

MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held BY MICROSOFT TEAMS
on WEDNESDAY, 20 OCTOBER 2021

Present: Councillor David Kinniburgh (Chair)

Councillor Rory Colville	Councillor Donald MacMillan BEM
Councillor Mary-Jean Devon	Councillor Jean Moffat
Councillor Audrey Forrest	Councillor Alastair Redman
Councillor George Freeman	Councillor Sandy Taylor
Councillor Kieron Green	Councillor Richard Trail
Councillor Graham Hardie	

Attending: Stuart McLean, Committee Manager
Alan Morrison, Regulatory Services Manager
Peter Bain, Development Manager
David Love, Area Team Leader, Mid Argyll, Kintyre and the Islands
Howard Young, Area Team Leader, Helensburgh and Lomond
Sandra Davies, Major Applications Team Leader
Jolyon Gritten, Access Manager
Fleur Rothwell, Planning Officer
Derek Wilson, Planning Officer
Anthony Carson, Environmental Health Officer
Graeme McMillan, Solicitor

1. APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor Gordon Blair.

2. DECLARATIONS OF INTEREST

Councillor Richard Trail declared a non-financial interest in planning application reference 21/01288/PP and application for listed building consent reference 21/01297/LIB which are dealt with at items 10 and 11 of this Minute. He advised that he would leave the meeting and take no part in the determination of these applications.

3. MINUTES

- a) The Minutes of the Planning, Protective Services and Licensing Committee held on 22 September 2021 at 11.00 am were approved as a correct record.
- b) The Minutes of the Planning, Protective Services and Licensing Committee held on 22 September 2021 at 2.00 pm were approved as a correct record.
- c) The Minutes of the Planning, Protective Services and Licensing Committee held on 22 September 2021 at 2.30 pm were approved as a correct record.

4. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: TAXI FARE SCALE REVIEW

In terms of Section 17 of the Civic Government (Scotland) Act 1982, the local authority requires to fix maximum fares and other charges in connection with the hire of taxis

operating in their area and to review the scales for taxi fares and other charges on a regular basis. The fares were last reviewed by Members on 17 June 2020 and took effect on 22 October 2020. The next fares scale will need to come into force in April 2022.

Consideration was given to a report seeking approval of the commencement of the next review of taxi fares and other charges.

Decision

The Committee agreed:

1. to commence the review of fares in order that this could be completed within the 18 months required in terms of the Act; and
2. that the consultation required in terms of the Act would be in writing.

(Reference: Report by Head of Legal and Regulatory Support dated 20 October 2021, submitted)

5. LOCAL AIR QUALITY IN ARGYLL AND BUTE

A paper presenting the 2021 Annual Progress Report for Local Air Quality in Argyll and Bute, which fulfils the Council's statutory duties under Part IV of the Environment Act 1995, was considered.

Decision

The Committee noted that the Local Air Quality Annual Progress Report 2021 confirmed that local air quality in Argyll and Bute was good and considered this in the context of the international Climate Change Conference (COP26).

(Reference: Report by Executive Director with responsibility for Development and Economic Growth dated 28 September 2021 and 2021 Air Quality Annual Progress Report for Argyll and Bute Council, submitted)

The Chair, Councillor David Kinniburgh, advised that he would be joining the remainder of meeting by telephone. As he would be unable to see requests from Members to speak he ruled, and the Committee agreed, to suspend Standing Order 5.3 to allow Vice Chair, Councillor Rory Colville, to take the Chair from this point.

6. MR AND MRS C AND J EASTHAUGH: CHANGE OF USE OF VACANT LAND TO FORM RESIDENTIAL GARDEN GROUND (RETROSPECTIVE): CAIRNVIEW, BALUACHRACH, TARBERT (REF: 19/01854/PP)

The Area Team Leader for Mid Argyll, Kintyre and the Islands spoke to the terms of the report and to supplementary report number one. The proposal seeks to retrospectively extend a domestic garden. This application has come about due to an enforcement investigation following complaints from third parties. The property was built in 2011 with a discrepancy between the approved planning permission plans and those for the building warrant and was never resolved by the developer. As per the Planning Enforcement and Monitoring Charter, Officers sought a planning application to regularise the breach of planning control. During the processing of the application it became evident that the extension would block a right of way known as the Royal Way. The proposal was

therefore contrary to the effects of policies LDP 11, SG LDP TRAN 1 and the provisions of the Land Reform (Scotland) Act 2003 and was recommended for refusal.

Decision

The Committee agreed to refuse planning permission for the following reason:

The proposed change of use to form an extension to a garden blocks an established right of way, known as the Royal Way. The proposal is therefore contrary to the effects of policies LDP 11, SG LDP TRAN 1 and the provisions of the Land Reform (Scotland) Act 2003.

(Reference: Report by Head of Development and Economic Growth dated 7 October 2021 and supplementary report number one dated 19 October 2021, submitted)

7. ARDNAHOE DISTILLERY COMPANY LTD: ERECTION OF WHISKY MATURATION WAREHOUSES AND ASSOCIATED WORKS: ARDNAHOE DISTILLERY, PORT ASKAIG, ISLE OF ISLAY (REF: 20/02337/PP)

The Area Team Leader for Mid Argyll, Kintyre and the Islands referred to supplementary report number one submitted following a late representation received from SEPA. SEPA raised a holding objection and requested further information from the Applicant to ascertain whether or not the proposal falls under the Control of Major Accident Hazards (Amendment) Regulations 2005 (COMAH). They have also requested further details on the procedural, design and modelling that needs to be addressed prior to the commencement of works.

In light of this holding objection it was recommended that Members agree to continue consideration of this application to a future meeting.

Decision

The Committee agreed to continue consideration of this application to a future meeting.

(Reference: Report by Head of Development and Economic Growth dated 4 October 2021 and supplementary report number one dated 18 October 2021, submitted)

8. MR CHRIS COX: CHANGE OF USE OF LAND FOR SITING OF 4 SHIPPING CONTAINERS: ARGYLL ARMS HOTEL, SOUTHEND, CAMPBELTOWN (REF: 21/01049/PP)

The Planning Officer spoke to the terms of the report. The proposal comprises the siting of 4 shipping containers in the concrete area adjacent to the south western elevation of the Argyll Arms Hotel and will be surrounded by a 1.8m high wooden fence. Planning consent was previously granted on 28 May 2012 (ref: 12/00796/PP) for change of use of land for storage of caravans. The site has been used for the winter storage of caravans from September – March. The storage containers will be in situ all year round for a temporary period of two years. The site is primarily surrounded by residential dwelling houses. Although predominantly residential there is a precedent formed through the previous usage for storage of caravans. The usage of the site for storage of caravans and the siting of shipping containers will have a similar impact on the development setting and the amenity of the surrounding area. The erection of the 1.8m fence will mitigate any impact on amenity of the area which the siting of the shipping containers may have.

The proposal conforms to the relevant policies of the development plan and it was 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 14th May 2021; 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	CEC/AB/1	-	15.06.2021
Site Plan	CEC/AB/2	-	19.07.2021
Container Specification	CEC/AB/3	-	15.06.2021

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

2. This permission shall cease no later than two years from the first siting of the containers on the land other than in the event of a further permission for continued use having been granted upon application to the Planning Authority. Within three months of the cessation of the use all portable buildings/structures shall be removed from the site, and the land which shall be restored in accordance with a reinstatement scheme to be submitted to and approved in advance in writing by the Planning Authority.

Reason: To define the permission and in order to protect the amenity of the locale.

3. Notwithstanding the effect of Condition 1, no development shall commence until written details of the type and colour of materials to be used in the external finishes of the four shipping containers and construction/finish of the new fence have been submitted to and approved in writing by the Planning Authority. The development shall thereafter be completed using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.

Reason: In order to integrate the development into its surroundings.

4. The change of use of land for the siting of the four storage containers shall only be used for the personal storage of items of the owner and their dependants of the associated hotel and / or for the use of storing materials and tools for the purposes of repair and maintenance of the hotel.

Reason: To control the use of the containers to protect the wider amenity of the area.

(Reference: Report by Head of Development and Economic Growth dated 6 October 2021, submitted)

9. MR A PIA: ALTERATIONS, ERECTION OF SINGLE STOREY REAR EXTENSION, INSTALLATION OF EXTERNAL FLUE AND CHANGE OF USE OF FLOWER SHOP (CLASS 1) TO TAKEAWAY PREMISES (SUI GENERIS): 25 LOCHNELL STREET, LOCHGILPHEAD (REF: 21/01250/PP)

The Planning Officer spoke to the terms of the report. The proposal is within the settlement boundary of Lochgilphead and is for the change of use of a shop unit within the town centre to hot food takeaway. The rear extension to form toilet and sanitary facilities is to be a single storey rectangular structure of around 4sqm adjoining the rear wall of the current building. It will be accessible from both the premises kitchen and the outside yard.

At the time of writing the report a total of eleven objections to this proposal had been received and the issues raised were detailed in section F of the report. Reference was also made to two late representations received from Councillor Douglas Philand and Mr Charles Randack. Councillor Philand raised concerns about the right of access to the rear of the premises and about the land required for development not being under the control of the Applicant. Mr Randack raised a concern that the dimensions on the plans lodged by the Applicant were incorrect and did not show a true representation of the extension which would result in the loss of amenity for neighbouring properties. The Planning Officer advised that he was satisfied that the drawings submitted were accurate and would not impact on neighbouring properties.

Objectors to this application also questioned the ownership of the land and private access rights which may exist. It is for the developer to satisfy themselves that there is unencumbered title to the land which would enable any permission to be implemented. Any planning consent does not override any private legal rights in respect of the land. The Applicant has certified that he is the owner of the land involved and served the relevant notices on communal owners.

The proposal conforms to the relevant policies of the development plan and it was recommended that planning permission be granted subject to the conditions and reasons detailed in the report of handling.

Motion

To agree to continue consideration of this application to a future meeting and that arrangements be made for Members to visit the site with Planning Officers in advance of determining this application.

Moved by Councillor Sandy Taylor, seconded by Councillor Donald MacMillan.

Amendment

To agree to grant planning permission subject to the conditions and reasons detailed in the report of handling.

Moved by Councillor Rory Colville, seconded by Councillor Graham Archibald Hardie.

A vote was taken by calling the roll.

Motion

Amendment

Councillor MacMillan

Councillor Colville

Councillor Moffat
Councillor Redman
Councillor Taylor
Councillor Trail

Councillor Devon
Councillor Forrest
Councillor Freeman
Councillor Green
Councillor Hardie

The Amendment was carried by 6 votes to 5 and the Committee resolved accordingly.

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 14.06.2021, 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
Site plan proposal	20-2734-P-03		15.06.2021
Plans, elevations, sections existing	20-2734-P-01		15.06.2021
Plans, elevations, sections proposed	20-2734-P-02		15.06.2021
Door schedule	20-2734-P-04		15.06.2021
Measure Survey	2734		15.09.2021

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

2. Notwithstanding the provisions of Condition 1, no development shall commence until a scheme for the control of odour arising from the operation of the permitted use has been submitted to and approved in writing by the Planning Authority. The scheme shall comprise a fume extraction system with an external extraction duct incorporating an odour control unit. The ventilation provided must discharge at high level to ensure adequate dispersal of any cooking fumes and that level must be at least 900mm above any window opening. The terminal of the duct must not be fitted with any plate or other restriction that will impede the vertical discharge of emissions.

The permitted use shall not be commenced until the duly approved ventilation, extraction and odour control system is operational and thereafter it shall be maintained in accordance with the manufacturer's instruction unless it is replaced by an alternative system with the prior written consent of the Planning Authority.

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

3. Notwithstanding the provisions of Condition 1, no customer shall be permitted entry to the premises before 10:00 or after 23:00 and no customer shall be permitted to remain on the premises after 23:15.

Reason: In order to protect the amenity of the area.

4. Given the proximity of the neighbouring residential properties to the site address, construction works shall be restricted to 0800-1800 hours Mondays to Fridays, 0800-1300 hours on Saturdays and not at all on Sundays. Bank or Scottish Public Holidays.

Reason: To minimise the impact of noise generated by construction activities on occupiers of residential properties.

5. Notwithstanding the effect of Condition 1, no development shall commence until written details of the type and colour of materials to be used in the construction of the walls, roof and door of the rear extension have been submitted to and approved in writing by the Planning Authority. The development shall thereafter be completed using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.

Reason: In order to integrate the development into its surroundings.

6. If, in the opinion of the local planning authority, the proposed ventilation flue results in any noise nuisance to an occupant of any neighbouring residential property, the applicant shall install noise mitigation measures agreed and approved in writing by the planning authority.

Reason: In order to safeguard neighbouring property from any potential noise nuisance in the interests of residential amenity.

(Reference: Report by Head of Development and Economic Growth dated 6 October 2021, submitted)

Having declared an interest in the following two items, Councillor Richard Trail left the meeting at this point.

10. MR DAVID MCKERROW: FORMATION OF VEHICULAR ACCESS WITH GATE AND PARKING AREA (PART RETROSPECTIVE): 17-19 WEST CLYDE STREET, HELENSBURGH (REF: 21/01288/PP)

The Area Team Leader for Helensburgh and Lomond spoke to the terms of the report. The proposal is for the formation of a parking court area for 5 vehicles within the existing walled rear curtilage of listed building location within the Helensburgh Conservation Area. Physical works comprise the removal of a section of wall along the rear boundary of the curtilage to form an opening onto a private access road on adjacent land. A 3 metre long section of wall has been removed prior to this application. The Roads Engineer has advised that this opening should be increased to a minimum of 3.7 metres to provide adequate visibility. It is also proposed to install a sliding metal gate across this opening. Access to the proposed parking court will be via an existing private cul-de-sac access road that serves a car parking area at the rear of Colquhoun Square. A total of 22 objections to the proposed development have been received plus two expressions of support. Many of the objectors raise the issue of the Applicant not having a right of way over the private access road to the rear of Colquhoun Square and as such cannot legally access the proposed parking area from the public road network. In the interests of clarity, the planning authority is restricted to assess land use planning matters separate from ownership or disputes regarding rights of way that are private civil matters. This assessment and determination in no way prejudices private civil matters such as private

rights of way of access which should be pursued by the appropriate parties outside of the planning system.

It is considered that the proposal development can be supported as being consistent with the relevant provisions of the Argyll and Bute Local Development Plan – 2015 and it was recommended that planning permission be granted subject to the conditions and reasons detailed in the report of handling.

Decision

The Committee agreed to continue consideration of this application to a future meeting and to request that the Council's Roads Officer be in attendance at this meeting to answer questions and address concerns raised by Members regarding visibility splays at the access onto the private road.

(Reference: Report by Head of Development and Economic Growth dated 7 October 2021, submitted)

11. MR DAVID MCKERROW: FORMATION OF VEHICULAR ACCESS WITH GATE AND PARKING AREA (PART RETROSPECTIVE): 17-19 WEST CLYDE STREET, HELENSBURGH (REF: 21/01297/LIB)

In light of the decision to defer consideration of planning application reference 21/01288/PP, the Area Team Leader for Helensburgh and Lomond recommended that Members also continue consideration of this application to a future meeting.

Decision

The Committee agreed to continue consideration of this application to a future meeting.

(Reference: Report by Head of Development and Economic Growth dated 7 October 2021, submitted)

Councillor Trail returned to the meeting at this point.

12. E POWER LIMITED: PROPOSAL OF APPLICATION NOTICE FOR INSTALLATION OF UP TO 14 WIND TURBINES AND ASSOCIATED ANCILLARY INFRASTRUCTURE WITH TIP HEIGHTS OF UP TO 180 METRES AND AN INSTALLED CAPACITY OF MORE THAN 20MW: LAND AT SIDH MOR, SOUTH OF LOCHAN ANAMA AND NORTH WEST OF A-CHRUACH WIND FARM, KILMICHAEL FOREST (REF: 21/01655/PAN)

The Major Applications Team Leader spoke to the terms of the report. The Proposal of Application Notice (PAN) seeks to notify the planning authority of a prospective Major planning application for Glasvaar Wind Farm. The site is primarily located within the very sensitive countryside zone, and partially within the countryside zone and rural opportunity zones as identified by the adopted Local Development Plan. A spatial framework for wind farms and wind turbines developments over 50 metres high in line with Scottish Planning Policy has been prepared as Supplementary Guidance (SG). This identifies: Areas where wind farms will not be acceptable (Group 1); Areas of significant protection (Group 2); and Areas which may have potential for wind farm development (Group 3). The site is located on ground containing both Group 32 and Group 3 Areas. The area of the site classed Group 2 is designated due to its nationally important mapped environmental interests for

carbon rich soils, deep peat and priority peatland habitat; Site of Scientific Interest; and the fact that it lies within 2km of a Settlement Zone Buffer.

The report sets out the information submitted to date as part of the PAN and summarises the policy considerations, against which any future planning application will be considered as well as any material considerations.

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

Decision

The Committee noted the content of the report and submissions.

(Reference: Report by Head of Development and Economic Growth dated 7 October 2021, submitted)

The Committee resolved in terms of Section 50(A)(4) of the Local Government (Scotland) Act 1973 to exclude the press and public for the following item of business on the grounds that it was likely to involve the disclosure of exempt information as defined in Paragraph 13 of Part 1 of Schedule 7A to the Local Government (Scotland) Act 1973.

E1 13. ENFORCEMENT REPORT REFERENCE 19/00135/ENBOC2

Consideration was given to enforcement case reference 19/00135/ENBOC2.

Decision

The Committee agreed the recommendations detailed in the report.

(Reference: Report by Head of Development and Economic Growth dated 4 October 2021, submitted)