

Public Document Pack

Argyll and Bute Council
Comhairle Earra Ghaidheal agus Bhoid

Executive Director: Douglas Hendry



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DX 599700 LOCHGILPHEAD*

9 November 2021

NOTICE OF MEETING

A meeting of the **ARGYLL AND BUTE LOCAL REVIEW BODY** will be held **BY MICROSOFT TEAMS** on **TUESDAY, 16 NOVEMBER 2021** at **2:00 PM**, which you are requested to attend.

Douglas Hendry
Executive Director

BUSINESS

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST**
3. **CONSIDER NOTICE OF REVIEW REQUEST: YARD SOUTH OF OIL DEPOT, SOUTH LEDAIG, NORTH CONNEL (REF: 21/0004/LRB)**
 - (a) Notice of Review and Supporting Documents (Pages 3 - 32)
 - (b) Comments from Interested Parties (Pages 33 - 62)
 - (c) Comments from Applicant (Pages 63 - 66)

Argyll and Bute Local Review Body

Councillor Rory Colville (Chair)
Councillor Richard Trail

Councillor Roderick McCuish

Contact: Fiona McCallum Tel: 01546 604392

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Central Validation Team at Argyll and Bute Council 1A Manse Brae Lochgilphead PA31 8RD Tel: 01546 605518 Email: planning.hq@argyll-bute.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100308211-002

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:

Ref. Number: You must enter a Building Name or Number, or both: *

First Name: * Building Name:

Last Name: * Building Number:

Telephone Number: * Address 1 (Street): *

Extension Number: Address 2:

Mobile Number: Town/City: *

Fax Number: Country: *

Postcode: *

Email Address: *

Is the applicant an individual or an organisation/corporate entity?

* Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="Yard South of Oil Depot"/>
First Name: *	<input type="text" value="Mark"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text" value="Mitchell"/>	Address 1 (Street): *	<input type="text" value="South Ledaig"/>
Company/Organisation	<input type="text" value="Wee Lift Vehicle Recovery"/>	Address 2:	<input type="text" value="North Connel"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Oban"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Argyll"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="PA37 1RT"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="uk"/>		

Site Address Details

Planning Authority:

Full postal address of the site (including postcode where available):

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Northing	<input type="text" value="735994"/>	Easting	<input type="text" value="190807"/>
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Use of land to form yard for temporary vehicle storage (retrospective).

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

There are four reasons given by the Local Authority for refusal, and we would advise that all four are flawed. The full reasoning is given in our separate uploaded Statement, but put simply: 1. The site is a redevelopment/brownfield site therefore in accordance with Argyll & Bute Council policy. 2. Other issues raised relating to the current management of the yard are not material planning considerations.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

Yes No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Local Review Body Statement. From original application - Site Location Plan. From original application - Supporting Statement. From original application - Response to Representations. From original application - Argyll & Bute Council Refusal. From original application - Argyll Bute Council Report of Handling.

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

20/01728/PP

What date was the application submitted to the planning authority? *

24/09/2020

What date was the decision issued by the planning authority? *

12/05/2021

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

Yes No

Is it possible for the site to be accessed safely and without barriers to entry? *

Yes No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Alasdair Macmillan

Declaration Date: 10/08/2021

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Local Review Body Statement



Architecture & Planning

APPLICATION REFERENCE 20/01728/PP
PROPOSED VEHICLE STORAGE YARD AT
LAND SOUTH OF OIL DISTRIBUTION DEPOT,
OBAN AIRPORT, NORTH CONNELL, ARGYLL PA37 1SW

Purpose of Statement

This statement accompanies a Notice of Request for Review under Section 43(a)8 of the Town and Country Planning (Scotland) Act 1997 and the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013. The information below summarises the reasons for the Request for Review.

There are four reasons given for refusal of this application, and all are considered flawed, as follows:

Refusal Reason No. 1

"The proposed development is located within the defined 'Countryside Zone' where key planning policy LDP DM 1 provides that small scale development will be supported only on appropriate infill, rounding off and redevelopment sites and changes of use of existing buildings. The policy allows that, in exceptional cases only, otherwise appropriate forms and scales of development in the open countryside might be supported on appropriate sites where it accords with an area capacity evaluation. In this case, no acceptable claim of any 'exceptional' case based on a locational/operational need has been provided and, therefore, the proposed development is contrary to planning policy LDP DM 1."

Response to Refusal Reason No. 1

This is clearly a redevelopment site, therefore there is no 'exceptional case' to be put forward.

The Report of Handling advises that: *"It is not clear from the evidence provided that the former roads depot extends to include the area of ground forming part of this application."*

The original Supporting Information indicated that the site formed part of the former Roads Depot, and included a photograph showing this. A further, publicly available, photograph is given in Appendix 1 to this document. There is no doubt that the yard is in use.

The Report of Handling further states: *"...there appears to be no record of any formal planning permission for the alleged previous use."* This is indeed the case, but in the 2016 Planning Application for the adjacent oil storage depot (ref 16/02835/PP), which occupies part of the same site, the Planning Department took the view that the historic use of the site as Council Roads yard constituted full unrestricted Class 6 use. There had been no formal planning permission for this section of the site either. (Indeed, if one was to apply the same reasoning to the remainder of the Roads yard, planning permission should not be required at all, other than for the erection of a portable office building.)

This being a redevelopment site, Reason for Refusal No. 1 is not valid.

Refusal Reason No. 2

"The proposed development is contrary to planning policy LDP 5 and SG LDP BUS 2 which offers support to new business and industry development (and extensions to existing business and industry development) only where those proposals accord with key spatial strategy planning policy LDP DM 1. In this case, as summarised in Refusal Reason 1 above, the proposed development is contrary to policy LDP DM 1. "

Response to Refusal Reason No. 2

As stated above, this is a redevelopment site, therefore the proposal accords with the key spatial strategy policy LDP DM 1, and LDP 5 and SG LDP BUS 2. Reason for Refusal No. 2 is not appropriate.

Refusal Reason No. 3

"Notwithstanding Reasons 1 and 2 above, the proposed development is contrary to planning policy LDP 11 and SG LDP TRAN 7 (Safeguarding of Airports) due to the significant safeguarding concerns highlighted by the Council as airport operator and the potential for the development to limit or curtail the operation of the airfield, contrary to the wider interests of the regional economy and community. "

Response to Refusal Reason No. 3

Oban Airport provided a consultee response dated 16 December 2020 confirming they had no objection to the proposal. This was made publicly available and uploaded to the Council's Planning web portal.

When the Refusal was issued however, it made reference to internal correspondence from the Airport which raised concerns about possible debris, birds and fires. No information has been provided on the reasons for the change in response from the Airport or who authored the second response. The items raised in this later, undisclosed, response are largely anecdotal and relate more to the possible running/housekeeping of the yard than the principle of the yard being used for Vehicle Storage. This correspondence was not made publicly available, therefore denying the applicant the opportunity to address any preconceptions.

Any remaining concerns may be addressed by Planning Condition (where relevant to planning issues) or more appropriately through lease conditions.

The use of the site for Temporary Storage of Vehicles should not in itself result in litter, birds or fires and is therefore not a valid reason for refusal.

Refusal Reason No. 4

"Notwithstanding the above, the proposed development is considered to be materially harmful to the landscape qualities of the area and contrary to planning policy LDP 9 and SG LDP ENV 14. "

Response to Refusal Reason No. 4

The Report of Handling refers to impact on the cycle track, and also visibility from the air.

This is a former roads depot, with a history of stored spoil, materials, metal containers etc. It is bordered to the north by an oil depot, to the south by the overgrown remainder of the roads depot, and to the east by Ledaig Travellers Site. The immediate area is not noted for its landscape quality. Any concerns over the visual impact from the cycle track may be simply dealt with by a Condition requiring the installation of a close-boarded fence, while the impact on planes should be negligible as pilots taking off and landing at Oban Airport will likely be more focussed on things other than adjacent yards.

As a fence Condition would have dealt with any real concerns, this is not a valid reason for refusal.

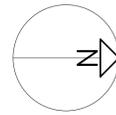
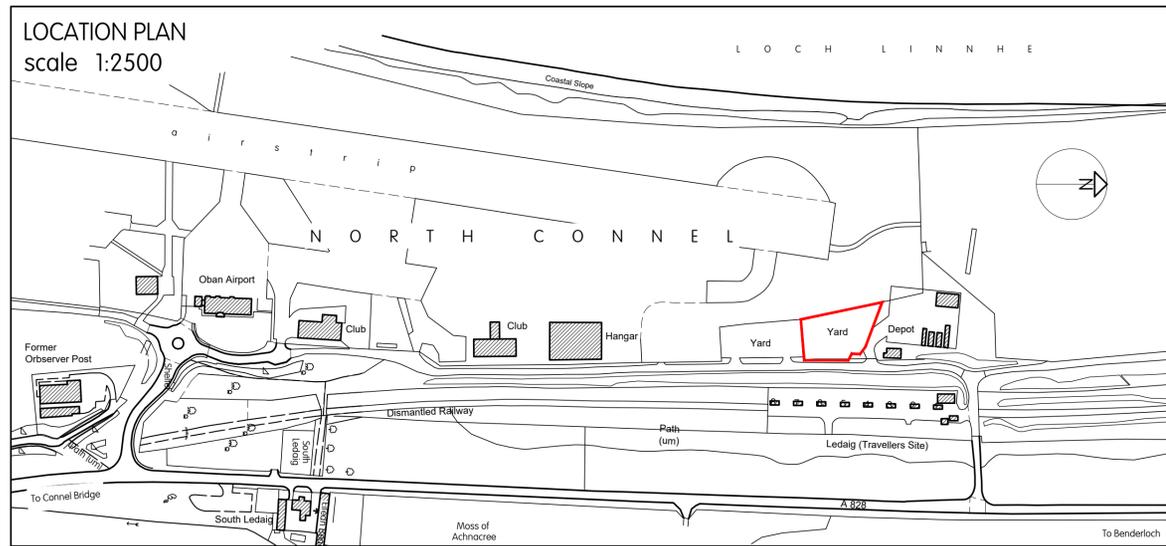
Summary

- The site is a redevelopment/brownfield site therefore in accordance with Argyll & Bute Council policy.
- Other issues raised relating to the current management of the yard are not material planning considerations.

Appendix 1 – RCAHMS Photograph of Roads Yard dated 27 June 2006. Site outlined in red.



LOCATION PLAN
scale 1:2500



NOTES

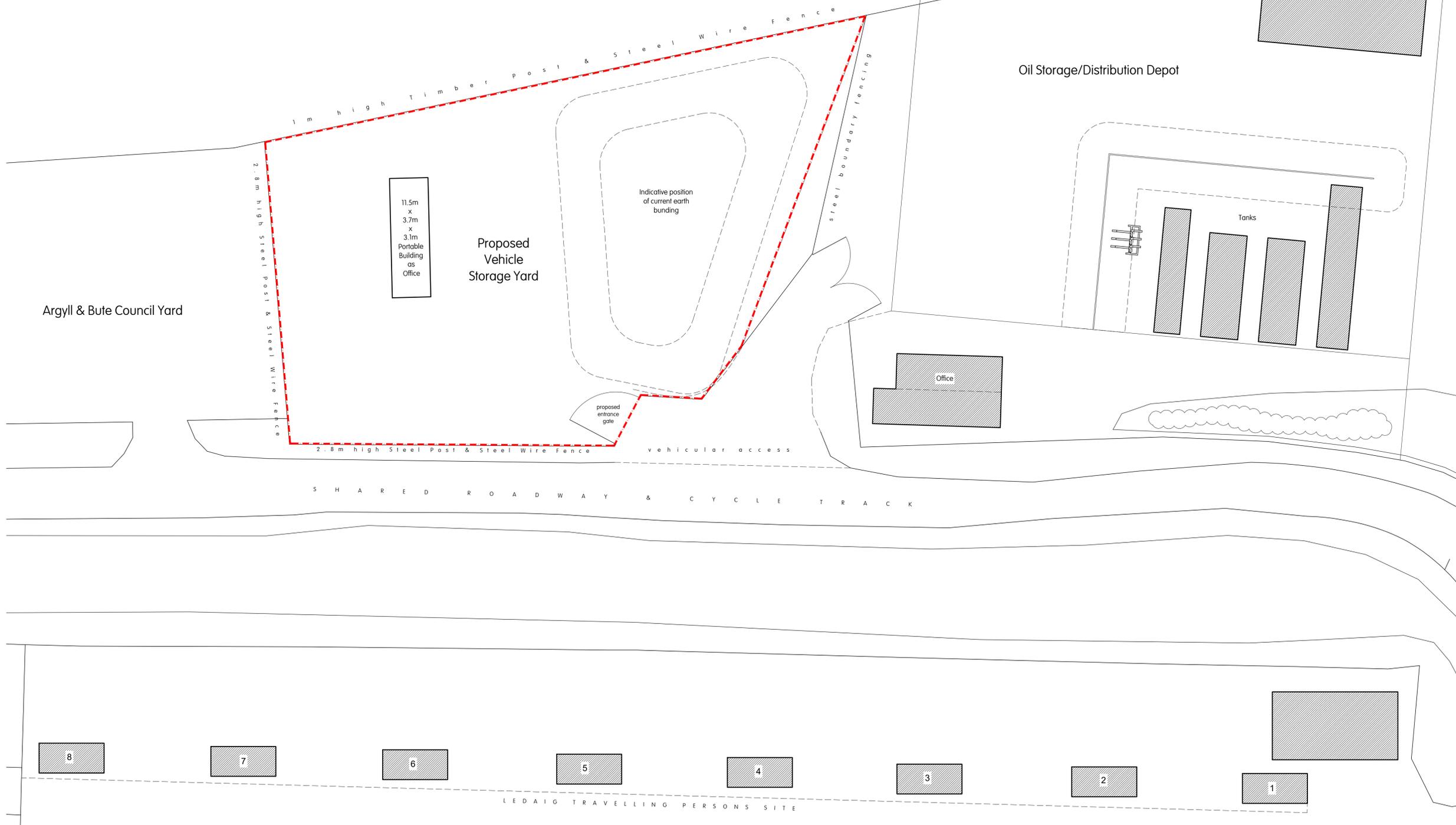
The contractor will be held to have checked all dimensions before commencing with any works and in the event of any discrepancies is to refer them directly to MACARC prior to commencement of works.

The contractor will ensure that all materials conform to the British Standards relating to them and/or certificates issued by the British Board of Agreement and that they are fixed, mounted or installed strictly in accordance with the B.S Code of practice relative to them or the Manufacturer's printed instructions. British Standards & Codes of Practice will include amendments made on or before date of tender.

The drawing is the copyright of MACARC and all rights are reserved. Copying of this drawing or any part thereof by any means is an infringement of the copyright and may be subject to prosecutions unless consent of MACARC is obtained.

KEY

Site Boundary - - - - -



Revision	Mark	Date
-	-	-



Hiddle House Appin Argyll PA38 4BA
Telephone: 07884466440 Email: mail@macarc.co.uk

Client		
MR MARK MITCHELL		
Job title		
PROPOSED VEHICLE STORAGE YARD AT LAND SOUTH OF OIL DEPOT, OBAN AIRPORT, NORTH CONNELL, ARGYLL PA37 1SW		
Drawing Title	Date	Scale
SITE & LOCATION PLANS	JUL 2020	1:200
AS PROPOSED	2016 01	Revision
		-

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Design/Supporting Statement



Architecture & Planning

**PROPOSED VEHICLE STORAGE YARD AT
LAND SOUTH OF OIL DISTRIBUTION DEPOT,
OBAN AIRPORT, NORTH CONNEL, ARGYLL PA37 1SW**

Site Description & Usage

The site is located in North Connel, adjacent to Oban Airport which sits to the west of the yard. It is bounded to the north by an oil storage/distribution depot, to the south by a local authority yard used for storage of road chippings etc, and to the east by the public roadway serving the Oban Airport vicinity which also forms part of the Sustrans Route 78 cycle track. Beyond the cycle track sits Ledaig Travelling Persons Site.

Historically the land formed part of the Argyll & Bute Council roads depot and was used as a base for roads maintenance and repair. The 2011 photograph below shows the site – the area centre left is the application site, used for storage of new and excavated roads materials, while the sand mound to the right is now the site of the oil depot. The application site has since been largely levelled, with the previously deposited materials being relocated within the north part of the site; these may in time be removed altogether subject to the necessary SEPA permissions.



View of site looking south, circa 2011

The Proposals

A vehicle storage yard is proposed. The applicant operates a business specialising in recovery and retrieval of abandoned or accident-damaged vehicles. Vehicles which have been abandoned by their owners (notably on the Islands) are eyesores and potentially dangerous – the applicant is tasked by the local authority, insurance companies and private individuals to remove these vehicles and transport them to Central Belt scrapyards for disposal. Vehicles which have been involved in accidents and are deemed unworthy of repair are recovered from the roadside by the applicant and transported to a licensed

scrap/recycling business, and vehicles that may be repair-worthy but beyond the help of local garages will be conveyed to a central dealer for mending.

Vehicles are retrieved throughout Argyll and the Islands, so convenient access to ferries and to the A85 Glasgow road is necessary. Typically two or three trips are made per week to the Central Belt, meaning vehicles are generally only stored for a matter of days. However, with the involvement of insurance companies and other interested parties, the applicant may be asked to safely hold vehicles for slightly longer, until they are released for the onwards trip.

The yard will not be open to the public and will not operate as a scrapyards. No work is undertaken to vehicles other than what may be required to enable safe loading and transport. Accordingly Use Class 6 (Storage or Distribution) would be an appropriate classification.

Planning History

Permission was granted 24 January 2017 (ref 16/02835/PP) to site an oil storage/distribution depot in the northern part of the site, with subsequent applications 18/00963/PP and 18/02182/PP for additional buildings. Nearby approvals include new aircraft hangars, extensions to same (16/03031/PP), erection of storage container (17/01918/PP) etc as part of the ongoing development of the airport.

Planning Policy

In common with the surrounding area (including adjacent depot and airport buildings) the site sits within the Countryside Zone. Policy SG LDP BUS 2 advises that preferred locations for small-scale business and industry include infill, rounding-off and redevelopment sites in the countryside zone (Schedule B3 of Argyll & Bute Council's Supplementary Guidance). The requirements of SG LDP BUS 2 include:

- a. Landscape (SG LDP ENV 14): The proposal will not have a significant adverse impact on the character of the landscape. The site has a history of storage and distribution and, despite the Countryside Zone designation, sits within an existing band of development bordering the airport. In terms of appearance, the yard will not be a scrapyards – stored vehicles are generally complete and are 'parked' before onward distribution. The site is well screened from public vistas such as the A828 and Connel/Benderloch housing. Screening from the cycle track would be an acceptable mitigating condition of any Permission.
- b. Size (Schedule B1 of Argyll & Bute Council's Supplementary Guidance): The proposed site is 0.16 hectares and is therefore classified as 'small scale', being less than 0.5 hectares in area.
- c. Operational Need: The service provided by the applicant is an essential one – abandoned and damaged vehicles in North Argyll & The Islands require to be uplifted, and there is a need to temporarily store them en route to disposal/recycling. The applicant does not require a large site, but does need one with suitable access to the Trunk Road and ferries. There is a lack of Class 6 (and indeed Class 5) land in North Argyll, particularly at the small end of the scale – currently there are no suitable sites available. This site, being a brownfield site with a history of activity, located next to a similar compatible storage and distribution depot, away from residential areas and generally not visible is appropriate and discreet.
- d. Brownfield Site: The site has a history of depot use, is located within a developed area well away from open, undeveloped greenfield landscapes. Being bordered by development in all directions it may also be classed as an infill site.
- e. Access: The site is served by vehicular access direct to the A828 trunk road. While the cycle track also uses part of this road, Sustrans have advised (application 16/02835/PP) that this shared use is suitable for up to 1000 traffic movements per day. The proposed use would generate 4 to 6 traffic movements per day. Notwithstanding the fact that the proposal is essentially for a short-term car park, there will be sufficient space for the 1 to 2 staff members there at any one time; the yard will not be open to the public.

Pre-Application Discussions

Telephone pre-application discussion the Planning Department highlighted the fact that the yard actually falls within the Countryside Zone, therefore the history of the site would be particularly relevant to any application; a proposal on an undisturbed green field site would not be welcomed. An initial view on support for the application would require the formal Pre-Application Enquiry route to be followed – given the retrospective nature of the proposal it was decided that instead a full planning application would be submitted without delay. (It had been understood by applicant that, given the sites location and history, planning permission would not be required.)

Summary

The proposal accords with Development Plan Policy and will positively contribute to environmental improvement within the wider area.

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26 January 2021

2016/ADM



Architecture & Planning

Mr Jamie Torrance
Planning Officer
Argyll & Bute Council
Municipal Buildings
Albany Street
OBAN
Argyll
PA34 5AW

Dear Sir

PLANNING APPLICATION REFERENCE 20/01728/PP

PROPOSED VEHICLE STORAGE YARD, YARD SOUTH OF OIL DEPOT, SOUTH LEDAIG, NORTH CONNEL, ARGYLL

Now that the statutory processing period for the above application is concluded, I write to respond to the two representations received. We thank both respondents for their input, and would respond as follows:

Representation 16.12.20 Oban Airport

1. We note that this is not a formal objection, and have reminded the applicant of the general need to maintain a tidy site, and encouraged him to liaise with the Airport as suggested. He confirms that there will be no fires lit on site, and indeed suggests that litter/smoke may be emanating from nearby premises to the East.

Representation 18.12.20 Argyll & Bute Council Estates

1. As noted above, the applicant is aware of the need to maintain a tidy site, and has taken steps over recent weeks to ensure that the site is maintained in an orderly manner. There is a separate issue of litter etc emanating from adjacent land to the East, but that is outwith the scope of this application.
2. The applicant advises that the majority of vehicles uplifted are intact and not so accident-damaged that fuel spillage is an issue, but they do monitor for this and employ proprietary trailer-mounted Oil & Fuel Spill Kits for both transportation and storage purposes. It is perhaps worth noting that an assessment of the existing land was carried out prior to the current occupation and was found to be already contaminated by such materials (understandable given its roads yard history) however the applicant will avoid adding to this by use of the aforementioned absorbent Spill Kits.
3. (Damage to existing fences is outwith the scope of the current application but any damage will be made good as appropriate.)
4. (The leasing arrangements are outwith the scope of this application and will no doubt be addressed separately).
5. As mentioned above the applicant confirms that there will be no fires lit on site.

6. This application is not for a residential use – any domestic use would be outwith the scope of any Permission and enforcement procedures could be used if necessary.
7. While the area already has its issues with litter etc and the applicant has committed to maintaining a tidy site, close mesh windbreak fence cladding to the boundaries could be employed to provide visual screening if required.
8. The existing spoil heap is not a 'proposed' item and will stay unless removed in accordance with SEPA requirements. The 3.1m height of the portable building is noted on the current drawings.
9. The access route to the yard is as historically used for the depot and its attendant heavy vehicles. It also serves yard areas beyond the application site. The applicant uses a VW Crafter flat-bed transporter van rather than anything larger, and van movements will be maximum 6 per day. The road (or at least some of it) is definitely non-adopted.
10. While not material, the applicant re-confirms he carries out vehicle transporting worth for the local authority.
11. While it is not envisaged that there will be a full time staff presence on site, the portable building will serve occasional office/shelter needs, with services taken care of by usual caravan arrangements (portable water supply and facilities). No site services are currently proposed.
12. One could indeed take the point of view that the temporary storage of abandoned vehicles construes 'parking' them. It will be a fluid arrangement over the site though, and no dedicated car parking spaces as such are proposed. As there will be no visitors to the site, there is also no need for visitor spaces.
13. The vehicles are transported, stored and conveyed whole – they will not be disassembled and should not create waste products.
14. (See point 2 above)
15. It is unclear what security or fire risks there may be. The vehicles are inactive and not worked upon; the applicant confirms he has never had an instance of a stored vehicle spontaneously combusting.
16. No permanent non-residential floorspace is currently proposed, only a portable building which can move according to site needs and is barely covered by planning legislation.

I trust the above address the items raised. On a wider note, the applicant and his activities will be required to comply with general statutory requirements (Health and Safety at Work Act, Environmental Protection Act, Clean Air Act, Noise & Statutory Nuisance Act etc) in addition to any particular Conditions that may be appropriate to this proposal, therefore there will be tight control on activities should Planning Permission be granted.

Yours faithfully

Alasdair Macmillan MCIAT

Municipal Buildings Albany Street Oban PA34 4AW

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(SCOTLAND) REGULATIONS 2013**

REFUSAL OF PLANNING PERMISSION

REFERENCE NUMBER: 20/01728/PP

**Wee Lift Vehicle Recovery
MACARC Architecture & Planning
Hiddle House
North Shian
Appin
Argyll And Bute
PA38 4BA**

I refer to your application dated 25th September 2020 for planning permission in respect of the following development:

Use of land to form yard for temporary vehicle storage (retrospective)

AT:

Yard South Of Oil Depot South Ledaig North Connel Oban Argyll And Bute

Argyll and Bute Council in exercise of their powers under the above mentioned Act and Regulations hereby refuse planning permission for the above development for the **reasons(s) contained in the attached appendix.**

Dated: 12 May 2021



Fergus Murray
Head of Development and Economic Growth

REASONS FOR REFUSAL RELATIVE TO APPLICATION NUMBER: 20/01728/PP

1. The proposed development is located within the defined 'Countryside Zone' where key planning policy LDP DM 1 provides that small scale development will be supported only on appropriate infill, rounding off and redevelopment sites and changes of use of existing buildings. The policy allows that, in exceptional cases only, otherwise appropriate forms and scales of development in the open countryside might be supported on appropriate sites where it accords with an area capacity evaluation. In this case, no acceptable claim of any 'exceptional' case based on a locational/operational need has been provided and, therefore, the proposed development is contrary to planning policy LDP DM 1.
2. The proposed development is contrary to planning policy LDP 5 and SG LDP BUS 2 which offers support to new business and industry development (and extensions to existing business and industry development) only where those proposals accord with key spacial strategy planning policy LDP DM 1. In this case, as summarised in Refusal Reason 1 above, the proposed development is contrary to policy LDP DM 1.
3. Notwithstanding Reasons 1 and 2 above, the proposed development is contrary to planning policy LDP 11 and SG LDP TRAN 7 (Safeguarding of Airports) due to the significant safeguarding concerns highlighted by the Council as airport operator and the potential for the development to limit or curtail the operation of the airfield, contrary to the wider interests of the regional economy and community.
4. Notwithstanding the above, the proposed development is considered to be materially harmful to the landscape qualities of the area and contrary to planning policy LDP 9 and SG LDP ENV 14.

NOTES TO APPLICANT (1) RELATIVE TO APPLICATION NUMBER 20/01728/PP

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) within three months from the date of this notice. A Notice of Review request must be submitted on an official form which can be obtained by contacting The Local Review Body, Committee Services, Argyll and Bute Council, Kilmory, Lochgilphead, PA31 8RT or by email to localreviewprocess@argyll-bute.gov.uk
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state, and it cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the landowner's interest in the land, in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997 (as amended).

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application: 20/01728/PP

A. Has the application been the subject of any “non-material” amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing.

No

B. Is the proposal a departure from the Development Plan:

No

If yes, state level of departure:

No Departure

C. Summary justification statement for refusal of planning permission

The proposal is considered to be contrary to policies LDP DM 1 and Supplementary Guidance Policy SG LDP TRAN 7 of the Argyll and Bute Local Development Plan 2015, and there are no other material considerations of sufficient significance to indicate that it would be appropriate to grant planning permission in this instance as a departure to the Development Plan having regard to s25 of the Act.

Argyll and Bute Council
Development & Infrastructure Services

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: 20/01728/PP
Planning Hierarchy: Local
Applicant: Wee Lift Vehicle Recovery
Proposal: Use of land to form yard for temporary vehicle storage (retrospective)
Site Address: Yard South Of Oil Depot, South Ledaig, North Connel

DECISION ROUTE

Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997

(A) THE APPLICATION

- (i) **Development Requiring Express Planning Permission**
- Change of use of land (with a 'null use') to yard for vehicle storage
 - Siting of office building
- (ii) **Other specified operations**
- None
-

(B) RECOMMENDATION:

That permission be Refused subject to the reasons set out within this report.

(C) CONSULTATIONS:

Airport Safeguarding Officer
No Objection, Letter received 16.12.2020

Estates and Property Department
Objection, Letter received 18.12.2020

Area Roads Officer
No Objections subject to conditions, response received 28.01.21

Oban Airport
Objection, Email received 15.01.2021

(D) HISTORY:

Immediately Adjoining Land

16/02835/PP - Proposed oil depot, comprising the erection of 2 portable buildings, installation of 4 oil storage tanks, 3 arm skid and septic tank and erection of metal fence enclosure, Granted 23.01.2017

18/00963/PP - Erection of storage shed, Granted 14.06.18

18/02182/PP - Installation of oil storage tank, Granted 13.12.18

Subject Land

The applicant has stated that the land, the subject of this application, has previously been used by the Roads Authority for the storage of sand, equipment, raw materials and road plantings. It is not clear from the evidence provided that the former roads depot extends to include the area of ground forming part of this application and there appears to be no record of any formal planning permission for the alleged previous use.

Enforcement History

19/00345/ENOTH2: An enforcement investigation was opened in November 2019 relative to unauthorised change of use of land and unauthorised engineering operations to clear part of the subject ground and establish a vehicle storage facility at the subject site. This application has been received retrospectively in order to regularise those unlawful operations.

(E) PUBLICITY:

The application has been subject to a regulation 20 advertisement; closing date 08.01.21

(F) REPRESENTATIONS:

(i) Representations received from:

- No representations received

(ii) Summary of issues raised:

- N/A
-

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- | | |
|---|----|
| (i) Environmental Statement: | No |
| (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: | No |

(iii) **A design or design/access statement:** Yes

(iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: No

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

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

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

'Argyll and Bute Local Development Plan' (Adopted March 2015)

LDP STRAT 1 – Sustainable Development
LDP DM 1 – Development within the Development Management Zones
LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment
LDP 5 – Supporting the Sustainable Growth of our Economy
LDP 9 – Development Setting, Layout and Design
LDP 11 – Improving our Connectivity and Infrastructure

Supplementary Guidance

SG LDP ENV 14 – Landscape
SG LDP ACE 1 – Area Capacity Evaluation
SG LDP ENF – Enforcement Action
SG LDP BUS 2 - Business and Industry in the Countryside Development Management Zones
SG LDP BAD 2 – Bad Neighbour Development in Reverse
SG LDP TRAN 7 Safeguarding of Airports
Sustainable Siting and Design Principles

(ii) List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 3/2013.

- Third party representation
 - Scottish Planning Policy (SPP)
 - The proposed Local Development Plan 2
-

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

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

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

(N) Does the Council have an interest in the site: Yes – Land owner

(O) Requirement for a hearing: No

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

This is a proposal seeking planning permission for the change in use of land (with a 'null use') to a yard for the temporary storage of vehicles (Use Class 6) on land to the South Of Oil Depot, South Ledaig, North Connel, Oban. The land also adjoins Oban Airport being located to its immediate east. The applicant operates a business specialising in the recovery and retrieval of abandoned or accident-damaged vehicles. The applicant is tasked to remove these vehicles and transport them to Central Belt scrapyards for disposal. Vehicles which have been involved in accidents and are deemed unworthy of repair are recovered from the roadside by the applicant and transported to a licensed scrap/recycling business, and vehicles that may be repair-worthy but beyond the help of local garages will be conveyed to a central dealer for repair and resale. Vehicles are retrieved throughout Argyll and the Islands, and the applicant has claimed that convenient access to ferries and to the A85 Glasgow road is necessary. The applicant states that typically two or three trips are made per week to the Central Belt, meaning vehicles are generally only stored for a matter of days. The applicant has stated that the yard will not be open to the public and will not operate as a scrapyard. The applicant has stated that no work is undertaken to vehicles other than what may be required to enable safe loading and transport. Accordingly Use Class 6 (Storage or Distribution) would be an appropriate classification. This retrospective application has arisen as a result of an enforcement investigation pursued by the Planning Authority; the use of the site having commenced without the necessary planning permission and having relocated from a previous unlawful site in the Taynuilt area (that site also being the subject of previous planning enforcement action).

In the adopted Argyll and Bute Local Development Plan, the application site is shown within the countryside zone, wherein LDP DM 1 provides that small scale development will be supported only on appropriate infill, rounding off and redevelopment sites and changes of use of existing buildings. The policy allows that, in exceptional cases only, otherwise appropriate forms and scales of development in the open countryside might be supported on appropriate sites where it accords with an area capacity evaluation.

Policy LDP 3 states that proposals will not be supported where they do not protect, conserve and/or possibly enhance the established character of the built environment in terms of its location, scale form and design; while Policy LDP 9 seeks that developers execute a high standard of design which will integrate with the layout and density of the surrounding setting.

The proposal does not constitute infill, rounding off or redevelopment and is not a change of use of a building. An exceptional case has been set out which states that:

“The business operations of the applicant are an essential service which requires a location for the temporary storage of vehicles. The applicant does not require a large site, but does need one with suitable access to the Trunk Road and ferries. There is a lack of Class 6 (and indeed Class 5) land in North Argyll, particularly at the small end of the scale. There are currently no suitable sites available. Furthermore this site, being a brownfield site with a history of activity, located next to a similar compatible storage and distribution depot, away from residential areas and generally not visible is appropriate and discreet.”

No additional evidence or supporting justification has been provided in support of the applicant’s statements surrounding his exceptional need to be located at this site. In particular no evidence has been provided to demonstrate what, if any, alternative locations – including those allocated business and industry sites within and around the Oban area – have been considered and why such sites have been discounted. Or any other sites outwith the more sensitive countryside planning zone. As such, whilst the merits of the site may have some benefit to the applicant and his business operations, the Planning Authority is not persuaded that an appropriate exceptional case has been demonstrated in this instance. As such, the development is not considered to accord with Policy LDP DM 1.

Policy SG LDP BUS 2 provides that proposals for the development of new, or extensions to existing business and industrial enterprises (including Use Class 6) in the Countryside Development Management Zones will only be permitted where the development is of a form, location and scale, consistent with policy LDP DM 1 and where the development complies with Policy SG LDP ENV 14 (Landscape) as well as the permitted scales of development in Schedules B1 and B3.

In all cases the proposals will also require to meet the following criteria:

- (i) Greenfield sites are avoided if brownfield land is available close by;
- (ii) The proposal is consistent with any other relevant Local Development Plan policies and SG;
- (iii) Technical standards in terms of parking, traffic circulation, vehicular access and servicing, and pedestrian access are met in full
- (iv) The design, scale and siting of the new development respects the landscape/townscape character and appearance of the surrounding area
- (v) Good quality agricultural land is avoided, if poorer quality land is available close by.

Whilst the development does accord with some of the matters relative to this policy, the proposed development overall is not considered to meet the essential exceptional need test set out within policy DM 1. Furthermore in order to comply with policy SG LDP BUS 2 it is necessary for the development to be consistent with other relevant LDP policies. In this case considering the development location the impacts on Oban airport must be considered. SG LDP TRAN 7 (Safeguarding of Airports) sets out that development will be refused where it would constrain the present and future operations of existing airports and airfields. The aim of this policy is to prevent

unnecessary dangers to low-flying aircraft and to ensure that the scope for expansion of facilities at existing airports and airfields is not limited by inappropriate development. A major concern for airports and airfields is danger to aircraft presented by tall buildings and structures, or land uses which may attract flocks of birds.

Whilst a consultation response has been received by the Oban Airport Safeguarding Officer setting out that they do not object to the development on safeguarding grounds, further clarification in a second response from Oban Airport has been received which confirms that:

“The Safeguarding Officer has carried out a safeguarding assessment in line with Civil Aviation (CAA) requirements and it is doubtful that any criteria were met to impose any substantial cessation of the activities. That said, there are other non-CAA criteria which we would like to register as an objection to this application; The following key objection points are recorded.

- 1. Our primary objective is the safeguarding of operations at the airport. The [proposed] business, has already raised serious concerns in relation to the safety of aviation at the airport, namely through loose debris/materials being blown airside. From a safeguarding perspective, we would object to this type of business being located immediately adjacent to the airport, due to the potential damage to aircraft during movements. Any debris airside can damage aircraft with fatal consequences, which is why the airport undertakes strict daily airside inspections for foreign object debris. These types of businesses are notorious for poor housekeeping.*
- 2. The operation has already caused damage to the Airport boundary fence line and has occupied ground that they have no right to do so, thus demonstrating they are already an unmanageable neighbour.*
- 3. Any business operation that is likely to be a bird attractor in the immediate vicinity of the airport, for reasons under point one above we would object to, as is the case rubbish is already being left on site. We would object due to the environmental impact of this type of business in the immediate vicinity of the airport and the potential it has to contaminate airside.*
- 4. The business has also been undertaking unsafe practices, setting fire to rubbish on site immediately adjacent to airside, which again has raised safety concerns regarding visibility to aircraft movements due to proximity [to the] runway and was also reported to the airport as dangerous by visiting pilots.*
- 5. This type of business, adjacent to an airport, is not conducive to attracting visiting aircraft and pilots to a place of beautiful scenery and goes against the Council’s policy on developing the area as an area of natural beauty. Oban airport is also a gateway to the isles for the general travelling public and the immediate proximity of this business to the airport is detrimental to the promotion of tourism.*

The operations and behaviours of this business has demonstrated a fundamental disregard for airside safety by causing smoke to cross the runway, allowing debris to move from their site onto the airport land as well as attracting birds to the area. The development is considered a significant hazard to the operations of the airport and one which threatens its future. As such, it is not considered that the proposed development accords with policy SG LDP TRAN 7. Furthermore, having regard to

the general appearance of this development in the context of policy SG LDP 14 (Landscape), and the Sustainable Development Guidelines concern is raised. Whilst the applicant has been quick to point out that in terms of any landscape impacts this site is relatively secluded and not prominent from any public road, there is already a shipping container, two caravans and other non-business related vehicles onsite (excluding those collected by the applicant as part of his business activities). The site is devoid of landscaping and is untidy with vehicles often observed being crammed in or being parked on adjoining land if they do not fit. Whilst any landscape values are of lesser importance to aircraft safety, the site is located immediately adjacent to a popular cycle path route and is prominent from the air directly over the airport. It is not considered that the design, layout and setting accord with Policy LDP 9, SG LDP 14 or the Sustainable Development Guidelines.

The Council's Estates and Property Services Department who are the owners of the land the subject of this application have objected to the application raising significant concerns regarding a number of health and safety issues, particularly, relative to airside safety and the proximity of the development to Oban airport. In addition concerns regarding the general appearance and nature of the development are also raised. Many of these concerns raised reinforce those objections and observations by airport staff and are referred to above. As the Council has a landownership interest relative to this site location, in the event that Planning Permission is refused it is not considered appropriate that the Planning Authority seek to pursue further enforcement action. Such action would require the service of an enforcement notice by the Planning Authority on Estates and Property Services. It is felt that this would be unproductive and therefore further action is considered best achieved by the Council as landowner and, if necessary, through the courts as a civil dispute. This recommendation has been discussed with Estates and Property Services.

The Road Authority has reviewed the application and raised no objections subject to a condition to secure an appropriate level of vehicle parking onsite. Two parking spaces are to be provided per 100m² of gross floor area. The applicant has not discussed the need for onsite parking for business vehicles. The site is accessed off a private track and no concerns are raised regarding the access. Similarly Trunk Roads have raised no concerns with the access to the site from the A828.

(Q) Is the proposal consistent with the Development Plan: No

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

1. The proposed development is located within the defined 'Countryside Zone' where key planning policy LDP DM 1 provides that small scale development will be supported only on appropriate infill, rounding off and redevelopment sites and changes of use of existing buildings. The policy allows that, in exceptional cases only, otherwise appropriate forms and scales of development in the open countryside might be supported on appropriate sites where it accords with an area capacity evaluation. In this case, no acceptable claim of any 'exceptional' case based on a locational/operational need has been provided and, therefore, the proposed development is contrary to planning policy LDP DM 1.

2. The proposed development is contrary to planning policy LDP 5 and SG LDP BUS 2 which offers support to new business and industry development (and extensions to existing business and industry development) only where those proposals accord with key spacial strategy planning policy LDP DM 1. In this case, as summarised in Refusal Reason 1 above, the proposed development is contrary to policy LDP DM 1.
3. Notwithstanding Reasons 1 and 2 above, the proposed development is contrary to planning policy LDP 11 and SG LDP TRAN 7 (Safeguarding of Airports) due to the significant safeguarding concerns highlighted by the Council as airport operator and the potential for the development to limit or curtail the operation of the airfield, contrary to the wider interests of the regional economy and community.
4. Notwithstanding the above, the proposed development is considered to be materially harmful to the landscape qualities of the area and contrary to planning policy LDP 9 and SG LDP ENV 14.

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

No departure

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

Author of Report: Jamie Torrance **Date:** 10.05.21

Reviewing Officer: Tim Williams **Date:** 12.05.21

Fergus Murray
Head of Development and Economic Growth

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

21/0004/LRB

**REFUSAL OF PLANNING PERMISSION FOR USE OF
LAND TO FORM YARD FOR TEMPORARY VEHICLE
STORAGE (RETROSPECTIVE) – PLANNING
APPLICATION REFERENCE 20/01728/PP**

**YARD SOUTH OF OIL DEPOT, SOUTH LEDAIG,
NORTH CONNEL**

13.10.2021

STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council ('the Council'). The appellant is Wee Lift Vehicle Recovery ("the appellant").

Planning permission 20/01728/PP for the use of land to form yard for temporary vehicle storage (retrospective) at Yard South Of Oil Depot, South Ledaig, North Connel, Argyll and Bute (the appeal site") was refused by the Planning Service under delegated powers on the 12th May 2021.

This decision is the subject of referral to a Local Review Body.

DESCRIPTION OF SITE

The site is located within part of the defined 'Countryside Zone' immediately south of an oil distribution depot ('Oilfast') which was previously in lawful use as a roads depot for Argyll and Bute Council. The site also adjoins Oban Airport, being located to its immediate east. The development the subject of this Review was retrospective at the time that the planning application was first submitted and alterations to the previously existing ground conditions had been made to facilitate that unlawful use, primarily through excavations at the southern end of the site. Photographic evidence (provided as Appendix B to this Statement) strongly suggests that the land immediately prior to development was of an undeveloped and vegetated nature, containing no built development and accommodating no documented or evident use. The photographs evidenced as Appendix B show the adjacent hard surface area, which defines the limits of the former roads depot, now occupied by an oil depot with the undulating, vegetated and undeveloped land the subject of the current Review beyond.

STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED

Section 25 of the Town and Country Planning (Scotland) Act 1997 provides that where, in making any determination under the Planning Act, regard is to be had to the development plan, and all other material planning considerations and the determination shall be made in accordance with the plan unless material considerations indicate otherwise. This is the test for this application.

STATEMENT OF CASE

Argyll and Bute Council considers the determining issues in relation to the case are as follows:

- *Whether the proposed development is acceptable within the designated Countryside Zone within which planning policies LDP DM 1, LDP 5 and SG LDP BUS 2 would seek to prevent new business development in the open countryside where that development does not exploit an appropriate redevelopment opportunity or consist of the development of an acceptable and clearly defined 'infill' or 'rounding-off' opportunity site, or consists of a change of use of existing buildings, or else is supported by an appropriate and clearly defined argument of 'exceptional case' based on a locational and/or operational need and supported by an Area Capacity Evaluation (ACE).*
- *Notwithstanding the above, whether the development would limit or curtail the operation of the Oban Airfield, contrary to the wider interests of the regional economy and community*

and, therefore, be contrary to planning policy LDP 11 and SG LDP TRAN 7 (Safeguarding of Airports)

- *Notwithstanding the above, whether the development is considered to be materially harmful to the landscape qualities of the area and, therefore, contrary to planning policy LDP 9 and SG LDP ENV 14.*

The Report of Handling (Appendix A) sets out the Council's full assessment of the application in terms of these key determining issues and concludes that:

Firstly, the site does not accord with policies LDP DM 1, LDP 5 and SG LDP BUS 2; that the proposed development does not exploit any redevelopment, infill or rounding-off opportunity; that the development does not consist of the change of use of any existing buildings, and that no acceptable claim of any 'exceptional case' has been demonstrated;

Secondly, that the development is likely to (and has already) have a material safeguarding impact on the operation of the Oban Airfield, contrary to the wider interests of the regional economy and community and, therefore, would be contrary to planning policy LDP 11 and SG LDP TRAN 7 (Safeguarding of Airports), and;

Thirdly, that the development, which is located immediately adjacent to a popular cycle path route and is prominent from the air directly over the airport, results in a materially harmful impact upon the quality and character of the landscape and that the design, layout and setting do not accord with Policy LDP 9, SG LDP 14 or the Sustainable Development Guidelines contained within the adopted Local Development Plan.

Furthermore, it is not considered that the highlighted unacceptable impacts of the proposed development can be appropriately mitigated through the use of planning conditions or by legal agreement.

The Local Review Body are respectfully requested to note, in particular, the objections to the proposed development raised by the Council's Estates Department (as landowner) and those raised by the Oban Airfield Safeguarding Team.

REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING

It is not considered that any additional information is required in light of the appellant's submission. The issues raised were assessed in the Report of Handling which is contained in Appendix A. As such it is considered that Members have all the information they need to determine the case. Given the above and that the proposal has no complex or challenging issues, and has not been the subject of any significant public representation, it is not considered that a Hearing is required.

COMMENT ON APPELLANT'S SUBMISSION

The appellant's Agent (the Agent) has submitted a supporting statement. The following comments are made in relation to his submission:

- The Agent states that, 'This is clearly a redevelopment site, therefore there is no 'exceptional case' to be put forward.'

Comment: *With all due respect, this clearly isn't a redevelopment site. There were no buildings on the site prior to the unlawful development the subject of this Review. Neither was the site in use for any purpose. Furthermore, no persuasive evidence of any previous lawful use of the site or any record of any planning permission for it has been provided.*

'Redevelopment' is defined within the Glossary to the adopted Local Development Plan as, "a development of new buildings involving significant demolitions; or the extension of a building involving more than a doubling of the cubic volume of the building but not exceeding three times the cubic volume (less than a doubling being treated as a building extension and more than a trebling, as new build)."

Whilst the Agent appears to be suggesting that the site the subject of the current review formed part of a larger site previously occupied as a Council roads depot, officers are not persuaded that this is, in fact, the case. There is no doubt that the site of the Review and the adjacent site now occupied by Oilfast are owned by the Council, but this does not demonstrate that both sites in totality previously formed part of any lawful roads depot use. The Agent refers to a previous planning application for the formation of the current oil depot site (application reference 16/02835/PP). It is noted that the plans submitted, and subsequently approved, in connection with this application expressly excluded the adjacent site the subject of this Review. A copy of the approved site plan for planning permission 16/02835/PP is attached to this Statement as Appendix C.

The Local Review Body is invited to note that the plan evidenced as Appendix C does not include the land to the immediate south which forms the site of the current Review.

The Local Review Body is also invited to note the wording 'Depot' on the Appendix C plan and the clear delineation of the yard to which that wording relates – a yard area which is clearly defined by a concrete hardstanding and which does not include the vegetated site of the current Review, as further evidenced by the photographs attached to this Statement as Appendix B.

The Local Review Body is further invited to note that the 2016 planning application for the formation of the current oil depot did not involve any change of use of that land. Both the previous lawful roads depot and the then proposed oil depot shared the same use class, Use Class 6 of The Town and Country Planning (Use Classes) (Scotland) Order 1997. Officers maintain that had the former roads depot included the land to the south (the land the subject of the current Review) then that land would have been included within the 2016 planning application as part of the one, single lawful yard. The fact that it wasn't despite both parcels of land being within the same ownership (the Council) surely speaks volumes.

- The Agent seeks to challenge the comments and objections raised by the Council as operators of Oban Airport. The Agent refers to two seemingly differing consultation responses and suggests that any concerns may be addressed through planning condition or through conditions on any lease and that the use proposed should not in itself result in litter, birds or fires and is therefore not a valid reason for refusal.

Comment: *The position of the Council as operators of the airport is clear. They object to the development and consider that the granting of planning permission will likely impact upon the safety and continued viability of the airport as a strategic transportation hub. Indeed, they have provided evidence that the existing unlawful use has already had a harmful negative impact on the operation of the airport.*

The seeming difference in the two consultation responses is a consequence of the Council being a 'slave to two masters'. – On the one hand, the Council as airport operator are required to adhere to Civil Aviation Authority (CAA) technical regulations which act in the national interest to protect airspace. On the other hand, the Council must also have due regard to local non-technical safeguarding and airport management issues. When assessed against the national CAA safeguarding criteria it is confirmed that the proposed development would have no likely impact on issues of national air traffic safety, primarily because the development does not involve buildings or structures tall enough to impede arriving or departing aircraft. This was confirmed in the first consultation response received. However, when assessed against local safeguarding criteria and, specifically, the immediate impact of the proposed development upon Oban airport as a single entity, material concerns have been identified and it is these which form the basis of the refusal of planning permission (notwithstanding the other identified policy and amenity/landscape impact issues).

Oban airport have been asked to clarify their position on this and have stated the following:

“Oban airport assesses planning applications in the vicinity of the airport boundary through technical and non-technical criteria.

The Safeguarding Officer for Oban Airport undertook a technical assessment, based on Civil Aviation Authority criteria, which is to control land use in order to protect the airspace over and around an airfield against developments that could adversely affect safe operations. For example that the height of any proposed building does not penetrate the safeguarded airspace around the airport. This application met this technical criteria and therefore no objection was raised.

There are non-technical CAA criteria however, that Oban Airport wanted to object to. The [proposed] business has already raised serious concerns in relation to the safety of aviation at the airport, namely through loose debris/materials being blown airside. These were identified by the Rescue Fire Fighting Service as they undertook their regular runway inspections for Foreign Object Debris on the runway. Any debris airside can damage aircraft with fatal consequences, which is why the airport undertakes strict daily airside inspections for foreign object debris.

For the above reason, with rubbish being left to blow around on site and that this business operation is likely to be a bird attractor, again hazardous to visiting aircraft, Oban Airport objected. This is primarily due to the impact to safety, with this business's location in the immediate vicinity of the airport and it having the potential to contaminate airside, as it already has done so.

Oban Airport also wished to object as this business has also been undertaking unsafe practices, setting fire to rubbish on site immediately adjacent to airside, which again has raised safety concerns regarding visibility to aircraft movements due to proximity [to the] runway and was also reported to the airport as dangerous by visiting pilots. This is not anecdotal and was formally recorded as a concern in the minutes of Oban Airport Airside Safety Committee, held at the airport with airport stakeholders and airport flying club members on 27th November 2020.

The airport also objected as damage had already been done by this business to Oban Airport's security fence line and the business also extended their occupation

into ground they had no right to do so, thus clearly demonstrating they are an unmanageable neighbour.

Clearly, this type of business, adjacent to an airport, is not conducive to attracting visiting aircraft and pilots to a place of beautiful scenery and goes against the Council's policy on developing the area as an area of natural beauty. Oban airport is also a gateway to the isles for the general travelling public and the immediate proximity of this business to the airport is detrimental to the promotion of tourism. Oban airport submitted its non-technical objections to the application following standard planning procedures and received a standard receipt from the planning department that they had been received." (Comments received 6th October 2021 and attached to this Statement as Appendix D.)

In addition to the airport safeguarding objection clarified above, the Local Review Body is invited to note the objections raised on behalf of the Council's Estates Department as landowner. These are attached to this Statement for ease of reference as Appendix E.

Officers maintain that the issues raised by the Council both as airport operator and as landowner are material planning considerations and that they demonstrate the harm caused by the proposed development and the impact of said development on both the future operational viability of the airport and the landscape character and quality of the site and surrounding area. It is not considered that this harm can be appropriately mitigated through the use of planning conditions.

- The Agent has appended a photograph dated June 2006 which he claims demonstrates that the site the subject of this Review forms part of a former roads depot, with a history of stored spoil, materials, metal containers etc.

Comment: *What this photographs actually shows is decidedly unclear. It has apparently been taken from the internet and is accredited as dating from 2006. It is not considered that this photograph can be relied upon to demonstrate, on the balance of probabilities, that the site the subject of this Review is a 'brownfield' site or that it benefits from any lawful use.*

The photos taken 10 years later by planning officers show the site as an area of undulating, overgrown land with no evidence of any built development or any commercial use occurring within it. It is considered that even if it could be demonstrated that the Review site at one time was used for some form of business use (and officers do not accept that it was) this does not mean that any such use was lawful (there is no record of any planning permission for it) or that any such use has not been abandoned at some point between the photograph apparently taken in 2006 and those taken during a site inspection in 2016.

Photographs showing the site and the retrospective development the subject of this Review are attached to this Statement as Appendix F.

CONCLUSION

Section 25 of the Town and Country Planning Act 1997 (as amended) requires that all decisions be made in accordance with the development plan unless material considerations indicate otherwise.

In this case, as detailed in the Report of Handling appended to this submission, the site does not represent an appropriate opportunity for infill, rounding-off, redevelopment or change of use of building development within the Countryside Zone as required by Policy LDP DM 1 of the LDP and there has been no acceptable claim of an 'exceptional case' for the development based upon any locational or operational site requirement. The proposed development is therefore confirmed as being contrary to planning policies LDP DM 1, LDP 5 and SG LDP BUS 2.

Notwithstanding this, it is confirmed that, in the opinion of officers, the proposed development would limit or curtail the operation of the Oban Airfield, contrary to the wider interests of the regional economy and community and, therefore, be contrary to planning policy LDP 11 and SG LDP TRAN 7 (Safeguarding of Airports), and would be materially harmful to the landscape qualities of the area and, therefore, contrary to planning policy LDP 9 and SG LDP ENV 14.

Taking account of the above, it is respectfully submitted that the application for Review be dismissed.

APPENDIX A – REPORT OF HANDLING

**Argyll and Bute Council
Development & Infrastructure Services**

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: 20/01728/PP
Planning Hierarchy: Local
Applicant: Wee Lift Vehicle Recovery
Proposal: Use of land to form yard for temporary vehicle storage (retrospective)
Site Address: Yard South Of Oil Depot, South Ledaig, North Connel

DECISION ROUTE

Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997

(A) THE APPLICATION

- (i) Development Requiring Express Planning Permission**
- Change of use of land (with a 'null use') to yard for vehicle storage
 - Siting of office building

(ii) Other specified operations
• None

(B) RECOMMENDATION:

That permission be Refused subject to the reasons set out within this report.

(C) CONSULTATIONS:

Airport Safeguarding Officer
No Objection, Letter received 16.12.2020

Estates and Property Department
Objection, Letter received 18.12.2020

Area Roads Officer
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Oban Airport
Objection, Email received 15.01.2021

(D) HISTORY:

Immediately Adjoining Land

16/02835/PP - Proposed oil depot, comprising the erection of 2 portable buildings, installation of 4 oil storage tanks, 3 arm skid and septic tank and erection of metal fence enclosure, Granted 23.01.2017

18/00963/PP - Erection of storage shed, Granted 14.06.18

18/02182/PP - Installation of oil storage tank, Granted 13.12.18

Subject Land

The applicant has stated that the land, the subject of this application, has previously been used by the Roads Authority for the storage of sand, equipment, raw materials and road plantings. It is not clear from the evidence provided that the former roads depot extends to include the area of ground forming part of this application and there appears to be no record of any formal planning permission for the alleged previous use.

Enforcement History

19/00345/ENOTH2: An enforcement investigation was opened in November 2019 relative to unauthorised change of use of land and unauthorised engineering operations to clear part of the subject ground and establish a vehicle storage facility at the subject site. This application has been received retrospectively in order to regularise those unlawful operations.

(E) PUBLICITY:

The application has been subject to a regulation 20 advertisement; closing date 08.01.21

(F) REPRESENTATIONS:

(i) Representations received from:

- No representations received

(ii) Summary of issues raised:

- N/A

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) Environmental Statement:** No

- (ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
- (iii) **A design or design/access statement:** Yes
- (iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: No

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

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

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

'Argyll and Bute Local Development Plan' (Adopted March 2015)

LDP STRAT 1 – Sustainable Development
LDP DM 1 – Development within the Development Management Zones
LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment
LDP 5 – Supporting the Sustainable Growth of our Economy
LDP 9 – Development Setting, Layout and Design
LDP 11 – Improving our Connectivity and Infrastructure

Supplementary Guidance

SG LDP ENV 14 – Landscape
SG LDP ACE 1 – Area Capacity Evaluation
SG LDP ENF – Enforcement Action
SG LDP BUS 2 - Business and Industry in the Countryside Development Management Zones
SG LDP BAD 2 – Bad Neighbour Development in Reverse
SG LDP TRAN 7 Safeguarding of Airports
Sustainable Siting and Design Principles

- (ii) List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 3/2013.**

- Third party representation
 - Scottish Planning Policy (SPP)
 - The proposed Local Development Plan 2
-

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

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

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

(N) Does the Council have an interest in the site: Yes – Land owner

(O) Requirement for a hearing: No

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

This is a proposal seeking planning permission for the change in use of land (with a 'null use') to a yard for the temporary storage of vehicles (Use Class 6) on land to the South Of Oil Depot, South Ledaig, North Connel, Oban. The land also adjoins Oban Airport being located to its immediate east. The applicant operates a business specialising in the recovery and retrieval of abandoned or accident-damaged vehicles. The applicant is tasked to remove these vehicles and transport them to Central Belt scrapyards for disposal. Vehicles which have been involved in accidents and are deemed unworthy of repair are recovered from the roadside by the applicant and transported to a licensed scrap/recycling business, and vehicles that may be repair-worthy but beyond the help of local garages will be conveyed to a central dealer for repair and resale. Vehicles are retrieved throughout Argyll and the Islands, and the applicant has claimed that convenient access to ferries and to the A85 Glasgow road is necessary. The applicant states that typically two or three trips are made per week to the Central Belt, meaning vehicles are generally only stored for a matter of days. The applicant has stated that the yard will not be open to the public and will not operate as a scrapyard. The applicant has stated that no work is undertaken to vehicles other than what may be required to enable safe loading and transport. Accordingly Use Class 6 (Storage or Distribution) would be an appropriate classification. This retrospective application has arisen as a result of an enforcement investigation pursued by the Planning Authority; the use of the site having commenced without the necessary planning permission and having relocated from a previous unlawful site in the Taynuilt area (that site also being the subject of previous planning enforcement action).

In the adopted Argyll and Bute Local Development Plan, the application site is shown within the countryside zone, wherein LDP DM 1 provides that small scale development will be supported only on appropriate infill, rounding off and redevelopment sites and changes of use of existing buildings. The policy allows that, in exceptional cases only, otherwise appropriate forms and scales of

development in the open countryside might be supported on appropriate sites where it accords with an area capacity evaluation.

Policy LDP 3 states that proposals will not be supported where they do not protect, conserve and/or possibly enhance the established character of the built environment in terms of its location, scale form and design; while Policy LDP 9 seeks that developers execute a high standard of design which will integrate with the layout and density of the surrounding setting.

The proposal does not constitute infill, rounding off or redevelopment and is not a change of use of a building. An exceptional case has been set out which states that:

“The business operations of the applicant are an essential service which requires a location for the temporary storage of vehicles. The applicant does not require a large site, but does need one with suitable access to the Trunk Road and ferries. There is a lack of Class 6 (and indeed Class 5) land in North Argyll, particularly at the small end of the scale. There are currently no suitable sites available. Furthermore this site, being a brownfield site with a history of activity, located next to a similar compatible storage and distribution depot, away from residential areas and generally not visible is appropriate and discreet.”

No additional evidence or supporting justification has been provided in support of the applicant's statements surrounding his exceptional need to be located at this site. In particular no evidence has been provided to demonstrate what, if any, alternative locations – including those allocated business and industry sites within and around the Oban area – have been considered and why such sites have been discounted. Or any other sites outwith the more sensitive countryside planning zone. As such, whilst the merits of the site may have some benefit to the applicant and his business operations, the Planning Authority is not persuaded that an appropriate exceptional case has been demonstrated in this instance. As such, the development is not considered to accord with Policy LDP DM 1.

Policy SG LDP BUS 2 provides that proposals for the development of new, or extensions to existing business and industrial enterprises (including Use Class 6) in the Countryside Development Management Zones will only be permitted where the development is of a form, location and scale, consistent with policy LDP DM 1 and where the development complies with Policy SG LDP ENV 14 (Landscape) as well as the permitted scales of development in Schedules B1 and B3.

In all cases the proposals will also require to meet the following criteria:

- (i) Greenfield sites are avoided if brownfield land is available close by;
- (ii) The proposal is consistent with any other relevant Local Development Plan policies and SG;
- (iii) Technical standards in terms of parking, traffic circulation, vehicular access and servicing, and pedestrian access are met in full
- (iv) The design, scale and siting of the new development respects the landscape/townscape character and appearance of the surrounding area
- (v) Good quality agricultural land is avoided, if poorer quality land is available close by.

Whilst the development does accord with some of the matters relative to this policy, the proposed development overall is not considered to meet the essential exceptional need test set out within policy DM 1. Furthermore in order to comply with policy SG LDP BUS 2 it is necessary for the development to be consistent with

other relevant LDP policies. In this case considering the development location the impacts on Oban airport must be considered. SG LDP TRAN 7 (Safeguarding of Airports) sets out that development will be refused where it would constrain the present and future operations of existing airports and airfields. The aim of this policy is to prevent unnecessary dangers to low-flying aircraft and to ensure that the scope for expansion of facilities at existing airports and airfields is not limited by inappropriate development. A major concern for airports and airfields is danger to aircraft presented by tall buildings and structures, or land uses which may attract flocks of birds.

Whilst a consultation response has been received by the Oban Airport Safeguarding Officer setting out that they do not object to the development on safeguarding grounds, further clarification in a second response from Oban Airport has been received which confirms that:

“The Safeguarding Officer has carried out a safeguarding assessment in line with Civil Aviation (CAA) requirements and it is doubtful that any criteria were met to impose any substantial cessation of the activities. That said, there are other non-CAA criteria which we would like to register as an objection to this application; The following key objection points are recorded.

- 1. Our primary objective is the safeguarding of operations at the airport. The [proposed] business, has already raised serious concerns in relation to the safety of aviation at the airport, namely through loose debris/materials being blown airside. From a safeguarding perspective, we would object to this type of business being located immediately adjacent to the airport, due to the potential damage to aircraft during movements. Any debris airside can damage aircraft with fatal consequences, which is why the airport undertakes strict daily airside inspections for foreign object debris. These types of businesses are notorious for poor housekeeping.*
- 2. The operation has already caused damage to the Airport boundary fence line and has occupied ground that they have no right to do so, thus demonstrating they are already an unmanageable neighbour.*
- 3. Any business operation that is likely to be a bird attractor in the immediate vicinity of the airport, for reasons under point one above we would object to, as is the case rubbish is already being left on site. We would object due to the environmental impact of this type of business in the immediate vicinity of the airport and the potential it has to contaminate airside.*
- 4. The business has also been undertaking unsafe practices, setting fire to rubbish on site immediately adjacent to airside, which again has raised safety concerns regarding visibility to aircraft movements due to proximity [to the] runway and was also reported to the airport as dangerous by visiting pilots.*
- 5. This type of business, adjacent to an airport, is not conducive to attracting visiting aircraft and pilots to a place of beautiful scenery and goes against the Council’s policy on developing the area as an area of natural beauty. Oban airport is also a gateway to the isles for the general travelling public and the immediate proximity of this business to the airport is detrimental to the promotion of tourism.*

The operations and behaviours of this business has demonstrated a fundamental

disregard for airside safety by causing smoke to cross the runway, allowing debris to move from their site onto the airport land as well as attracting birds to the area. The development is considered a significant hazard to the operations of the airport and one which threatens its future. As such, it is not considered that the proposed development accords with policy SG LDP TRAN 7. Furthermore, having regard to the general appearance of this development in the context of policy SG LDP 14 (Landscape), and the Sustainable Development Guidelines concern is raised. Whilst the applicant has been quick to point out that in terms of any landscape impacts this site is relatively secluded and not prominent from any public road, there is already a shipping container, two caravans and other non-business related vehicles onsite (excluding those collected by the applicant as part of his business activities). The site is devoid of landscaping and is untidy with vehicles often observed being crammed in or being parked on adjoining land if they do not fit. Whilst any landscape values are of lesser importance to aircraft safety, the site is located immediately adjacent to a popular cycle path route and is prominent from the air directly over the airport. It is not considered that the design, layout and setting accord with Policy LDP 9, SG LDP 14 or the Sustainable Development Guidelines.

The Council's Estates and Property Services Department who are the owners of the land the subject of this application have objected to the application raising significant concerns regarding a number of health and safety issues, particularly, relative to airside safety and the proximity of the development to Oban airport. In addition concerns regarding the general appearance and nature of the development are also raised. Many of these concerns raised reinforce those objections and observations by airport staff and are referred to above. As the Council has a landownership interest relative to this site location, in the event that Planning Permission is refused it is not considered appropriate that the Planning Authority seek to pursue further enforcement action. Such action would require the service of an enforcement notice by the Planning Authority on Estates and Property Services. It is felt that this would be unproductive and therefore further action is considered best achieved by the Council as landowner and, if necessary, through the courts as a civil dispute. This recommendation has been discussed with Estates and Property Services.

The Road Authority has reviewed the application and raised no objections subject to a condition to secure an appropriate level of vehicle parking onsite. Two parking spaces are to be provided per 100m² of gross floor area. The applicant has not discussed the need for onsite parking for business vehicles. The site is accessed off a private track and no concerns are raised regarding the access. Similarly Trunk Roads have raised no concerns with the access to the site from the A828.

(Q) Is the proposal consistent with the Development Plan: No

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

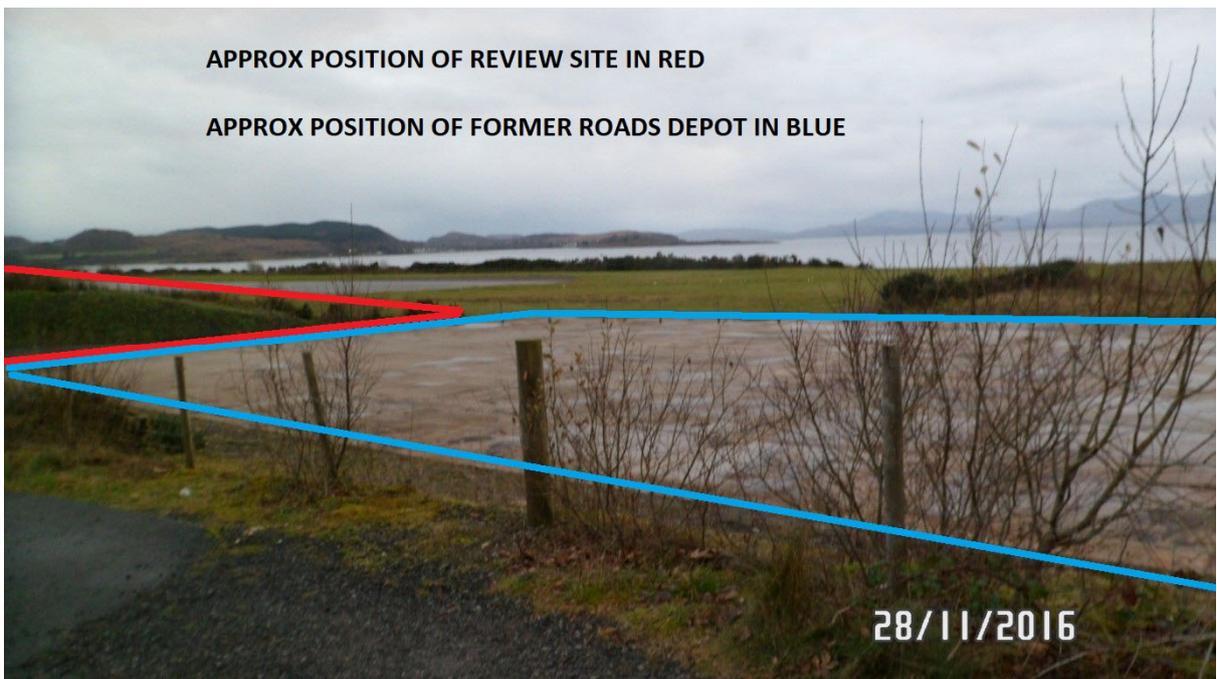
1. The proposed development is located within the defined 'Countryside Zone' where key planning policy LDP DM 1 provides that small scale development will be supported only on appropriate infill, rounding off and redevelopment

APPENDIX B – SITE PHOTOGRAPHS 2016 PRIOR TO DEVELOPMENT TAKING PLACE



APPROX POSITION OF REVIEW SITE IN RED

APPROX POSITION OF FORMER ROADS DEPOT IN BLUE



APPENDIX C – COPY OF APPROVED SITE PLAN FOR 16/02835/PP

CONTRACTOR

Ground level - The contractor shall ensure that the ground level is maintained at or above the level shown on the site plan. All borrow pits to be used or a permanent ground level shall be maintained at or above the level shown on the site plan. All borrow pits to be used or a permanent ground level shall be maintained at or above the level shown on the site plan.

Underground Drainage - All underground drainage systems shall be designed to meet the requirements of BS EN 12056-1:2000 with reference to BS EN 12056-2:2000. All drainage systems shall be designed to meet the requirements of BS EN 12056-1:2000 with reference to BS EN 12056-2:2000.

Surface Drainage - All surface drainage systems shall be designed to meet the requirements of BS EN 12056-1:2000 with reference to BS EN 12056-2:2000. All drainage systems shall be designed to meet the requirements of BS EN 12056-1:2000 with reference to BS EN 12056-2:2000.

Water Services - All water services shall be designed to meet the requirements of BS EN 12056-1:2000 with reference to BS EN 12056-2:2000. All drainage systems shall be designed to meet the requirements of BS EN 12056-1:2000 with reference to BS EN 12056-2:2000.

Electricity - All electricity services shall be designed to meet the requirements of BS EN 12056-1:2000 with reference to BS EN 12056-2:2000. All drainage systems shall be designed to meet the requirements of BS EN 12056-1:2000 with reference to BS EN 12056-2:2000.

Gas - All gas services shall be designed to meet the requirements of BS EN 12056-1:2000 with reference to BS EN 12056-2:2000. All drainage systems shall be designed to meet the requirements of BS EN 12056-1:2000 with reference to BS EN 12056-2:2000.

Other Services - All other services shall be designed to meet the requirements of BS EN 12056-1:2000 with reference to BS EN 12056-2:2000. All drainage systems shall be designed to meet the requirements of BS EN 12056-1:2000 with reference to BS EN 12056-2:2000.



NOTES

The contractor shall be held to have checked all dimensions before commencing work and shall be responsible for any discrepancies to be shown hereafter in the drawings.

The contractor shall ensure that all materials and workmanship are in accordance with the specifications and standards set out in the drawings and shall be responsible for any discrepancies to be shown hereafter in the drawings.

The drawings are the property of MACARC and all rights are reserved. Copying or reuse of any part of these drawings without the written consent of MACARC is prohibited.

KEY

Site Boundary

Position of proposed 2.5m high walls

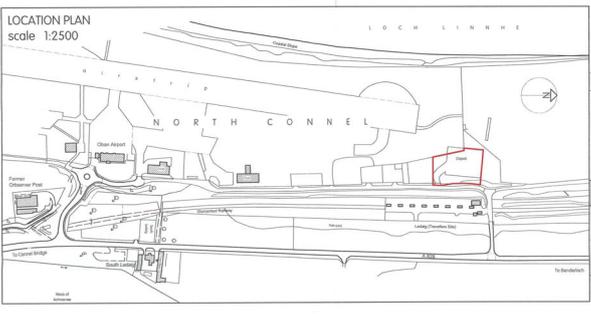
Area 1:000

AMENDED PLAN

Application No: 16/02835/PP

Date proposed: 2/12/16

Revision	Mark	Date
1	A	16/12/16
2	B	16/12/16
3	C	16/12/16



ARROYL AND BUTE COUNCIL

The plan was approved by the PLANNING AUTHORITY and MUST be used in conjunction with the Planning Conditions of Consent No. 16/02835/PP

MACARC
Architects & Planners

ARROYL AND BUTE COUNCIL
Head of Planning and Regulatory Services

Site No: 16/02835/PP

Site & Location Plans

Date: AUG 2016

Scale: 1:200

AS PROPOSED

APPENDIX D – STATEMENT FROM OBAN AIRPORT SAFEGUARDING OFFICER

Refusal Reason No. 3 “Notwithstanding Reasons 1 and 2 above, the proposed development is contrary to planning policy LDP 11 and SG LDP TRAN 7 (Safeguarding of Airports) due to the significant safeguarding concerns highlighted by the Council as airport operator and the potential for the development to limit or curtail the operation of the airfield, contrary to the wider interests of the regional economy and community. “

Response to Refusal Reason No. 3 Oban Airport provided a consultee response dated 16 December 2020 confirming they had no objection to the proposal. This was made publicly available and uploaded to the Council’s Planning web portal. When the Refusal was issued however, it made reference to internal correspondence from the Airport which raised concerns about possible debris, birds and fires. No information has been provided on the reasons for the change in response from the Airport or who authored the second response. The items raised in this later, undisclosed, response are largely anecdotal and relate more to the possible running/housekeeping of the yard than the principle of the yard being used for Vehicle Storage. This correspondence was not made publicly available, therefore denying the applicant the opportunity to address any preconceptions. Any remaining concerns may be addressed by Planning Condition (where relevant to planning issues) or more appropriately through lease conditions. The use of the site for Temporary Storage of Vehicles should not in itself result in litter, birds or fires and is therefore not a valid reason for refusal.

Oban Airport Response to the above:

Oban airport assesses planning applications in the vicinity of the airport boundary through technical and non-technical criteria.

The Safeguarding Officer for Oban Airport undertook a technical assessment, based on Civil Aviation Authority criteria, which is to control land use in order to protect the airspace over and around an airfield against developments that could adversely affect safe operations. For example that the height of any proposed building does not penetrate the safeguarded airspace around the airport. This application met this technical criteria and therefore no objection was raised.

There are non-technical CAA criteria however, that Oban Airport wanted to object to. The [proposed] business, has already raised serious concerns in relation to the safety of aviation at the airport, namely through loose debris/materials being blown airside. These were identified by the Rescue Fire Fighting Service as they undertook their regular runway inspections for Foreign Object Debris on the runway. Any debris airside can damage aircraft with fatal consequences, which is why the airport undertakes strict daily airside inspections for foreign object debris.

For the above reason, with rubbish being left to blow around on site and that this business operation is likely to be a bird attractor, again hazardous to visiting aircraft, Oban Airport objected. This is primarily due to the impact to safety, with this business’s location in the immediate vicinity of the airport and it having the potential to contaminate airside, as it already has done so.

Oban Airport also wished to object as this business has also been undertaking unsafe practices, setting fire to rubbish on site immediately adjacent to airside, which again has raised safety concerns regarding visibility to aircraft movements due to proximity [to the] runway and was also reported to the airport as dangerous by visiting pilots. This is not anecdotal and was formally recorded as a concern in the minutes of Oban Airport Airside Safety Committee, held at the airport with airport stakeholders and airport flying club members on 27th November 2020.

The airport also objected as damage had already been done by this business to Oban Airport's security fence line and the business also extended their occupation into ground they had no right to do so, thus clearly demonstrating they are an unmanageable neighbour.

Clearly, this type of business, adjacent to an airport, is not conducive to attracting visiting aircraft and pilots to a place of beautiful scenery and goes against the Council's policy on developing the area as an area of natural beauty. Oban airport is also a gateway to the isles for the general travelling public and the immediate proximity of this business to the airport is detrimental to the promotion of tourism.

Oban airport submitted its non-technical objections to the application following standard planning procedures and received a standard receipt from the planning department that they had been received.

APPENDIX E – STATEMENT FROM LANDOWNER (COUNCIL ESTATES DEPARTMENT)

Argyll and Bute Council
Comhairle Earra Gháidheal agus Bhóid



Customer Services
Director: Douglas Hendry

FAO: Mr J Torrance
Case Officer
Development Management
Argyll & Bute Council

BY EMAIL: planning.olandi@argyll-bute.gov.uk

Property Development & Estates
Helensburgh & Lomond Civic Centre
38 East Clyde Street, Helensburgh, G84 7PG
Tel:
E-mail:
Website: www.argyll-bute.gov.uk

Ask For:
Our Ref:
Your Ref:
Date: 18th December 2020

Dear Sir / Madam

PLANNING APPLICATION 20/01728/PP – USE OF LAND TO FORM YARD FOR TEMPORARAY VEHICLE STORAGE (RETROSPECTIVE) – YARD SOUTH OF OIL DEPOT SOUTH LEDAIG NORTH CONNEL OBAN

In respect of the above, Economic Development, Oban Airport and Estates & Property Development are jointly of the view that the use is inappropriate in this location. Also, that the applicant has thus far demonstrated a disregard for correct procedure and legalities, which constitutes an ongoing risk to the Council as landowner and owner / operator of Oban Airport.

To provide more detail we would make the comments below:

1. Airport safeguarding concerns have already been raised by loose debris / materials being blown from this site to airside, and as the operation is attracting birds (due to rubbish on site) – this could have potentially serious health & safety implications, and is increasing the management burden and risk profile at Oban Airport;
2. With the number and state of repair of the vehicles involved in the operation there are concerns in terms of flammable materials on the site and also from a ground contamination perspective;
3. The operation has damaged the Airport boundary fence line, plus other fencing;
4. Despite formal communications to cease use direct to the operator (Mr Mitchell), and to Oilfast Ltd (who lease the Former Roads Depot site from the Council, and have allowed the operator in as their sub-tenant – which is unapproved by the Council as Landlord), the operator has continued with the unauthorised use of the land directly adjoining the Oilfast Ltd leased area to the south for their operation;
5. The operator has been observed setting fires to materials within the site. This, again, has raised serious safety concerns and has been reported to the Airport as dangerous by visiting pilots, due to the emitted smoke obscuring the runway making it hazardous for aircraft taking off or landing;
6. There is a concern that at least one person is residing on the site (in a caravan) – we feel that this is inappropriate, as the location is not for residential use nor for a 24-hour business operation (as Oilfast Ltd advised was the case);
7. The operation has a negative visual impact, both from ground level and the air,

which is not conducive to the attraction and promotion of tourism, visitors, and economic development potential of the wider airport site;

8. The planning application contains no elevation plans identifying heights of the proposed building and levels of the spoil heap (which the operator has moved, possibly not in line with the conditions attached to this within the Oilfast Ltd lease);
9. Contrary to the Design/Supporting statement, the track running north – south to the east of the site is not a public roadway (i.e. it is not adopted), and there are concerns with the regular use of this by the HGV's which attend the application site to collect / deliver vehicles;
10. As far as we are aware the statement in the Design / Supporting Statement that "... the applicant is tasked by the local authority...to remove these vehicles..." is erroneous (in respect of Argyll & Bute Council);
11. There is no detail on welfare facilities on the site for the staff involved in the operation, or how the existing caravan on site is serviced;
12. The application is for the storage of vehicles, yet "0" has been entered in the application against number of vehicle parking spaces;
13. The statement in the application that there will be "No waste arising" is questionable;
14. Given the nature of the operation, there is no comment or comfort regarding potential for ground contamination from the storage of these vehicles (some / all of which will be presumed to be damaged or otherwise at the end of their usable life) on the site;
15. Similarly, given the potential for increased fire and security risk (to the airport and other nearby users) arising from the use there are no comments made in the application to address these issues;
16. The supporting plan identifies a new Portable Building to be located on the site, yet "No" has been selected in answer to the question "Does your proposal alter or create non-residential floorspace?"

We trust this is of assistance.

Yours faithfully

M. McDougall

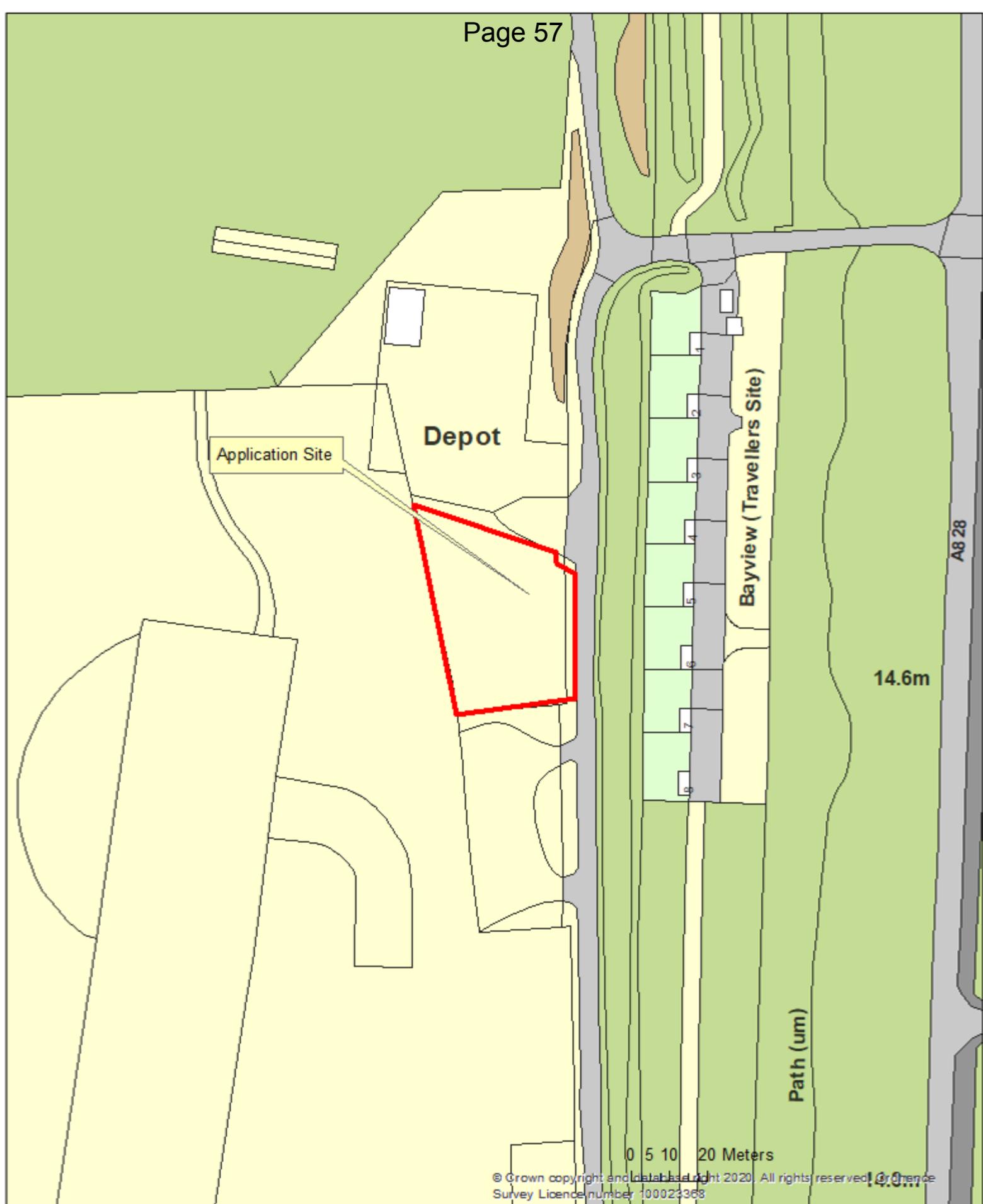
On behalf of Economic Development, Oban Airport and Estates & Property Development



APPENDIX F – PHOTOGRAPHS SHOWING THE UNLAWFUL DEVELOPMENT THE SUBJECT OF THIS REVIEW IN SITU



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Location plan relative to: 21/0004/LRB



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McCallum, Fiona

From: Allan, David
Sent: 07 October 2021 14:01
To: localreviewprocess
Cc: McDougall, Mark; Ingram, Moya
Subject: RE: Intimation of Receipt of Notice of Review Reference 21/0004/LRB (Planning Ref: 20/01728/PP - Yard South of Oil Depot, South Ledaig, North Connel [OFFICIAL])
Attachments: Comments to Planning on application 20-01728-PP.docx

Classification: OFFICIAL

Good afternoon,

Please find enclosed a copy of the response in relation to the original application which confirms the concerns of the Estates & Property Development Section in respect of this application. These concerns remain the same in respect of the review and can be considered as such.

The Estates Team would have preferred to deal with this matter as an estates management issue but unfortunately as the unauthorised sub tenant has no contractual relationship with the council the only option would be to terminate the lease of the existing tenant and seek vacant possession of the whole site which is not considered to be the most cost effective option. However it should be noted that this option will remain open if the existing tenant is unable to meet the terms of their lease.

I trust this information is of assistance but please let me know if anything further is required.

Kind regards.

David

David Allan
Estates & Property Development Manager
Helensburgh and Lomond Civic Centre
david.allan@argyll-bute.gov.uk
01436 657 620



Customer Services

Director: Douglas Hendry

FAO: Mr J Torrance
Case Officer
Development Management
Argyll & Bute Council

BY EMAIL: planning.olandi@argyll-bute.gov.uk

Property Development & Estates
Helensburgh & Lomond Civic Centre
38 East Clyde Street, Helensburgh, G84 7PG
Tel:
E-mail:
Website: www.argyll-bute.gov.uk

Ask For:
Our Ref:
Your Ref:
Date: 18th December 2020

Dear Sir / Madam

PLANNING APPLICATION 20/01728/PP – USE OF LAND TO FORM YARD FOR TEMPORARAY VEHICLE STORAGE (RETROSPECTIVE) – YARD SOUTH OF OIL DEPOT SOUTH LEDAIG NORTH CONNEL OBAN

In respect of the above, Economic Development, Oban Airport and Estates & Property Development are jointly of the view that the use is inappropriate in this location. Also, that the applicant has thus far demonstrated a disregard for correct procedure and legalities, which constitutes an ongoing risk to the Council as landowner and owner / operator of Oban Airport.

To provide more detail we would make the comments below:

1. Airport safeguarding concerns have already been raised by loose debris / materials being blown from this site to airside, and as the operation is attracting birds (due to rubbish on site) – this could have potentially serious health & safety implications, and is increasing the management burden and risk profile at Oban Airport;
2. With the number and state of repair of the vehicles involved in the operation there are concerns in terms of flammable materials on the site and also from a ground contamination perspective;
3. The operation has damaged the Airport boundary fence line, plus other fencing;
4. Despite formal communications to cease use direct to the operator (Mr Mitchell), and to Oilfast Ltd (who lease the Former Roads Depot site from the Council, and have allowed the operator in as their sub-tenant – which is unapproved by the Council as Landlord), the operator has continued with the unauthorised use of the land directly adjoining the Oilfast Ltd leased area to the south for their operation;
5. The operator has been observed setting fires to materials within the site. This, again, has raised serious safety concerns and has been reported to the Airport as dangerous by visiting pilots, due to the emitted smoke obscuring the runway making it hazardous for aircraft taking off or landing;
6. There is a concern that at least one person is residing on the site (in a caravan) – we feel that this is inappropriate, as the location is not for residential use nor for a 24-hour business operation (as Oilfast Ltd advised was the case);
7. The operation has a negative visual impact, both from ground level and the air,

which is not conducive to the attraction and promotion of tourism, visitors, and economic development potential of the wider airport site;

8. The planning application contains no elevation plans identifying heights of the proposed building and levels of the spoil heap (which the operator has moved, possibly not in line with the conditions attached to this within the Oilfast Ltd lease);
9. Contrary to the Design/Supporting statement, the track running north – south to the east of the site is not a public roadway (i.e. it is not adopted), and there are concerns with the regular use of this by the HGV's which attend the application site to collect / deliver vehicles;
10. As far as we are aware the statement in the Design / Supporting Statement that "... *the applicant is tasked by the local authority...to remove these vehicles...*" is erroneous (in respect of Argyll & Bute Council);
11. There is no detail on welfare facilities on the site for the staff involved in the operation, or how the existing caravan on site is serviced;
12. The application is for the storage of vehicles, yet "0" has been entered in the application against number of vehicle parking spaces;
13. The statement in the application that there will be "*No waste arising*" is questionable;
14. Given the nature of the operation, there is no comment or comfort regarding potential for ground contamination from the storage of these vehicles (some / all of which will be presumed to be damaged or otherwise at the end of their usable life) on the site;
15. Similarly, given the potential for increased fire and security risk (to the airport and other nearby users) arising from the use there are no comments made in the application to address these issues;
16. The supporting plan identifies a new Portable Building to be located on the site, yet "No" has been selected in answer to the question "*Does your proposal alter or create non-residential floorspace?*"

We trust this is of assistance.

Yours faithfully

M. McDougall

On behalf of Economic Development, Oban Airport and Estates & Property Development



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Response to Statement of Case
Received from Argyll & Bute Council



APPLICATION REFERENCE 20/01728/PP
PROPOSED VEHICLE STORAGE YARD AT
LAND SOUTH OF OIL DISTRIBUTION DEPOT,
OBAN AIRPORT, NORTH CONNEL, ARGYLL PA37 1SW

RESPONSE TO PLANNING DEPARTMENT'S COMMENTS WITHIN STATEMENT OF CASE DATED 13.10.21

Planning Department Comments on Redevelopment (Page 4 of Statement of Case)

- The Planning Department offer the view that the land did not necessarily form part of any lawful roads depot use.
Our response: Lawful or otherwise (and by the Roads Department or otherwise) the land was in use; the clear evidence of that use remains on site and is shown on previously submitted photographs and those taken more recently by the Planning Department. The area approved for a recent oil depot similarly had no previously-determined lawful use, but it was accepted that it had a history of use.
- The Planning Department refer to a 2016 application for part of the site for an oil depot, and remark that the fact that the remaining land was not included in this application suggests that it did not form part of the roads depot.
Our response: On the contrary, the adjoining area of land was not included in the application for the oil depot because the remaining evidence of use, i.e the storage of surplus materials left on the site, meant this portion was considered unusable at that time.

Planning Department Comments on Oban Airport Concerns (Page 4 & 5 of Statement of Case)

- The Planning Department reiterate the Oban Airport concerns raised previously on fires, litter.
Our response: We would in turn reiterate that the use of the site for Temporary Storage of Vehicles should not in itself result in litter, birds or fires. We would be concerned that the concerns raised are based on erroneous anecdotal evidence (the fires and litter actually emanating from an adjacent site) and is potentially an assessment of the applicant rather than the proposal – in any case it is therefore not a valid reason for refusal.

Planning Department Comments on Aerial Photograph (Page 6 of Statement of Case)

- The Planning Department suggest that the photograph is unclear and does not demonstrate a history of use.
Our response: we reattach the photograph below (this can be supplemented by others if necessary) and invite Members to draw their own conclusions. Our own view is that it is very clearly in use.

- The Planning Department supply photographs taken in 2016 showing vegetation growing on top of the spoil, and suggest that this means there was no commercial use.
Our response: we agree that the material heaps had continued to grow between 2006 and 2016, had not been removed, and vegetation had indeed accumulated on it. This does not detract from its recent history of use.

The site is a redevelopment/brownfield site therefore in accordance with Argyll & Bute Council policy, and other issues raised relating to the current management of the yard are not material planning considerations.

Taking into account the above we would respectfully submit that the application for review be upheld

Alasdair Macmillan

MACARC Architecture & Planning, Appin, Argyll

Appendix 1 – RCAHMS Photograph of Roads Yard dated 27 June 2006. Site outlined in red.



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