objections from 18 households.

B. Location, Nature and Design of Proposed Development

Planning permission is sought for the erection of a low retaining wall adjacent to the gable elevation of 38 Ellenabeich, Isle of Seil which, as detailed above, is a Category B Listed Building situated within the Ellenabeich CA and Knapdale and Melfort APQ.

The wall was originally proposed at 1 metre in height, however, as a result of comments from the Conservation Officer during the processing of the application, the Planning Authority has negotiated a reduction in height of the wall.

The amended wall measures 65cm in height when measured from outwith the site (the public view) and 1.2 metres high when measured from inside the site of the dwellinghouse (the private view), the difference being due to the fact that the existing dwellinghouse and its immediately surrounding land sits in a shallow 'hole' with respect of the height of the ground immediately surrounding it. There is an existing small flight of steps which leads down from the higher level to the lower level and these steps are to be retained within the proposed development.

The wall is positioned at the edge of the parking area adjacent to the gable end of the dwellinghouse which is set at a higher level than the dwellinghouse. The proposed retaining wall incorporates recesses which are to be used for bin and fuel storage purposes. The proposed wall also incorporates a small set of stairs leading from the parking area to the pedestrian access which runs directly along the gable elevation of the dwellinghouse which has been increased in width by approximately 30cm. The proposed wall is to be finished in a white wet dash render with a natural slate coping stone.

The proposed wall would run adjacent to the south western gable of 38 Ellenabeich for a linear length of approximately 10.8 metres and would incorporate two small projecting enclosures to contain domestic refuse bins and solid-fuel heating supplies (believed to be coal).

The Council's Conservation Officer has confirmed her acceptance to the proposed rendered finish and slate coping stone proposed to the retaining wall. It is not considered that the proposed wall will have any materially harmful impact upon either the character and quality of this part of the conservation area or on the setting of the applicant's dwellinghouse which is a Category B listed building.

The site plan shows new flush kerbs to the perimeter of the applicant's land ownership surrounding an existing parking area for the dwellinghouse with a new grey pebble gravel finish laid within these kerbs to repair the existing hard-surface.

The pebble gravel does not form part of the planning application, this repair/resurfacing of an existing hard-standing area being deemed '*de minimis*' in nature and not requiring the benefit of planning permission.

Whilst the proposed new flush kerbing should properly be described as engineering works requiring planning permission, the impact of these works has been fully addressed. The proposed flush kerbing is minor in nature and it is the settled opinion of the planning authority that the proposed flush kerbs within an existing area of hardstanding will have no materially detrimental impact upon the character and appearance of the site or its surroundings, including on the quality of the conservation area or the setting of the adjacent listed building. Neither is it considered that the proposed flush kerbing will have any detrimental impact upon public safety, the very nature of the kerbs being flush with the running surface of the land on both sides. Whilst it is acknowledged that the land on one side or the other (or both) might settle over time, this would be a maintenance matter for the applicant.

The specific details of the proposed flush kerbs can be appropriately addressed by planning condition to ensure their suitability.

It is not considered that the proposed wall or the flush kerbing will change the way in which vehicles use the existing parking area. Neither is it considered that any part of the proposed development will impede access to other properties. This opinion has been confirmed by the Council's access officer. The proposed low boundary wall is located very close to the applicant's dwellinghouse such that the distance between the south west wall of the dwellinghouse and the proposed wall is, for the most part, only one metre. In addition, there is clear evidence that the boundary now proposed to be demarked by a low wall was once defined by a low hedgerow in approximately the same position. Notwithstanding this, in the unlikely event that parking becomes an issue, with the shared access becoming blocked, this is a civil matter between affected parties.

It is considered that the site represents a suitable opportunity for development which will have no significant adverse impact on the setting of the Listed Building or the wider CA or APQ at this location.

The proposal is considered acceptable in terms of Policies LDP DM 3, LDP DM 9, SG2, SG LDP ENV 13, SG LDP ENV 14, SG LDP ENV 16(a) and SG LDP ENV 17 which collectively seek to ensure that the scale, location and design of developments do not have a significant adverse impact on the setting of Listed Buildings and do not detract from the character of the CA and APQ.

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Location Plan Relative to Planning Application: 20/01847/PP



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ARGYLL & BUTE COUNCIL

Planning, Protective Services and Licensing
CommitteeDEVELOPMENT AND ECONOMIC
GROWTH17th March 2021

PROPOSED PROGRAMME OF PLANNING TRAINING FOR MEMBERS

1. INTRODUCTION

Over the past 8 years a series of short training sessions or occasionally workshops/site visits have been delivered for all elected Members with an aim to improve knowledge of the planning system on a wide range of issues. The training has usually taken place in the hour before the Planning, Protective Services and Licencing Committee (PPSLC), although in the past workshops and site visits have also been organised. Due to the current circumstances caused by the coronavirus pandemic the 20/21 programme was disrupted and a limited number of virtual training events were undertaken.

This report seeks endorsement of the training programme from April 2021 to March 2022. Further suggestions on any additional topics from Members would also be most welcome. With this in mind a slot has been left vacant in order to accommodate any additional training requirements identified through the course of the year.

It is intended to continue to deliver training by way of virtual sessions associated with the PPSL calendar of meetings until such time as face to face gatherings are allowed.

As before, it would not be intended to restrict the availability of training to the PPSL Committee membership, so there would be an open invitation to all Council Members to attend any of the sessions.

2. SUGGESTED PROGRAMME FOR 2020/21

Date	Committee day training	Half day workshop	Visit
April 2021	COVID 19 and changes to DM practices Peter Bain		
May 2021	DPEA Planning Appeals Scott Ferrie, Interim Chief Reporter		

June 2021	Enforcement – Peter Bain		
August 2021	SEPA role as a statutory consultee Lorna Maclean, SEPA to present		
September 2021	Placemaking key considerations and then site visit location to be confirmed		
October 2021	Archaeology and Planning. Presented by WoSAS.		
November 2021	Material Considerations framing planning conditions Howard Young		
December 2021	To be advised by Members		
January 2022	Landscape and Visual Impact Assessment Mark Lodge		
February 2022	Energy Efficiency and Low Carbon technology in the Historic Built Environment Kim de Buitleir		
March 2022	Core paths / access issues Jolyon Gritten		

3. RECOMMENDATION

It is recommended that Members:

- i) Agree to continuing an ongoing programme of planning related training for Members of the PPSL Committee, which should also be open to any other Members not currently involved in planning decision-making;

- ii) Endorse the initial subject areas for training and the provisional dates for delivery, on the understanding that the programme may be varied to take account of any additional training requirements Members may wish to identify, along with any other particular training needs identified by officers as a consequence of matters emerging during the course of the year.

4. IMPLICATIONS

4.1	Policy	Nil
4.2	Financial	It is considered that the level of training required can be delivered internally from existing resources without recourse to having to buy in training from external providers.
4.3	Personnel	Nil
4.4	Equalities Impact Assessment	Nil
4.5	Legal	Nil

Author of Report: Sandra Davies

Date: 01.03.2021

Fergus Murray
Head of Development and Economic Growth

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ARGYLL AND BUTE COUNCIL**PPSL Committee****Development & Economic Growth****17th March 2021**

EXTENSION OF RELAXATION OF PLANNING ENFORCEMENT IN RESPONSE TO COVID-19

1.0 EXECUTIVE SUMMARY

1.1 This report seeks approval to further extend existing planning relaxations relating to recovery of town centre business activity, and approval for the continued application of an addendum to the Council's Enforcement & Monitoring Charter that provides clarity to officers, complainants, and land owners of the weighting that Covid-19 and its relevance to the unauthorised development will be afforded in the setting timescales and the processes that will be followed when seeking to resolve a breach of planning control.

1.2 It is recommended that PPSL:

- i) Note the guidance provided by the Scottish Government's Chief Planner on relaxation of planning enforcement in response to Covid-19.
- ii) Approve that the Planning Position Statement (Appendix A), (setting out the relaxation of planning controls within designated town centres as previously approved by the Council Leadership Group in July 2020, and subsequently extended on 29th October 2020) be extended until 30th September 2021.
- iii) Approve the addendum to the Enforcement & Monitoring Charter (Appendix B) for a further temporary period expiring 30th September 2021, subject to periodic review in the event of updated guidance being provided by the Scottish Government.

ARGYLL AND BUTE COUNCIL

PPSL Committee

Development & Economic Growth

17th March 2021

EXTENSION OF RELAXATION OF PLANNING ENFORCEMENT IN RESPONSE TO COVID-19

2.0 INTRODUCTION

- 2.1 It is recognised that the extraordinary circumstances arising from Covid-19 have given rise to a situation where the individuals and businesses may require to take rapid action in order to respond to restrictions. This can in some cases give rise to unintentional or deliberate breaches of planning control where development requires to be undertaken immediately in response to rapidly changing circumstances.
- 2.2 The Scottish Government has previously provided guidance on relaxation planning enforcement in relation to specific activities that were expected to be undertaken in response to the evolving Covid-19 pandemic and restrictions imposed upon 'normal' business operations.
- 2.3 The Council has also sought to support businesses through this challenging period and recognises that the inherent time periods built into the planning process to facilitate engagement and transparency are not always capable of being aligned with the rapid pace of change seen over recent months. In order to address this shortcoming, the Council Leadership Group previously adopted a Planning Position statement in July 2020 setting out a formal relaxation to planning enforcement and the requirement to apply for planning permission in relation to temporary changes of use and structures within town centres where these were required to facilitate resumption of business activity following 'lockdown'. The Planning Position statement expired on 30th September 2020 but was subsequently extended by the Leadership Group (at their meeting on 29th October 2020) for a further period expiring 31st March 2021.
- 2.4 It is also identified that failure to address breaches of planning control at the current time may give rise to longer-term issue in relation to the management of development, and/or customer satisfaction, particularly where an unauthorised development is subject of a complaint from a neighbour who would ordinarily have had opportunity to comment on the acceptability or otherwise of the unauthorised development if a planning application had been submitted. In order to ensure consistency of approach the Enforcement & Monitoring Charter was amended by PPSL at their meeting on 18th November 2020 to include an additional process which seeks to identify if the unauthorised development has been progressed in response to Covid-19 restrictions, and where this is established, to set out expectations on how such a matter will be resolved.
- 2.5 It is now recognised that the extraordinary circumstances meriting this approach

to planning enforcement remain in place; this is highlighted by the Scottish Government's recent decision to seek to extend the 'emergency period' defined by the Coronavirus (Scotland) Act for a further period of 6 months (expiring 30th September 2021) and recent announcements which indicate that relaxations allowing resumption of non-essential services are expected to commence from late April 2021.

3.0 RECOMMENDATIONS

3.1.1 It is recommended that PPSL:

- i) Note the guidance provided by the Scottish Government's Chief Planner on relaxation of planning enforcement in response to Covid-19.
- ii) Approve that the Planning Position Statement (Appendix A), (setting out the relaxation of planning controls within designated town centres as previously approved by the Council Leadership Group in July 2020, and subsequently extended on 29th October 2020) be extended until 30th September 2021.
- iii) Approve the addendum to the Enforcement & Monitoring Charter (Appendix B) for a further temporary period expiring 30th September 2021, subject to periodic review in the event of updated guidance being provided by the Scottish Government.

4.0 DETAIL

4.1 The Scottish Government has issued advice that planning authorities should take a "common sense approach to enforcement, with actions proportionate to the severity of suspected breaches of planning control". The Scottish Government's Chief Planner has issued further instruction setting out guidance for relaxation of planning enforcement on identified activities that may give rise to a breach of planning control as businesses responded initially to 'lockdown' restrictions arising from Covid, and then subsequently as they adapted to a new operating environment as restrictions were initially eased.

Summary of Scottish Government Chief Planner's Guidance on Planning Enforcement Relaxations:		
Date Issued	Scope/Activity Covered	Expires:
11 th March 2020 (updated 16 th June 2020)	Relaxation of enforcement of conditions relating to retail distribution	Remains relevant until further notice.
18 th March 2020 (updated 16 th June 2020)	Relaxation of enforcement where public houses and restaurants offer a takeaway service during the current outbreak	Remains relevant until further notice.
29 th May 2020	Relaxation of enforcement in relation to hours of operation on construction	To be reviewed when physical

	sites; and in relation to changing business practices during physical distancing restrictions	distancing is no longer required.
2 nd July 2020	Relaxation of enforcement in relation to 28 day rule on temporary uses	To be reviewed when physical distancing is no longer required.
18 th December 2020	Maintaining a Functioning Planning System and Supporting Recovery - Relaxing Planning Control	To be reviewed when physical distancing is no longer required.

Supporting Town Centre Economic Recovery in Argyll and Bute

- 4.2 Throughout 2020 and 2021 to date, Development Management have participated in the Council's Easing of Lockdown working group which has had a focus on providing support to the recovery of town centre business activity as the initial 'lockdown' measures were eased, and includes a variety of internal and external stakeholders. It was identified at an early stage that proposals to utilise town centre spaces to provide outdoor eating/drinking facilities would give rise to breaches of planning control in many cases, and as such had potential to be problematic to licencing activity necessary to regulate this function. In response to this concern officers prepared an update for the Council's Strategic Leadership Group (paper attached as Appendix A) setting out a formal relaxation of planning enforcement activity which was approved in 29th July 2020. The position statement (set out below for reference) has provided certainty that has allowed temporary outdoor eating/drinking areas to be created without the requirement for planning permission and has facilitated related licencing activity.

*"For a temporary period up until **30th September 2020** Argyll and Bute Council as planning authority will not invite applications for planning permission or pursue planning enforcement action for development providing for the temporary change of use of outdoor areas and/or erection of temporary structures within the designated Town Centre areas of the Main Towns and Key Settlements (as defined in the adopted LDP) which are intended to provide on-street seating for existing cafes, bars, beer gardens and similar to accommodate physical distancing in relation to the resumption of operations in town centre businesses subject to the appropriate authorisations being obtained from Environmental Health, Licensing and Roads Authorities.*

Following the expiry of the defined temporary period, or any subsequently prescribed extension of this period, all temporary uses shall require to be discontinued, temporary structures removed, and the land restored to its former condition unless express planning permission has been sought and obtained in the intervening period.

The installation of any permanent or semi-permanent structures or alterations to the public realm are not supported by these temporary measures and shall require the benefit of express planning permission in advance of works commencing.”

- 4.3 The Planning Position statement was initially aligned to the time period provided in the Scottish Government Chief Planner’s letter of 2nd July 2020 which indicated that a review of the requirement for this planning enforcement relaxation would be undertaken in September 2020. The Scottish Government have subsequently confirmed that this advice will remain in place until such time as requirements for physical distancing have been removed. Given the continuing requirement for engagement with licencing activity as businesses react to the current fluid situation approval is now sought from PPSL (as opposed to the Leadership Group following advice provided by the Head of Legal & Regulatory Support) to extend the period covered by the Planning Position statement up until 30th September 2021. This extended period is in alignment with the most recent intent to extend the ‘emergency period’ defined by the Scottish Government in unrelated provisions of the Coronavirus (Scotland) Act 2020, although this could be reviewed earlier in the event that the requirement for physical distancing is no longer required.
- 4.4 Whilst the expiry of the Planning Position statement would not prevent the Council as planning authority from continuing to deliver planning enforcement in a pragmatic and proportionate manner which gives due consideration to the requirement of businesses to react to Covid-19 restrictions, the absence of a formally agreed exemption (as noted in the Planning Position statement) would prevent/impede positive engagement with other regulatory processes, Licencing in particular, where any breach of planning control, or requirement for permission would require to be flagged up. Whilst the Planning Position statement remains in force such matters can be identified but accompanied by commentary advising that new uses/erection of temporary structures could proceed temporarily without the benefit of express planning permission. The lockdown imposed post-Christmas 2020 is now beginning to be eased and it is anticipated that the requirement for temporary uses/structures relating to the resumption of town centre activities will again create a tension between the requirement for planning permission and support for businesses reacting to a fast changing situation impacting upon their ability to operate with restrictions on opening hours/use of indoor facilities/social distancing etc. It is therefore considered that it would be prudent to make appropriate provision to extend the Planning Position statement for the duration of the ‘emergency period’ until 30th September 2021 (as it is defined by the proposed extension of the Coronavirus (Scotland) Act 2020) to reduce regulatory requirements for temporary changes to operating arrangements by town centre businesses during this challenging period.
- 4.5 The proposed extension of the Planning Position Statement has been discussed at the February 2021 Policy Lead meeting for Planning and Regulatory Services where some reservations were expressed given the potential longer term planning enforcement implications where licensed premises seek permanent changes to their licence relying on the Planning Position Statement for planning

compliance in the short term but do not subsequently seek the requisite planning permissions prior to relaxations expiring. This risk has been recognised and commitment has been provided that the Development Management Service will work with Licencing Standards Officers to identify cases where permanent revision to licences dependent on the relaxation are granted and monitor these/invite planning applications at such time as relaxations are withdrawn.

General Planning Enforcement Matters and Covid-19

- 4.6 Whilst the Planning Position statement has provided greater certainty to support specific town centre activities it is noted this does not address planning enforcement issues within the wider Council area where there is a customer expectation set out in the Charter that complaints will be investigated and progressed in a timely manner. In some instances, these complaints will also relate to development outwith designated town centres that has required to have been undertaken in direct response to the extraordinary circumstances arising from Covid-19 restrictions and are necessary to facilitate business continuity/survival in these challenging times.
- 4.7 Given the potential conflict between the expectation that the Council will act to resolve breaches of planning control and the challenges created by current circumstances PPSL previously approved the addendum to the Planning Enforcement Charter set out in Appendix B at their meeting in November 2020 for a temporary period expiring 31st March 2021. The objective of the addendum is to provide clarity for all parties that the Council will continue to investigate, record and potentially take action where necessary in respect of unauthorised development even where this relates to development arising in response to Covid. It will however also be made clear that where there is a genuine requirement for the development in response to the circumstances arising from Covid-19 that the Council will have due regard to this in deciding the most appropriate means to address the breach of control in both the short, and longer term. Where unauthorised development gives rise to serious short-term adverse effects upon public health and/or safety, significant irreversible environmental harm then it would remain appropriate to seek swift resolution. Where no such harm arises, it may still be appropriate to proceed with formal action, however the addendum clarifies that time periods for compliance should be aligned to the circumstances of the development to support individuals and businesses as they respond to Covid-19.
- 4.8 The circumstances which initially gave rise to the introduction of the addendum to the Enforcement Charter remain and it is accordingly recommended that PPSL extend the application of the addendum for a further 6 month period, expiring 30th September 2021, again this period aligning within the defined 'emergency period'.

5.0 CONCLUSION

- 5.1 The recommendations set out proposals that will provide sufficient certainty to ensure that the Development Management Service can remain fully engaged in support for other regulatory activity of the Council which supports town centre recovery, and continues to apply the addendum to existing protocol for the

resolution of planning enforcement matters that will assist in consistency of application and management of expectations for both complainants, and land owners that the Council will take a common sense approach to enforcement where the requirement for the development has arisen as a result of a response to Covid-19.

6.0 IMPLICATIONS

- 6.1 Policy - None
- 6.2 Financial - None
- 6.3 Legal - None
- 6.4 HR - None
- 6.5 Fairer Scotland Duty: - None
- 6.5.1 Equalities - protected characteristics - None
- 6.5.2 Socio-economic Duty – Positive impact through support for business activity as it responds to Covid-19
- 6.5.3 Islands - None
- 6.6 Risk – Longer term planning enforcement liabilities arising where licences are permanently amended but are dependent upon the Position Statement for the initial period of operation.
- 6.7 Customer Service – Positive impact through management of customer expectations.

**Executive Director with responsibility for Development & Economic Growth –
Kirsty Flanagan
Policy Lead - David Kinniburgh
9th March 2021**

For further information contact: Peter Bain – 01546 604204

APPENDICES

- Appendix A – Previous report to Strategic Leadership Group July 2020
- Appendix B – Proposed Addendum to Planning Enforcement Charter

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Appendix A

Temporary Relaxation of Town Planning Controls to Support Economic Growth 21.07.20

Please identify any service issues that require resolution with regards to the COVID 19 crisis.

Development Management:

The relaxation of lockdown and progressive implementation of the Scottish Government's road map to recovery allowing for the resumption of commercial activities in town centres gives rise to potential conflict for the Council in its regulation of activities that require planning permission where existing businesses require to expand/adapt their operations in the short term to address constraints on operation arising from social distancing requirements.

The regulations governing the planning application process are defined in a manner which seek to facilitate engagement and as such cannot readily be adapted to provide a fast-track consent process to support the urgent short-term requirements for new temporary uses of town centre land and temporary structures within the time period required by businesses in the current, extraordinary circumstances.

The Scottish Government have also recognised that the planning process is a potential constraint on the resumption of economic activity within town centres and has issued advice via their Chief Planning Officer confirming "*that the most appropriate, straightforward and efficient means of ensuring that the planning process can allow for reasonable temporary changes of use is through informally relaxing planning controls; particularly by agreeing not to take enforcement action against acceptable breaches that will allow for businesses to operate and for some normality to return.*"

It is advised that the Development Management Service welcomes the guidance provided by the Scottish Government on this matter and has sought to work proactively with other Services, including Licencing, Roads, and Environmental Health in their establishment of a 'fast track' consent process to facilitate resumption of business activity in town centres. In responding to these consultations it has however become evident that, in the absence of confirmation of the Council policy position on the implementation of local relaxation of planning control it is difficult for officers to provide clear, consistent and professionally competent advice to businesses, consultees or complainants on the extent that planning relaxations apply or effectively sanction unauthorised development.

In order to provide Development Management Officers with a clear mandate to apply a relaxation of planning controls in the short term it is recommended that the Council adopt the following Planning Position:

*“For a temporary period up until **30th September 2020** Argyll and Bute Council as planning authority will not invite applications for planning permission or pursue planning enforcement action for development providing for the temporary change of use of outdoor areas and/or erection of temporary structures within the designated Town Centre areas of the Main Towns and Key Settlements (as defined in the adopted LDP) which are intended to provide on-street seating for existing cafes, bars, beer gardens and similar to accommodate physical distancing in relation to the resumption of operations in town centre businesses subject to the appropriate authorisations being obtained from Environmental Health, Licencing and Roads Authorities.*

Following the expiry of the defined temporary period, or any subsequently prescribed extension of this period, all temporary uses shall require to be discontinued, temporary structures removed, and the land restored to its former condition unless express planning permission has been sought and obtained in the intervening period.

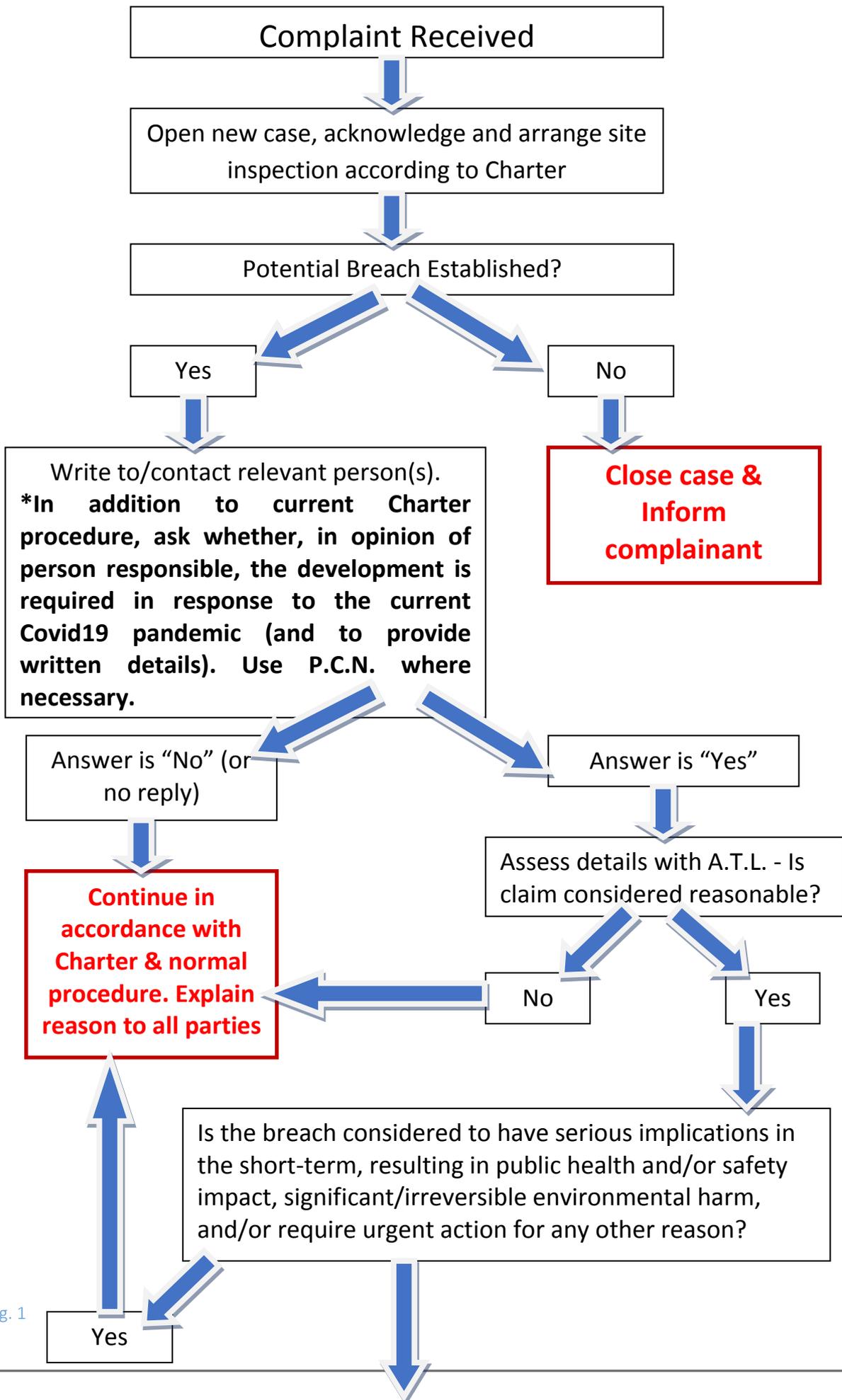
The installation of any permanent or semi-permanent structures or alterations to the public realm are not supported by these temporary measures and shall require the benefit of express planning permission in advance of works commencing.”

2 Please identify service disruptions or potential closures? - None

3 State any recommendations you have for service suspensions.

Suspension of planning enforcement until **30th September 2020** in respect of unauthorised temporary change of use of outdoor areas/temporary structures within the designated town centres of Main Towns and Key Settlements where appropriate authorisations have been obtained from Roads, Licencing and Environmental Health.

Fergus Murray – Head of Development and Economic Growth





No



Consider and agree with A.T.L. one of three potential 'good will options':

1. Agree temporary moratorium period and resume investigation/action at the end of the agreed period (unless circumstances dictate otherwise). Inform all parties of agreed temporary position.
2. Require submission of planning application (S.33A Notice); now or at end of agreed period (see 1. Above).
3. Serve formal Enforcement (or B.O.C.) Notice with appropriately extended compliance period to allow for temporary relaxation of normal Charter provision.

Communicate position to all parties. Monitor, review and continue as necessary.



If no appropriate option can be agreed upon or if communication or good will breaks down despite all reasonable efforts of planning authority, or if agreed deadlines and/or agreed actions are not met by responsible person(s)



Continue in accordance with Charter & normal procedure. Explain reason to all parties.

ARGYLL AND BUTE COUNCIL**Planning, Protective Services and
Licensing Committee****Development and Economic Growth****17th March 2021**

Indicative Regional Spatial Strategy: Scottish Government Feedback

1.0 EXECUTIVE SUMMARY

- 1.1 The Planning (Scotland) Act 2019 introduced a requirement for planning authorities to prepare Regional Spatial Strategies (RSS). Details of this process, and the request by Scottish Government for Indicative RSS (iRSS) were explained in a report to September 2020 PPSL [INDICATIVE REGIONAL SPATIAL STRATEGY PDF 348 KB \(argyll-bute.gov.uk\)](#).
- 1.2 PPSL approved the Argyll and Bute iRSS in September of 2020 and it was subsequently submitted to Scottish Government. [Draft FULL Indicative RSS v7 , item 6. PDF 7 MB \(argyll-bute.gov.uk\)](#)
- 1.3 The iRSS content provides a strategic level input from Argyll and Bute into the NPF4 process. Scottish Government has now provided feedback on all Council's iRSS and invited any further amendments by April 2021. The feedback provided by Scottish Government is collective in that it covers all Councils at once. The feedback is included at Appendix 1
- 1.4 The Scottish Government feedback received in respect of Argyll and Bute's iRSS is generally positive and encouraging in terms of the potential recognition of Argyll and Bute within the forthcoming NPF4. Officers do not consider it is necessary or advantageous to further amend the iRSS at this stage.

2.0 RECOMMENDATIONS

- 2.1 It is recommended that Members note the content of the Scottish Government Feedback and agree that the RSS is not further amended at this stage.

ARGYLL AND BUTE COUNCIL

Planning, Protective Services & Licensing
Committee

Development and Economic Growth

17th March 2021

Indicative Regional Spatial Strategy: Scottish Government Feedback

3.0 INTRODUCTION

- 3.1 Indicative Regional Spatial Strategies (iRSS) were requested from Planning Authorities by the Scottish Government in September 2020 in order to inform the preparation of National Planning Framework 4 (NPF4). PPSL approved the Argyll and Bute iRSS in September of 2020 and it was subsequently submitted to Scottish Government. [Draft FULL Indicative RSS v7 , item 6. PDF 7 MB \(argyll-bute.gov.uk\)](#)
- 3.2 The iRSS content provides a strategic level input from Argyll and Bute into the NPF4 process. Scottish Government has now provided feedback on all Council's iRSS and invited any further amendments by April 2021. Scottish Government will then use these documents to draft the NPF4 due to be published in September 2021.
- 3.3 The feedback received in respect of Argyll and Bute's iRSS is generally positive, and officers do not consider it is necessary or advantageous to further amend the iRSS at this stage.

4.0 RECOMMENDATIONS

- 4.1 It is recommended that Members note the content of the Scottish Government Feedback and agree that the iRSS is not further amended at this stage.

5.0 DETAIL

- 5.1 The Planning (Scotland) Act 2019 introduced a requirement for planning authorities to prepare Regional Spatial Strategies (RSS). Details of this process, and the request by Scottish Government for Indicative RSS (iRSS) were

explained in a report to September 2020 PPSL [INDICATIVE REGIONAL SPATIAL STRATEGY PDF 348 KB \(argyll-bute.gov.uk\)](#).

- 5.2 Following the September 2020 PPSL, the Argyll and Bute iRSS was submitted to Scottish Government in order to help inform development of the National Planning Framework 4.
- 5.3 The iRSS does not have the status of a formally prepared RSS and was submitted to the Scottish Government without prejudice to further comments Argyll and Bute may wish to make throughout the NPF4 process. However, the iRSS provided a reasonable approach for the planning authorities to submit their existing strategic spatial and infrastructure priorities for consideration by the Scottish Government in the NPF4 process in view of the absence of formal RSS and the timeframe of NPF4 production.
- 5.4 Whilst the Scottish Government continues to work on preparation of the NPF4 which is due in draft in September 2021, it has provided feedback on the content of all Council's iRSS and offered the opportunity for further refinement of the iRSS by the end of April 2021. This is part of the Scottish Government strategy of ongoing engagement throughout the NPF4 production process.
- 5.5 The feedback provided by Scottish Government is collective in that it covers all Councils at once. It analyses the content and process of producing the iRSS, how the strategies have been set out, and the collective appropriateness of their content. The feedback is included at Appendix 1
- 5.6 Key points noted by Scottish Government with which the A&B iRSS already aligns include:
 - 1 The ABC iRSS has shown where strategic development is required and includes tables showing the outcomes to which strategic development will contribute, priorities for delivery and proposed locations in form of a map and diagram
 - 2 The projects included in the iRSS align with those in the ABC Rural Growth Deal projects. These have also taken other key policy drivers into account, such as the second Strategic Transport Projects Review (STPR2).
 - 3 NPF4 considerations such as national outcomes and the main themes are shown in the iRSS tables.
 - 4 The ABC iRSS has a longer timeframe and distinguishes between short term commitments and longer term 'aspirations'. The evidence base to support the iRSS comes directly from the Proposed Local Development Plan 2 evidence base. Delivery bodies / agencies have been identified where known.
 - 5 It is considered that a balance and integration has been achieved between strategy and projects
 - 6 Spatial alignment with neighbouring iRSS areas has been indicated both in the strategy and on the diagrams.

- 7 We have endeavoured to achieve a consistency of approach through collaboration in the Northern Authorities Development Plan Forum and workshops with the Scottish Government.

- 5.7 Generally it is clear that Scottish Government has absorbed the contents of the Argyll and Bute iRSS, and particularly has noted our spatial strategy of Growth Corridors; the Western Seaboard; Strategic Employment Sites; focus on regeneration in Remote Rural Areas, and our focus on Tourism. Feedback referring to Argyll and Bute is very favourable, with almost all the content of the iRSS being represented within the National “mashup” constructed by Scottish Government. This contrasts with relatively infrequent Argyll and Bute references in previous NPFs.

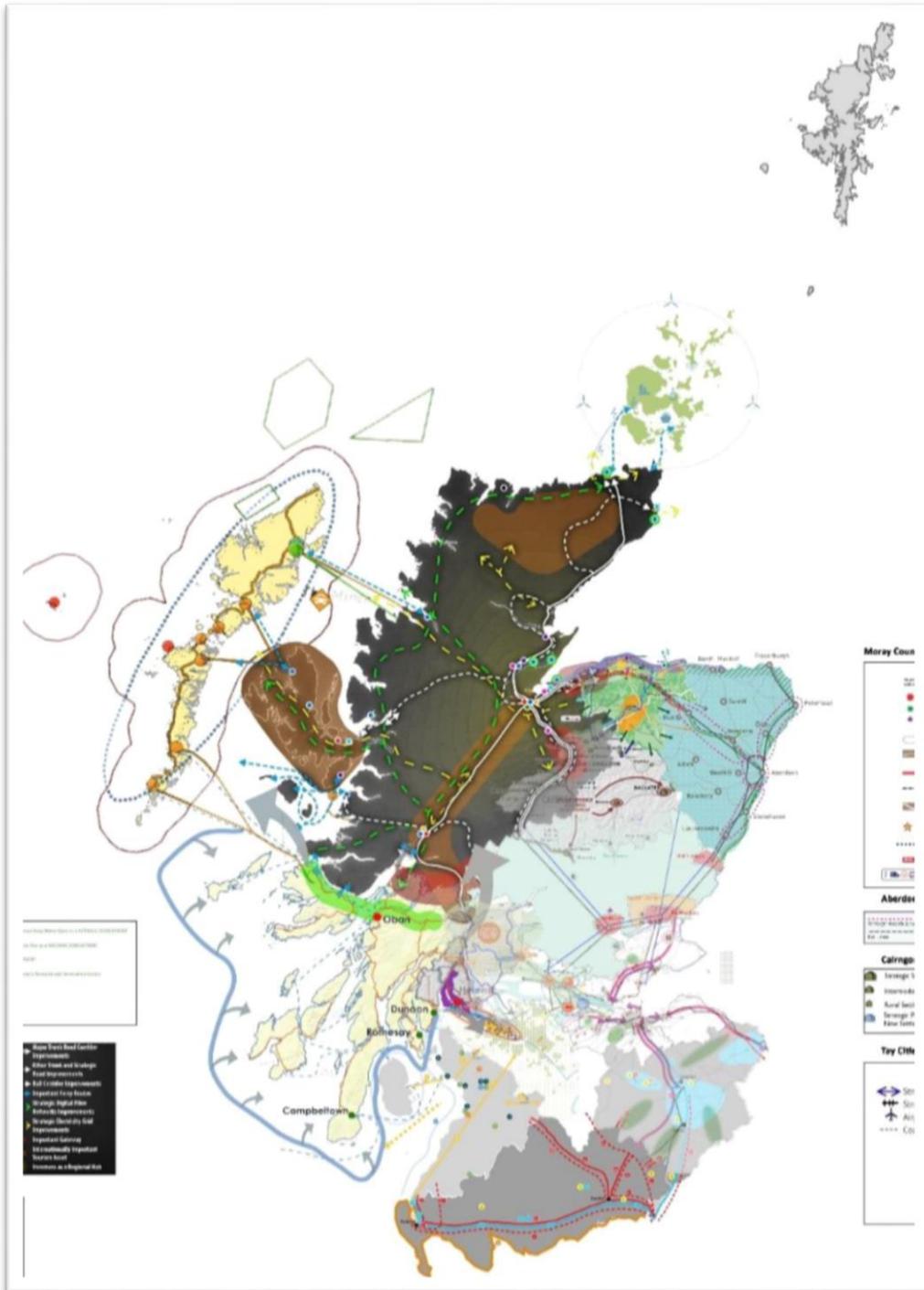


Fig 1: Scottish Govt. “mashup” of All Local Authority iRSS Spatial Diagrams.

- 5.8 Officer’s view is that the Scottish Government are seeking to promote some harmony between the content and style of iRSS and to ensure that they articulate alignment with other plans, projects and policies so that they can be more readily translated into a National Spatial Plan.
- 5.9 However the analysis offered by Scottish Government would seem to suggest that the Argyll and Bute iRSS has generally reflected what is required in terms of

balance between graphical spatial strategy and identification of individual projects, and reliance and alignment with existing evidence based plans and policies.

- 5.10 As a result officers do not see merit in further refinement of our already submitted iRSS, but merely minor officer commentary to clarify certain points or mapping, including; clearer mention of Cruachan Dam; and to correct the labelling of our Strategic Economic Investment Sites on the Scottish Government mapping.
- 5.11 Going forwards Scottish Government will continue to engage in the creation of a national spatial strategy, and the Council will get chance to make comments on the draft NPF4 when it is produced in the autumn of 2021. In 2022, depending on the timing of regulations, the Council will also need to go through the process of producing a full Regional Spatial Strategy, but until the relevant new regulations are produced we do not know the details or timing of that process.

6.0 CONCLUSION

- 6.1 The Scottish Government feedback received in respect of Argyll and Bute's iRSS is generally positive and encouraging in terms of the potential recognition of Argyll and Bute within the forthcoming NPF4. Officers do not consider it is necessary or advantageous to further amend the iRSS at this stage.

7.0 IMPLICATIONS

- 7.1 Policy : The iRSS does not have the status of a statutory RSS. However, it will help inform the NPF4 process which will result in policy implications for the Council. The iRSS reflects current spatial priorities as agreed through engagement and Council process.
- 7.2 Financial : None as a result of this paper. The iRSS has been prepared within Development Policy. However, the iRSS will inform the preparation of NPF4 which will indicate national priorities for strategic infrastructure and development investment.
- 7.3 Legal : None. There is no statutory requirement to prepare the iRSS prior to the regulations. The iRSS has no statutory planning status.
- 7.4 HR : None
- 7.5 Fairer Scotland Duty: (please refer to guidance on Hub): The iRSS is based on Proposed Local Development Plan 2 which has taken account of the Fairer Scotland Duty Act
 - 7.5.1 Equalities - protected characteristics: The iRSS is based on Proposed Local Development Plan 2 which has taken account of equalities – protected characteristics
 - 7.5.2 Socio-economic Duty: The iRSS is based on Proposed Local Development Plan 2 which has taken account of socio-economic duty

- 7.5.3 Islands: The iRSS is based on Proposed Local Development Plan 2 which has taken account of Island issues.
- 7.6. Risk: Having submitted the iRSS the Council is able to engage fully in the preparation of NPF4, present a succinct picture of the strategic infrastructure priorities of the area and influence the direction of NPF4 which may not be promoted adequately without the iRSS.
- 7.7 Customer Service: PLDP2, the Economic Strategy and Rural Growth Deal have all been subject to consultation and/or Committee process. The Council is fulfilling its customer service role by actively engaging in the preparation of NPF4 to ensure ABC issues are raised.

Executive Director: Kirsty Flanagan, with responsibility for Development and Economic Growth

Policy Lead David Kinniburgh

24/02/21

For further information contact:

Matt Mulderrig matt.mulderrig@argyll-bute.gov.uk

APPENDIX 1

Scottish Government Feedback On Indicative Regional Spatial Strategy (iRSS)

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Click on [hyperlink](#) to view diagram

Indicative Regional Spatial Strategies - Feedback January 2021

INTRODUCTION

A strong collaborative approach has been adopted towards exploring and developing indicative Regional Spatial Strategies (iRSS) such that early thinking can help inform the preparation of the draft National Planning Framework (NPF4). Learning from this will also help to shape the Statutory Guidance that will enact the new Duty to prepare Regional Spatial Strategies (RSS).

It is evident that the iRSS submissions received in September 2020 are founded on a strong place-based understanding and provide a solid basis for taking this work forward. We intend to support further development by enabling the preparation of a more consistent picture that is informed by the collective contributions to date.

Once a more complete picture is assembled we will aim to integrate and prioritise opportunities within a national context. A national overview will seek to promote proposals that reflect national significance and add value by framing them within a coherent national spatial strategy. There is the option for priorities identified by regional groupings to be embedded in their formal, finalised and adopted Regional Spatial Strategy (RSS) and, where appropriate, we recommend proposals should align with national policy and be supported by evidence based appraisals.

This is an emerging area of work and this feedback is intended to assist further development of indicative Regional Spatial Strategies (iRSS) prior to a submission by the end of April 2021 that will inform preparation of the draft NPF4. Alongside this the Scottish Government will be considering the ideas and issues from a national perspective. Further information on iRSS is provided in [an update note](#) and earlier development work is available on the [HOPS KHub](#).



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Indicative Regional Spatial Strategies - Feedback

January 2021

A CONSISTENT BASIS FOR PROVIDING FEEDBACK

Feedback recognises that the early stages of producing the first generation of RSSs is a work in progress, with each contribution being taken forward in ways that are appropriate to each RSS authority/grouping. A diversity of approaches has been adopted as evident in the adjacent 'mash-up' diagram of initial iRSS submissions (September 2020).

In order to now provide a degree of consistent 'read-across' as a platform to share and compare ideas, a [summary of the iRSS submissions](#) (September 2020) has been produced which shows the emerging themes and priorities from each iRSS to date.

In addition, an integrative cartographic exercise has been carried out that maps projects and proposals in relation to seven overarching themes (derived from the initial submissions) which are indicated in the following pages with associated observations and comments.

We trust that this feedback will be of assistance in engaging more widely and taking forward the development of each iRSS. Feedback is offered in terms of: A] general reflections, and B] comments in response to the themed mapping work

Clarification: some iRSS include proposals for housing delivery including estimates of numbers of homes required and potential strategic sites. We would ask that authorities bear in mind that work on NPF4 and housing is progressing and that we will be in contact in due course to set out how this will be achieved. In the meantime it would be premature to comment on proposals put forward at this stage.

GENERAL CONSIDERATIONS

1. It may be helpful to check against the requirements of the new RSS Duty to identify:

- Need for strategic development (*development that is likely to have a significant impact on future development within an area of more than one planning authority*)
- Outcomes to which strategic development will contribute
- Priorities for delivery
- Proposed locations in form of a map or diagram

2. NPF4 will co-ordinate across key SG policy areas; there is an opportunity to consider how projects align with key policy drivers, such as:

- **National Transport Strategy (NTS2) and the second Strategic Transport Projects Review (STPR2)**
- **Infrastructure Investment Plan (IIP)**
- **Economic Development / Growth Deals**
- **Climate Change Plan**
- **Capital Investment Plan**
- **Other/s** - In addition there is opportunity to align with other regional / cross boundary policy areas that were evident in discussion sessions, such as: Regional Land Use Partnerships / Frameworks, Forestry & Woodland strategies, Tourism strategies, other/s, etc

3. NPF4 considerations

Where appropriate, it would be helpful to identify and reference how iRSS are responding to specific NPF4 considerations that include:

- National Performance Framework / Outcomes and / or UN SDGs
- Statutory Outcomes – Carbon, Housing (elderly / disabled), Inequalities, Rural Re-population, Bio-diversity, Health & Wellbeing
- Main thematic considerations – Climate Change, People, Work, Place

4. Working to longer / 2050 timescale

The iRSS should distinguish between **short term commitments and longer term ‘aspirations’** that are consistent with national policy and which are intended to deliver against net zero ambitions.

With this in mind, and recognising an infrastructure first approach to delivery, proposals should be supported by **evidence based appraisal** and identify lead & support delivery bodies / agencies if known.

As noted in the IIP, proposals should be **resilient to change**, particularly climate change projections (extreme weather, flooding etc), demographic change (age, growth in single occupant households, disability, etc) and technological change. Strategies should also respond positively to the pandemic.

5. Strategy v projects

It may be helpful to reflect on the extent to which the current iRSS presents a cohesive long term Regional Spatial Strategy direction to 2050, and the degree to which it currently represents a ‘collection of projects’.

6. Mapping / spatial alignment

There is an opportunity for iRSS to consider the extent to which **strategies spatially align with neighbouring iRSS areas** and where there may be scope to optimise that alignment (also considered in ‘mapping’ comments provided below).

7. Synthesis and consistency

There is an opportunity to consider how a more consistent approach might be achieved. E.g.:

- The degree to which **context, background and supporting narrative** are required
- The extent to which a spatial strategy is expressed through a **diagram with brief supporting narrative**
- **Consistency of key** / legend / representation / format (the mapping work suggests a legend that might be commonly adopted?)





To view maps and legends access separate attachment

Indicative Regional Spatial Strategies - Feedback January 2021

MOVEMENT INFRASTRUCTURE

Observations

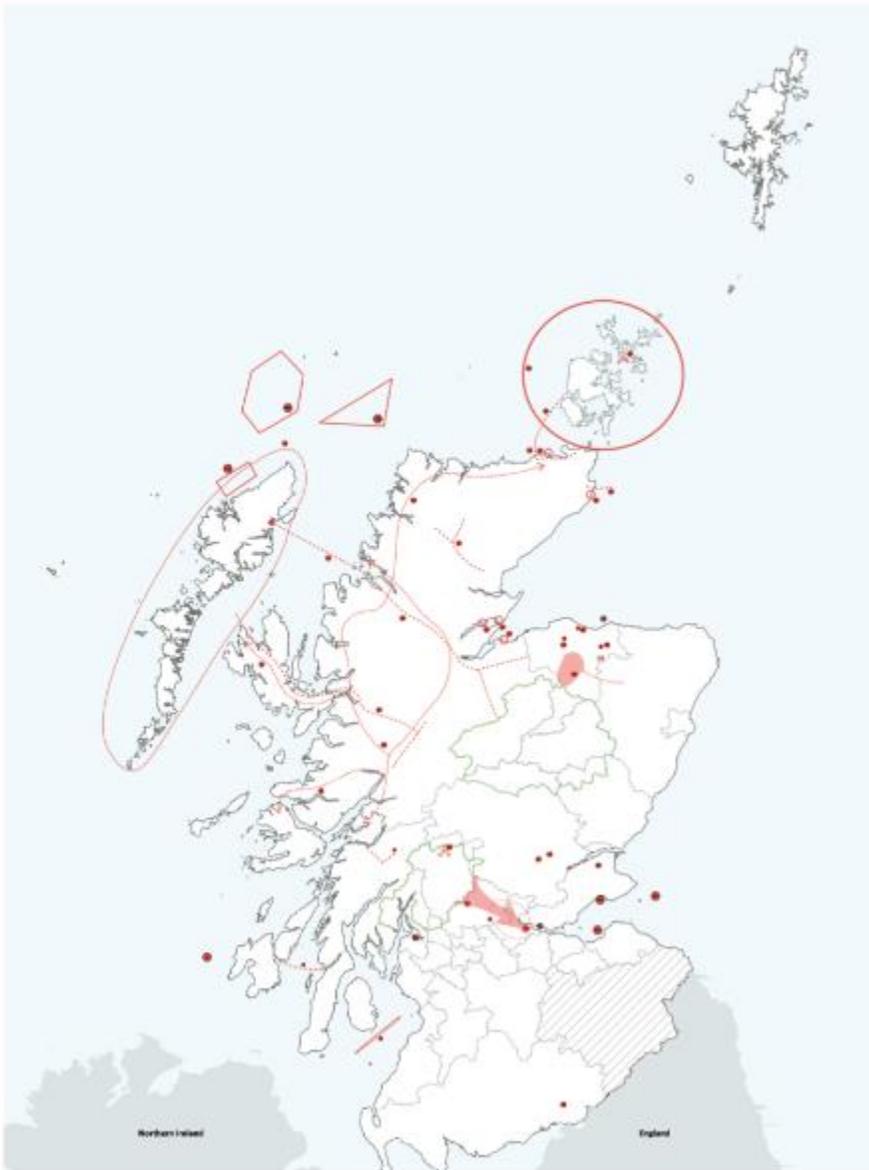
- Priorities cover all modes of transport.
- There appears to be more attention to connectivity in rural / island locations.
- Some priorities reflect existing links and infrastructure (i.e. the 'current' situation), some focus on committed projects and others indicate long term aspirations.
- In some cases, strategic links identified by one grouping stop at their RSS border.

Questions

- Does the spatial strategy (land use and transport infrastructure proposals) support NTS2 priorities and outcomes, particularly in relation to Climate Change?
- Do proposals avoid 'locking in' higher carbon travel and transport?
- What are strategic implications for public transport (if any)?
- Have NTS2 travel and investment hierarchies been considered, and how?
- How will plans assist in reducing car kilometres by 20% by 2030?
- Have transport infrastructure projects emerged from a transport appraisal?

- Have cross LA boundary travel needs been considered?
- Is there scope to look across boundaries to provide more strategic connectivity?
- How do projects align with the infrastructure first approach?
- Having viewed the collective input, is there anything groups would wish to add/remove?
- Are groupings considering implementing a regional electric vehicle charging strategy?
- Is there a need for consistency in how strategic assets are considered and/or represented? i.e. ports, airports, etc
- Has the scope for virtual/digital connectivity been fully considered to reduce the need for 'unsustainable' physical connectivity?
- Is the strategic importance of localised 'connectivity' represented? – i.e. walking / cycling / 20 minute neighbourhood concept.
- Should inter/regional thinking seek to join up long distance walking / cycling opportunities whilst identifying associated infrastructure requirements?





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Indicative Regional Spatial Strategies - Feedback January 2021

UTILITIES, ENERGY & DECARBONISATION

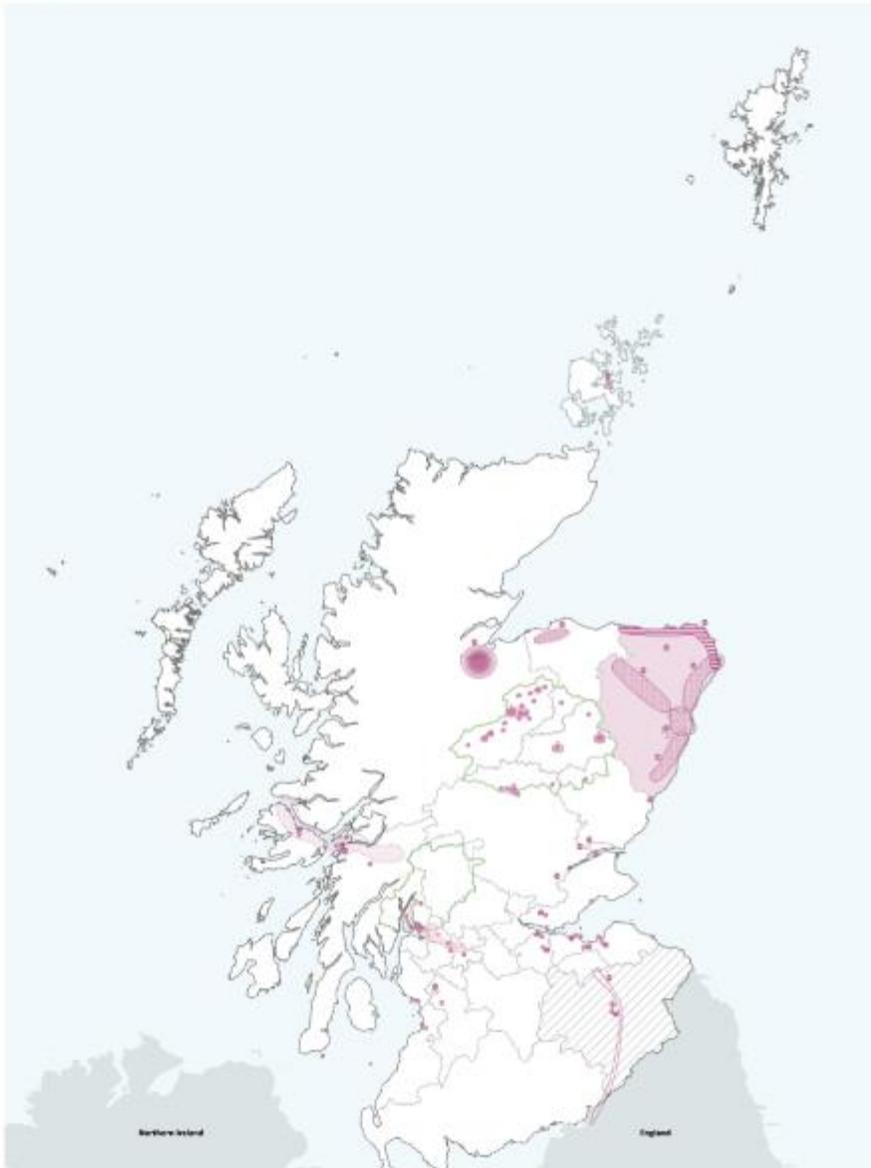
Observations

- Priorities include grid connections, renewable energy generation, and energy related development / innovation projects.
- Digital is also important, with fibre connectivity across Highland.
- There appears to be an emphasis on energy in more rural and island areas.
- There seems to be less emphasis in cities / major urban areas, and in the south.
- Offshore links are important.
- There are various opportunities emerging relating to hydrogen.
- Digital might have been expected to feature more prominently (particularly in rural areas).
- Interesting that LLTNPA and Moray illustrate strategic relationships with adjacent areas.

Questions

- Is this a complete picture of priorities? We are aware that energy and the transition to low carbon are priorities for the North East for example, but this is not currently represented graphically.
- Are there other energy related projects which should be highlighted? (e.g. solar?)
- Are there strategic issues around water that should be included?
- Can we build a more complete picture of opportunities around hydrogen infrastructure?
- Are groupings considering implementing a regional electric vehicle charging strategy?
- Is there potential for projects to join up across different RSSs?
- Do projects / proposals align with the IIP?





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Indicative Regional Spatial Strategies - Feedback January 2021

SETTLEMENTS

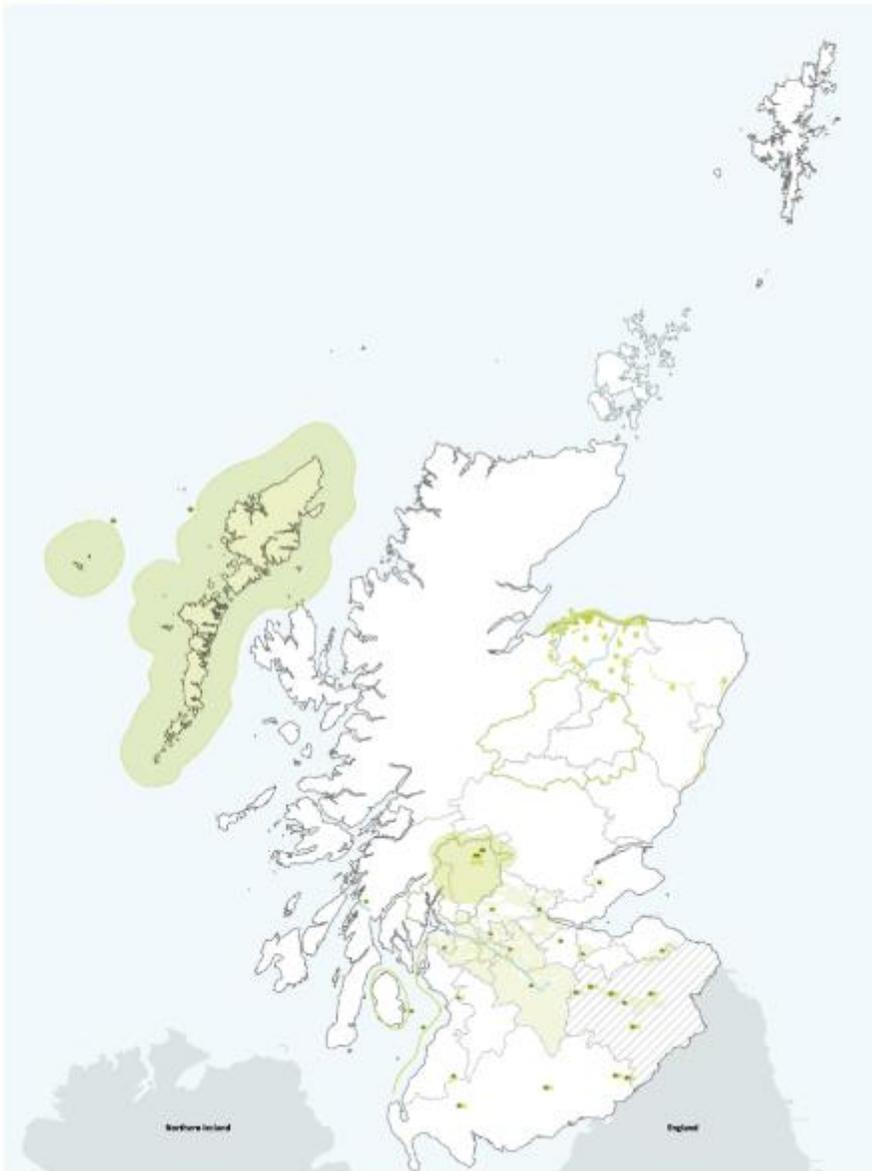
Observations

- There is a diverse approach - Some areas identify individual settlements, some focus on strategic settlements / growth corridors. Others have not focused on this aspect.
- The current picture suggests priorities for the Inverness and the North East, the central belt and Argyll and Bute.
- Interesting that National Parks have identified areas for new homes.
- Is rural repopulation likely to be a priority which might be shared more widely?
- Focus of this map skewed by CNPA and North East (both plans to be updated).
- A variety of terminologies are used – ‘growth hub’, ‘growth area’, ‘strategic regional hub’, ‘growth corridor’, etc
- Sense of hierarchy of settlement message not clear (apart from Inverness).

Questions

- Would groups wish to revisit contributions having seen the collective input of others?
- Does an infrastructure first approach underpin the spatial strategy/growth areas? And is this underpinned by NTS2 sustainable travel and NTS2/IIP investment hierarchies?
- Could strategic growth priorities be identified?
- To what extent are past trends / existing pressures being identified?
- Is development proactively guided to locations that demonstrably meet climate change targets and inclusive growth ambitions?
- Could groups consider strategic regeneration priorities?
- Is there scope to identify areas for rural repopulation that are strategically significant?
- Is ‘regeneration’ (renewal / re-invigoration) of settlements a ‘strategic’ consideration for all?
- Are any settlements under threat / re-imagining? E.g. coastal climate action?





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Indicative Regional Spatial Strategies - Feedback January 2021

ENVIRONMENT, LANDSCAPE & LAND USE

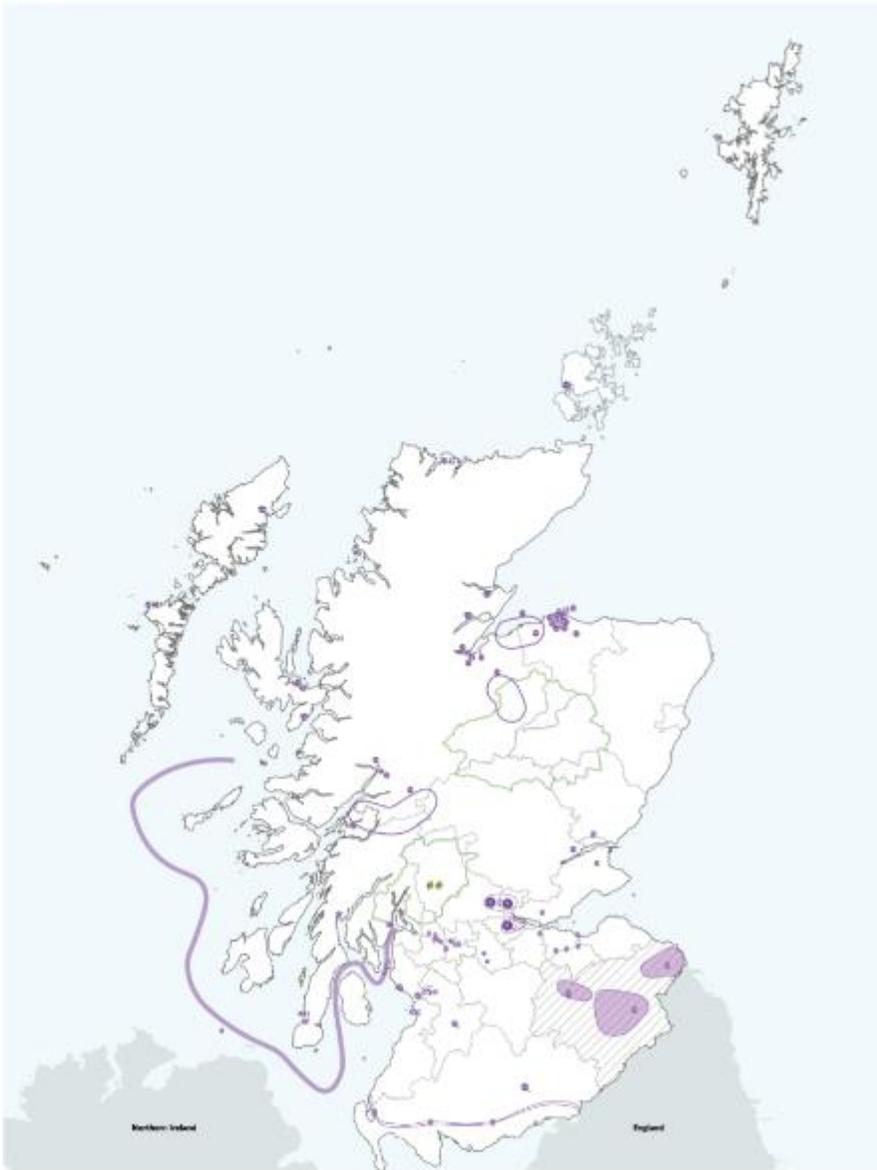
Observations

- Priorities include green networks, flood management, woodland / afforestation, canals, land management, agriculture and food production, marine links.
- This appears to be particularly strong in the South of Scotland, Ayrshire, Clydeplan, SESplan, Forth Valley, North East, Moray, and Western Isles.
- Surprising that this theme isn't more of a strategic consideration more generally.
- Large areas are unrepresented – could be considered in terms of catchment / habitat / ecological networks / eco-systems, etc?
- There may be opportunities to align with other regional / cross boundary policy areas that were evident in discussion sessions, such as Regional Land Use Partnerships/Frameworks.

Questions

- To what extent are we showing protection / recognising existing assets rather than identifying future priorities?
- Are there strategic spatial priorities that might emerge with some further co-ordination?
- Need to think cross-boundary to capture catchment scale priorities?
- Scope to work with the key agencies to build a fuller picture of this?
- Are there aspects – i.e. peatland / carbon sequestration; green networks – that are strategic considerations?
- Is coastal management a strategic consideration for all? Or is there a need to identify / focus on specific 'at risk' areas?
- Should flood mitigation, currently noted as projects, be considered as a wider strategic land management / catchment issue?
- Is there potential for woodland / forestry carbon sequestration to be identified at scale?





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Indicative Regional Spatial Strategies - Feedback January 2021

ECONOMY & EMPLOYMENT

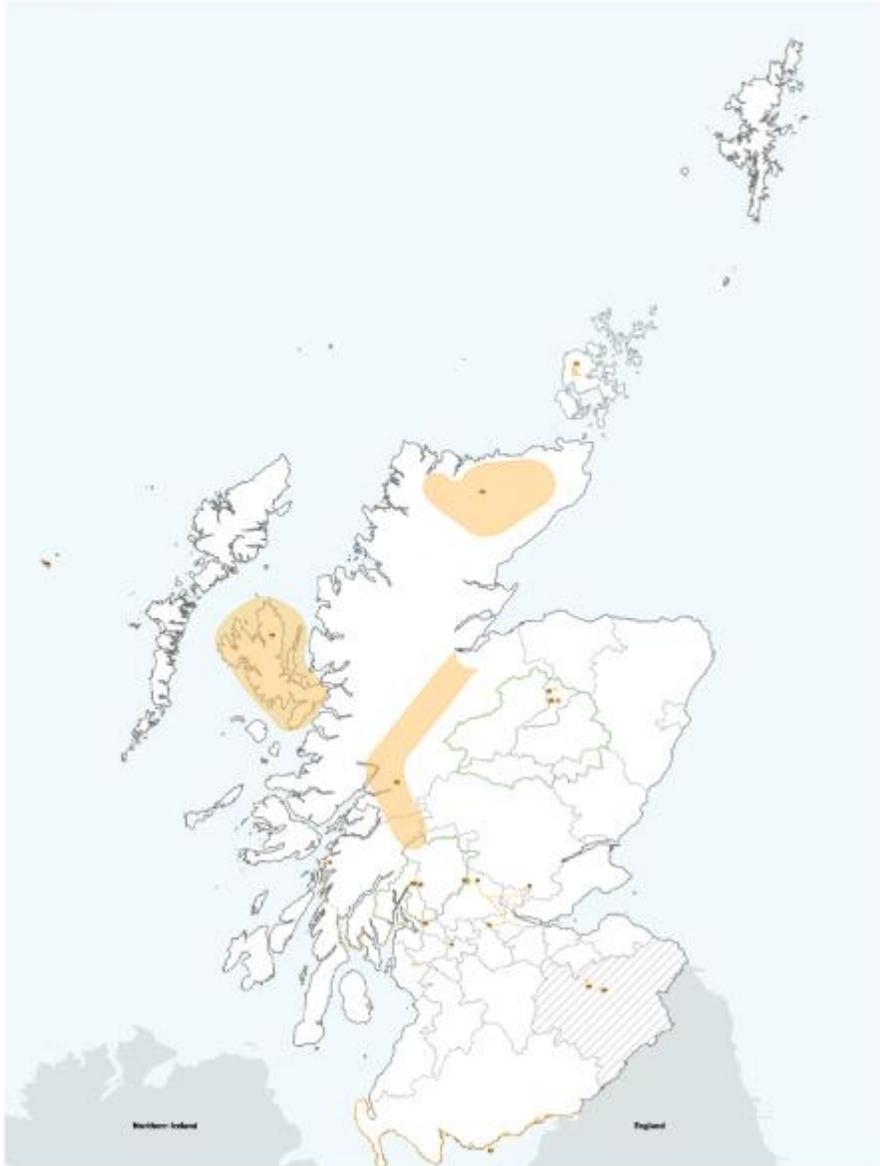
Observations

- Priorities include: sectoral developments (e.g. advanced manufacturing, spaceports, marine, aerospace, culture, innovation and research).
- Other priorities cover business generally – strategic employment sites, economic development zones.
- Some areas cover services – e.g. health and education.
- Green recovery specifically noted in LLTNPA.
- There is uneven geographic representation.
- Spatially there is a focus on the Central belt, south of Scotland, Moray, Inner Moray Firth, Argyll and Bute and Western Isles.
- Uncertain about the extent to which strategies are responding to implications from the COVID pandemic.
- Opportunities to align with the Infrastructure Investment Plan (IIP) and Economic Development / Growth Deals .

Questions

- Does iRSS support a wellbeing economy? ...and/or how is this represented?
- Are the 6 economic strategy sectors covered – culture/creative, food and drink, financial and business, life sciences, tourism, energy?
- Represented mostly as projects – what about spatial intent/strategy?
- Are the iRSSs covering strategic investment corridors and focusing on a spatial strategy? E.g. South of Scotland focusing investment along the A75 / hubs in the Borders, etc.
- Is there a fit with the Capital Investment Plan / nationally significant investment sites?
- Is there a need for more fuller coverage of City and Growth Deal projects?
- To what extent are projects considered to be regionally significant rather than national?
- Need for consistency? Some referenced as City Deal; others as nominated projects?
- Implications for rural / remote economies?
- Are there implications for public estate programmes? (i.e. rationalisation strategies?)





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Indicative Regional Spatial Strategies - Feedback January 2021

TOURISM & WORLD HERITAGE

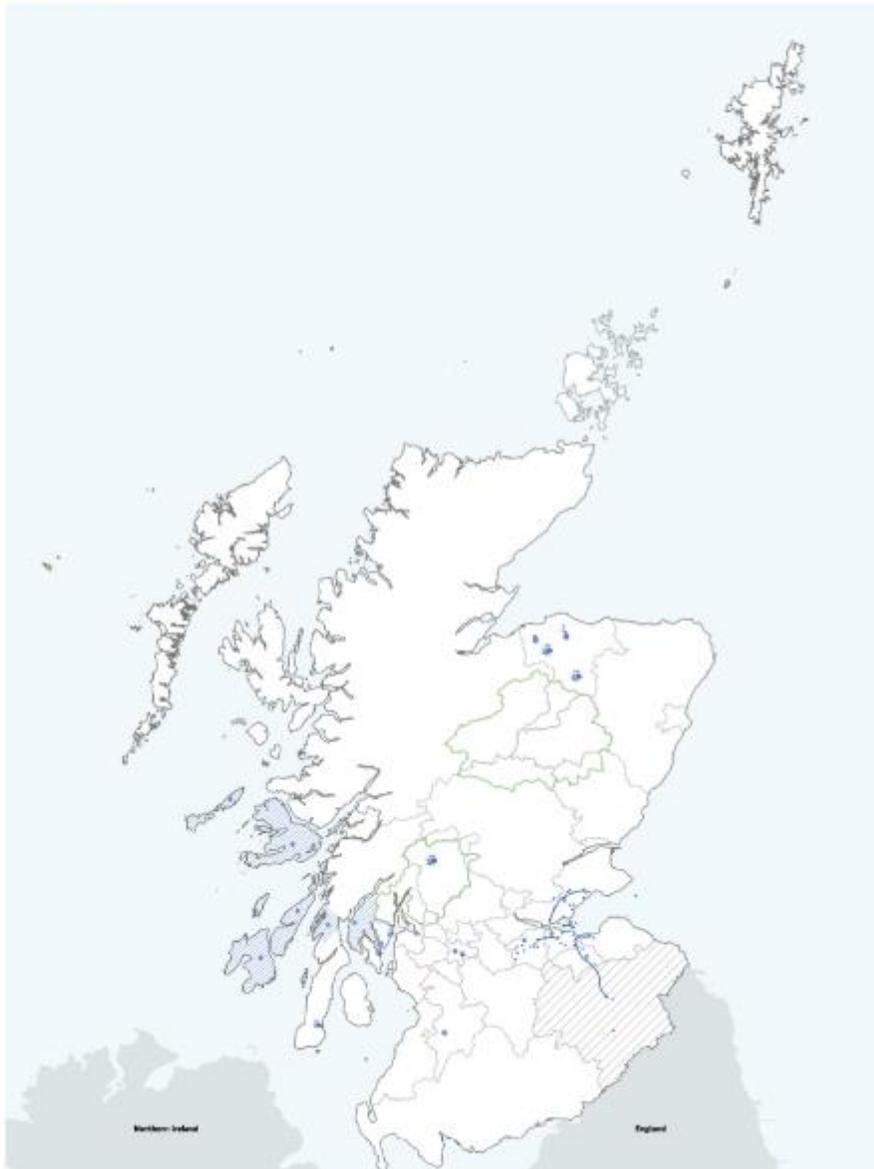
Observations

- This appears to be a particular priority for National Parks, and Central Belt (perhaps because of proximity pressures from large centres of population?), Argyll and Bute, Highland, South of Scotland and Orkney.
- Some World Heritage Sites have been recorded, others have not.
- Unclear what is being represented – is this ‘static’ / what currently exists ... or ‘dynamic’ / what could be?
- Highlights a dilemma between ‘projects’ and ‘strategy’ – i.e. mountain bike trail v outdoor recreation opportunities that include and link with other aspects (e.g. accommodation, employment, servicing, etc)

Questions

- What is missing from this? Opportunities and pressures?
- Is there scope to involve VisitScotland and others in developing a fuller strategy?
- How does this reflect the National Tourism Strategy?
- Could a more complete tourism network with hubs support a low carbon strategic approach to future tourism infrastructure?
- Scope for further integration with tourism strategies, coastal / cultural programmes? e.g. festivals, ‘year of...’, changing perceptions and mindsets about innovative possibilities?
- ‘Tourism’ = includes long distance walking / cycling networks? ... what supporting infrastructure is required?





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Indicative Regional Spatial Strategies - Feedback

January 2021

REGENERATION

Observations

- Spatially / visually, this appears to be a priority for Moray, South East Scotland, Argyll and Bute and Clydeplan
- Priorities include addressing urban deprivation / inequality, focusing on economically fragile areas, rural development and coalfield regeneration.
- Is there an opportunity for more consistent interpretation?
- For some it appears to be about projects; for others it's about connectivity.
- The topic of 'regeneration' covers different aspects e.g. an equalities agenda; links to economic development; connectivity; access to opportunities.

Questions

- Coverage appears to be partial – should other geographic priorities be identified?
- Is there a strategic overlap with prioritising the reuse of Vacant & Derelict Land? ... might this be illustrated?
- Can we provide a fuller picture of remote rural / repopulation issues in spatial terms?
- Should this theme ('regeneration') amalgamate with Settlements? ...and / or Economy? (depending on land use proposed.)
- Is this a mapping of what exists? ...Or what is intended to happen as part of a strategic ambition?
- Spatially, what will change / what will happen?





Indicative Regional Spatial Strategies - Feedback January 2021

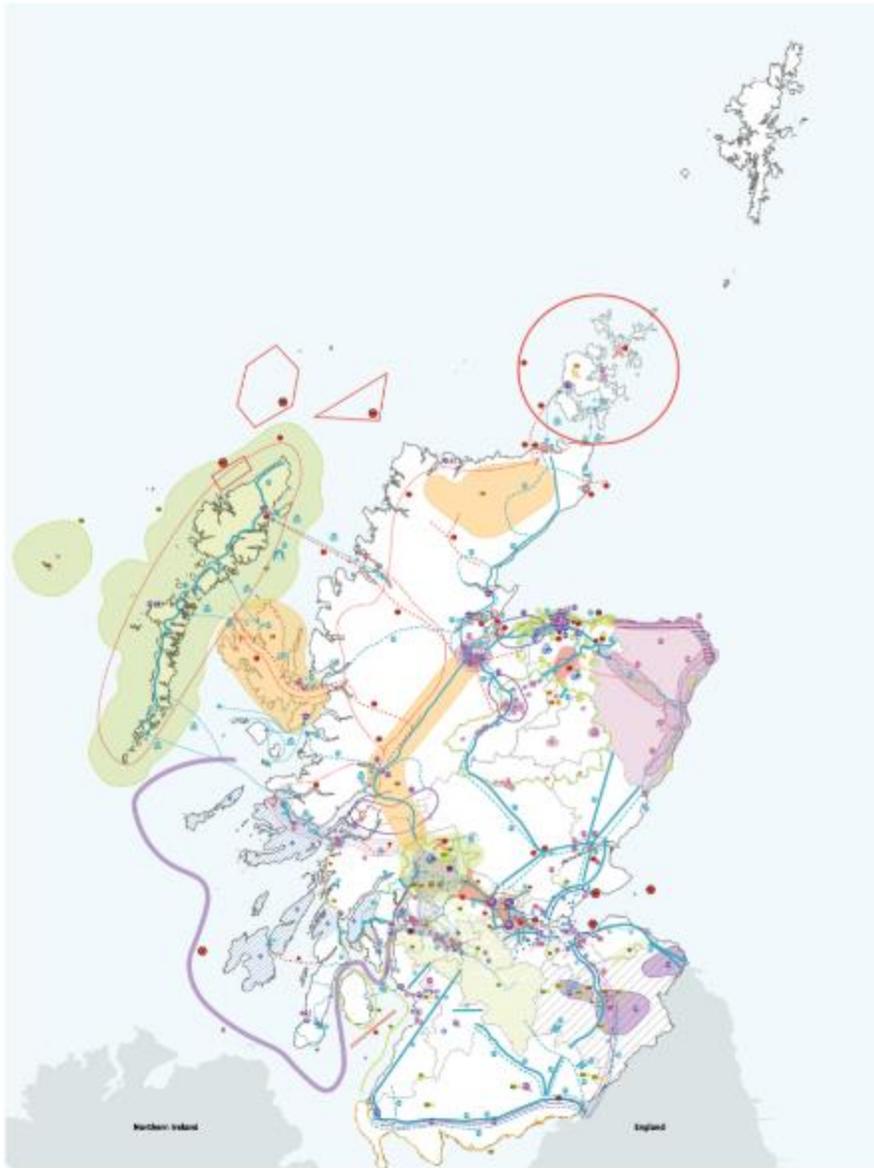
COMBINED MAP

Observations

- This is a complex picture combining emerging national and regional priorities.
- There would be value in considering how regional inputs better link and work together.
- Areas of growth appear to focus around existing cities and populated areas. There are opportunities around the central belt and east coast, as well as along key corridors.
- There is strong emphasis on rural innovation.
- Connectivity is currently a priority - a national spatial strategy will need to be underpinned by the NTS2 travel and investment hierarchies and aligned with STPR2, and the IIP.
- The map underlines the interdependence of urban and rural Scotland and the need to plan both in a coherent and complementary way.
- The mapping highlights issues of joining up / connectivity over wider areas.
- Overall it appears as a collection of projects rather than a clear set of spatial strategies.

Questions

- Spatial strategies are key to delivering our challenging climate change targets. Has this been adequately considered in iRSSs? Is there a need to be more ambitious?
- To what extent is this map describing / capturing existing assets and trends, or identifying future priorities and shifts?
- Can groups develop further representation of specific projects in the context of a coherent spatial strategy?
- Are there opportunities to 'scale up' strategic thinking? – i.e. across central belt; eastern seaboard; A9 spine; island arc; etc...
- Could we jointly consider connections and gateways to and from Scotland more fully?
- Are proposals resilient to future change, particularly climate change, demographic change and technological change? How are strategies responding to pandemic recovery?
- Is a 'coastal' theme specific to some areas or more widely consistent for all (e.g. coastal erosion; long distance paths / tourism; etc).



To view maps and legends access separate attachment



ARGYLL AND BUTE COUNCIL**PPSL Committee****Legal and Regulatory Support****17 March 2021**

Appeal against PPSL decision – Mr Rapallini - Clyde Bar, Helensburgh (ref: 20/01028/PP)

1.0 INTRODUCTION

- 1.1 This report advises members on the outcome of the appeal against the decision of the Planning and Protective Services and Licensing Committee (PPSL) in relation to planning permission reference 20/01028/pp to extend permitted opening hours to beer garden: Clyde bar, 62 West Clyde Street, Helensburgh.

2.0 RECOMMENDATIONS

- 2.1 Members are asked to note the report and the outcome of the appeal supporting the decision of the PPSL.

3.0 DETAIL

- 3.1 On 23 September 2020, the PPSL refused the planning application, as set out above in terms of the minute of that Committee.
- 3.2 On 17 December 2020, the applicant appealed that decision to Scottish Ministers. The application property is the Clyde Bar located on the seafront within Helensburgh. In 2017 planning permission was granted for the formation of a beer garden under application 17/01756/PP. A series of conditions were imposed including Condition 2 limiting the use of the beer garden to 9pm each day. The application, subject of the appeal (ref: 20/01028/pp), sought to extend the use of the beer garden for an additional hour until 10pm each day.
- 3.3 The Head of Legal and Regulatory support prepared and lodged the appeal in consultation with Councillors Kinniburgh and Colville, the Chair and Vice Chair, respectively, of the PPSL.
- 3.4 The Reporter determined the appeal on 4 February 2021 and a copy of the decision is attached at appendix 1 hereof.
- 3.5 Members will note that the conclusion of the decision was:

The disputed condition reasonably and necessarily balances the requirements of Policies LDP 5 and LDP 8 which seek to promote economic development whilst also strengthening communities, making them better places to live, work and visit. It also accords with the requirements of SG LDP BAD 1 criterion (A).

The disputed condition accords with relevant development plan policies and meets all of the six tests in Circular 4/1998. Consequently, I conclude that the appeal must be dismissed.

4.0 CONCLUSION

4.1 Members are asked to note the successful outcome of the appeal process in the appeal against the PPSL decision in relation to planning permission reference 20/01028/pp to extend permitted opening hours to beer garden: Clyde Bar, 62 West Clyde Street, Helensburgh.

5.0 IMPLICATIONS

5.1 Policy – none

5.2 Financial – none

5.3 Legal – none

5.4 HR – none

5.5 Fairer Scotland Duty:

5.5.1 Equalities – protected – none

5.5.2 Socio-economic Duty – none

5.5.3 Islands – none

5.6 Risk – none

5.7 Customer Service – none

Douglas Hendry, Executive Director with responsibility for Legal and Regulatory Support

1 March 2021

For further information contact:

David Logan – Head of Legal and Regulatory Support

APPENDICES

Appendix 1 - Appeal Decision

Planning and Environmental Appeals Division
Appeal Decision Notice

T: 0300 244 6668
 E: dpea@gov.scot



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Decision by Philip Barton, a Reporter appointed by the Scottish Ministers.

- Planning appeal reference: PPA-130-2078
- Site address: The Clyde Bar, 62-64 West Clyde Street, Helensburgh. G84 8AX
- Appeal by Mr John Rapallini against the decision by Argyll and Bute Council.
- Application for planning permission reference 20/01028/PP, dated 11 June 2020, to carry out the development without compliance with condition 2 imposed in the grant of planning permission reference 17/01756/PP, dated 24 August 2017.
- The development proposed: revision of opening hours for beer garden from 21hrs to 22hrs for 7 days a week.
- Date of site visit by Reporter: not applicable

Date of appeal decision: 4 February 2021

Decision

I dismiss the appeal and refuse to grant planning permission as sought in the application.

Preliminary Matters

1. The description of development shown on the application form for 20/01028/PP (hereinafter 'the 2020 application') is unclear. It could be read to mean that the appellant wishes to open the beer garden for 22 hours a day, seven days a week. This lack of clarity is compounded by the fact that neither notice published by the council specifies the precise nature of the extension being requested. Furthermore, the wording of these notices could be interpreted to mean that the appellant is seeking to harmonise the opening hours for both the indoor and outdoor drinking areas, such that the entire site would be open until up to 02:00 in the morning. However, it is clear from the appellant's submissions that he wishes to extend the period during which the beer garden is open for one additional hour, such that it would close to customers at 22:00 every day. I have dealt with the appeal on this basis.
2. In his appeal statement, the appellant indicates that, in response to concerns raised by neighbours, his intention is to close the premises at 01:00 on Fridays and Saturdays. No further process would be required for the appellant to close earlier than is currently permitted. This is not, therefore, a matter for me to consider as a part of this appeal.
3. Although I have the power to revisit any of the other conditions attached to application reference 17/01756/PP (hereinafter 'the 2017 application'), this power is to be exercised exceptionally. I shall not, therefore, address the appellant's request to clarify the scope of condition three attached to the 2017 permission. Application may be made to establish the lawfulness of any proposed change(s) to the operation of the beer garden.



4. I agree with the council that a site inspection is not necessary in this case. This is because the current lockdown situation means that The Clyde Bar should not be open to customers and I would therefore be unable to make any useful assessment of current noise levels on the premises. I have given the appellant an opportunity to submit any further evidence that he considers to be relevant to my consideration of the appeal.

Reasoning

5. I am required to determine this appeal in accordance with the development plan unless material considerations indicate otherwise.

Relevant Development Plan Policies

6. The development plan for the area comprises the Argyll and Bute Local Development Plan, adopted March 2015 (LDP), and includes Supplementary Guidance (SG), adopted March 2016.

7. The council's decision notice refers principally to conflict with SG LDP BUS 1 and SG LDP BAD 1. These policies support Policy LDP 5 – Supporting the Sustainable Growth of Our Economy and Policy LDP 8 – Supporting the Strength of Our Communities respectively. Policy LDP 5 supports businesses which help deliver sustainable economic growth and requires full account to be taken of the economic benefits of any proposed development. Policy LDP 8 supports sustainable development proposals that seek to strengthen communities, making them better places to live, work and visit. The appellant does not dispute the relevance of these policies, or the content of their associated guidance.

8. However, SG LDP BUS 1 relates specifically to development that falls within Use Classes 4, 5, 6 and 7, as well as waste management development. This does not include public houses, which are classed as sui generis by Section 3(5)(h) of The Town and Country Planning (Use Classes) (Scotland) Order 1997. Consequently, I consider Policy LDP 5, Policy LDP 8 and SG LDP BAD 1 to be the most relevant development plan policies in this appeal.

Material Considerations

9. Circular 4/1998 The Use of Conditions in Planning Permissions (hereinafter 'the Circular') explains the six tests that all conditions must meet. I have measured the disputed condition against these tests. I am not required to assess the merits of the appellant's proposal to open the beer garden until 22:00 daily, unless I were first to find that the disputed condition fails any of the six tests.

10. I note the representations made by people both in support of and in opposition to the proposal. This evidence pulls in both directions, which is not unusual. It is not my role to determine the veracity of each such representation. I shall exercise my own professional judgement in assessing the totality of the evidence placed before me.

11. The proposed Local Development Plan 2 (LDP2) is likely to be submitted for impartial examination during April 2021. Neither the council nor the appellant has referred to LDP2 policies. Consequently, I need not consider the relevance of LDP2 any further.

Main Issue

12. Having regard to the provisions of the development plan, the main issue in this appeal is whether the disputed condition meets the six tests in the Circular and safeguards living conditions for occupants of surrounding dwellings, with particular reference to noise and disturbance.

Need for a Condition

13. Disputed condition 2 states: “Notwithstanding the provisions of Condition 1 [the plans condition], the development hereby permitted shall be restricted to the specified operational hours of midday to 9pm on any day”. The reason given for attaching the condition is: “in order to protect the amenity of the area”.

14. I note from the photographs submitted by the appellant and third parties that there are a number of residential flats opposite the rear of the The Clyde Bar whose rear windows look out onto a communal garden area and, in the case of upper floors, into the beer garden. There are also flats above premises in West Clyde Street. It is likely that some of these windows are to main living rooms. It is clear from the Report of Handling for the 2017 application that the council quite properly balanced the economic benefits of the proposal to open a beer garden against the legitimate expectation of people living nearby to enjoy good living conditions.

15. There appears to have been no material change of circumstances as far as the relationship between the beer garden and the surrounding flats is concerned. There were eight representations to the 2017 application from people living nearby. Three of the objectors to the 2020 application appear to be the same individuals who made representations to the 2017 application.

16. There is clearly a continuing need to balance economic considerations, including the specific commercial considerations of the appellant’s business, against the effect of the operation of the beer garden upon living conditions. In response to internal consultations, the Environmental Health Officer recommended a condition requiring the submission of a noise mitigation plan. I consider this to be a strong indication that, although not sufficient to constitute a statutory nuisance, the amount of noise generated by the beer garden would nevertheless require some degree of control. In my view, this is best achieved by attaching a condition limiting its hours of operation, which the disputed condition does.

17. I am satisfied that the test of necessity in the Circular is met.

Relevance to Planning

18. The level of noise and degree of disturbance required to constitute Planning harms are lower than those above which a statutory nuisance would result. Consequently, the absence of an objection from the council’s Environmental Health Officer does not mean that concerns about noise and disturbance generated by the use of the beer garden are irrelevant to Planning. The thirteenth bullet point of Scottish Planning Policy paragraph 29 includes “protecting the amenity of new and existing development” as one of the factors contributing to sustainable development. In this case, “amenity” may be defined as a minimum standard of living conditions that people have a right to expect.

19. I am satisfied that the test of relevance to planning in the Circular is met.

Relevance to the Development to be Permitted

20. The disputed condition relates to the hours of operation for an external drinking area associated with an adjacent indoor drinking establishment. There is a clear relationship between the condition and the permitted use.

21. Section 4) of Schedule 7 to the Town and Country Planning (General Development Procedure) (Scotland) Order 1992 includes “licensed premises” within a list of “Bad Neighbour Development”. The beer garden is part of The Clyde Bar, which is a public house and is therefore required to hold a license for the sale of alcohol.

22. Bad neighbour development is required to accord with all five of the criteria set out in SG LDP BAD 1. Criterion (A) of this policy requires there to be “no unacceptable adverse effects on the amenity of neighbouring residents”. The disputed condition clearly seeks to ensure that the use of the beer garden would accord with this requirement.

23. I am satisfied that the test of relevance to the development to be permitted in the Circular is met.

Ability to Enforce

24. The beer garden is accessed only through the adjacent building. The indoor drinking area is open much later each day (up to 02:00) than the beer garden is (up to 21:00). Consequently, it should be a very straightforward matter to check that the operator is abiding by the disputed condition.

25. I am satisfied that the test of ability to enforce in the Circular is met.

Precision

26. The wording of the disputed condition is somewhat verbose, but there is no realistic potential for confusion about its requirements. The reason given for attaching the condition is: “in order to protect the amenity of the area”. This reason adequately explains and justifies the need to protect the living conditions of occupants of surrounding dwellings on the basis of Policy LDP 8, which expects development to contribute to making better places to live, work and visit.

27. I am satisfied that the test of precision in the Circular is met.

Reasonableness

28. There are a number of people living within earshot of the beer garden – both in the flats opposite and in flats above premises in West Clyde Street. It is reasonable to take account of the effect of activity in the beer garden upon the living conditions of these people. The question here is whether restricting opening hours to 21:00 is reasonable. Although most people are asleep between 23:00 and 07:00 the next day, some of these flats may be occupied by families with children, who should go to bed earlier. People have differing work patterns too, which dictate when they might be sleeping.

29. I find that the disputed condition reasonably balances the twin objectives of supporting the appellant's business and protecting living conditions for people residing nearby. It is not unduly restrictive or onerous because it allows the beer garden to remain open for nine hours every day.

30. I am satisfied that the test of reasonableness in the Circular is met.

Conclusion

31. The disputed condition reasonably and necessarily balances the requirements of Policies LDP 5 and LDP 8 which seek to promote economic development whilst also strengthening communities, making them better places to live, work and visit. It also accords with the requirements of SG LDP BAD 1 criterion (A).

32. The disputed condition accords with relevant development plan policies and meets all of the six tests in Circular 4/1998. Consequently, I conclude that the appeal must be dismissed.

Philip Barton
Reporter

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