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Argyll and Bute Council

Comhairle Earra-Ghàidheal Agus Bhòid

Executive Director: Douglas Hendry



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16 November 2022

NOTICE OF MEETING

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held **BY MICROSOFT TEAMS** on **WEDNESDAY, 23 NOVEMBER 2022** at **10:30 AM**, which you are requested to attend.

Douglas Hendry
Executive Director

BUSINESS

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST**
3. **MINUTES**
 - (a) Planning, Protective Services and Licensing Committee held on 19 October 2022 (Pages 3 - 4)
 - (b) Planning, Protective Services and Licensing Committee held on 2 November 2022 at 10.00 am (Pages 5 - 6)
 - (c) Planning, Protective Services and Licensing Committee held on 2 November 2022 at 10.30 am (Pages 7 - 8)
4. **MR GRAHAM WYLIE: VARIATION OF CONDITION NUMBERS 3, 4, 5 AND 6 AND REMOVAL OF CONDITIONS 7 AND 8 RELATIVE TO PLANNING PERMISSION 20/01150/PP (ERECTION OF DWELLINGHOUSE). ACCESS ARRANGEMENTS: RHU LODGE, FERRY ROAD, RHU, HELENSBURGH (REF: 21/02709/PP) (Pages 9 - 38)**

Report by Head of Development and Economic Growth

5. **GEARACH LIMITED: ERECTION OF DISTILLERY AND VISITOR CENTRE, WITH ASSOCIATED AND ANCILLARY DEVELOPMENT INCLUDING SUPPORT WAREHOUSING BUILDINGS, INSTALLATION OF SEWAGE TREATMENT PLANT, TWO SOLAR PANEL SITES AND FORMATION OF ACCESSES: GEARACH FARM (ILI DISTILLERY), PORT CHARLOTTE, ISLE OF ISLAY (REF: 21/02718/PP (Pages 39 - 84)**

Report by Head of Development and Economic Growth

6. **MR J LAFFERTY: ERECTION OF NEW DETACHED DWELLING: 47 CAMPBELL STREET, HELENSBURGH (REF: 22/00996/PP (Pages 85 - 112)**

Report by Head of Development and Economic Growth

REPORT FOR NOTING

7. **ARGYLL COMMUNITY HOUSING ASSOCIATION: DEMOLITION OF FIVE TENEMENT BLOCKS COMPRISING 46 FLATS: BLOCK A 19-9E JOHN STREET, BLOCK C (1-5 DALINTOBER AND 24-26 HIGH STREET), JOHN STREET, PRINCE'S STREET AND HIGH STREET, CAMPBELTOWN (REF: 21/02738/LIB) (Pages 113 - 118)**

Report by Head of Development and Economic Growth

Planning, Protective Services and Licensing Committee

Councillor John Armour

Councillor Audrey Forrest

Councillor Amanda Hampsey (Vice-Chair)

Councillor Daniel Hampsey

Councillor Fiona Howard

Councillor Mark Irvine

Councillor Paul Donald Kennedy

Councillor Luna Martin

Councillor Jan Brown

Councillor Kieron Green (Chair)

Councillor Graham Hardie

Councillor Willie Hume

Councillor Andrew Kain

Councillor Liz McCabe

Councillor Peter Wallace

Contact: Fiona McCallum

Tel. No. 01546 604392

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held BY MICROSOFT TEAMS on WEDNESDAY, 19 OCTOBER 2022**

Present: Councillor Kieron Green (Chair)

Councillor John Armour	Councillor Andrew Kain
Councillor Jan Brown	Councillor Paul Donald Kennedy
Councillor Fiona Howard	Councillor Liz McCabe
Councillor Mark Irvine	Councillor Peter Wallace

Attending: Stuart McLean, Committee Manager
Sandra Davies, Major Applications Team Leader
Tiwaah Antwi, Planning Officer
Derek Wilson, Development Management Officer

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Audrey Forrest, Daniel Hampsey, Amanda Hampsey and Graham Hardie.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. MINUTES

- a) The Minute of the Planning, Protective Services and Licensing Committee held on 28 September 2022 at 10.30 am was approved as a correct record.
- b) The Minute of the Planning, Protective Services and Licensing Committee held on 28 September 2022 at 2.30 pm was approved as a correct record.
- c) The Minute of the Planning, Protective Services and Licensing Committee held on 28 September 2022 at 3.00 pm was approved as a correct record.
- d) The Minute of the Planning, Protective Services and Licensing Committee held on 28 September 2022 at 3.30 pm was approved as a correct record.

4. MR RICHARD STEIN: ERECTION OF DETACHED GARDEN ROOM ANCILLARY TO DWELLINGHOUSE: EILEAN DA MHEINN, HARBOUR ISLAND, CRINAN, LOCHGILPHEAD (REF: 22/01248/PP)

The Planning Officer spoke to the terms of the report and to supplementary report number 1 which advised of late representations received. This application seeks planning permission to construct a detached garden room ancillary to the main dwellinghouse on Eilean Da Mheinn, Harbour Island in Crinan. The application has been resubmitted following the withdrawal of the original application (21/02308/PP). The current application presents an amended proposal that seeks to address the concerns raised by objectors to the original application.

Whilst Officers acknowledge that the proposal has stimulated a significant body of public interest, they are of the opinion that a pre-determination hearing would not add value to the planning process in this instance as the proposal relates to a modest householder development that has not been identified as likely to give rise to any significant adverse effects upon the receiving environment or the amenity of the locale. The land-use planning related issues raised by the proposal are not considered to be unduly complex and are addressed in detail within the report of handling. Nonetheless, having regard to the PPSL Committee's earlier determination in April 2022 to hold a hearing for planning application reference 21/02308/PP, it would be appropriate in this instance that Members consider the requirement for a pre-determination hearing as part of their consideration of this application.

The Committee were asked to consider whether or not they wish to hold a hearing for this application.

Decision

The Committee agreed to hold:-

1. a site visit with Planning Officers; and
2. a discretionary pre-determination hearing on a hybrid basis by Microsoft Teams and in the Council Chamber, Kilmory, Lochgilphead.

(Reference: Report by Head of Development and Economic Growth dated 5 October 2022 and supplementary report number 1 dated 18 October 2022, submitted)

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held BY MICROSOFT TEAMS on WEDNESDAY, 2 NOVEMBER 2022**

Present: Councillor Kieron Green (Chair)

Councillor John Armour	Councillor Andrew Kain
Councillor Jan Brown	Councillor Liz McCabe
Councillor Graham Hardie	Councillor Peter Wallace
Councillor Fiona Howard	

Attending: Stuart McLean, Committee Manager
Sheila MacFadyen, Senior Solicitor
Susan Hipkins, Applicant

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Audrey Forrest, Amanda Hampsey and Mark Irvine.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF A TAXI CAR LICENCE (S HIPKINS, HELENSBURGH)

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

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

APPLICANT

Ms Hipkins explained that her late father passed away in June after a short illness. She said that she had held a joint licence with her father and had been advised that following his death she would have to make a fresh application to the licensing authority for grant of a Taxi Car Licence.

MEMBERS QUESTIONS

It was confirmed by the Members of the Committee that they had no questions and Ms Hipkins advised she had nothing further to add. She confirmed that she had received a fair hearing.

DEBATE

Councillor Green said that he thought this was a straightforward application and that he had no objections to the licence being granted. He pointed out that it would replace an

existing plate and that the Committee were aware from other hearings that numbers of licences in the area were down since the Covid 19 pandemic.

Councillors Hardie, Brown and McCabe also confirmed that they had no objections and no one was otherwise minded.

DECISION

The Committee unanimously agreed to grant a Taxi Car Licence to Ms Hipkins and noted that she would receive written confirmation of this within 7 days.

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

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held BY MICROSOFT TEAMS on WEDNESDAY, 2 NOVEMBER 2022**

Present: Councillor Kieron Green (Chair)

Councillor John Armour	Councillor Willie Hume
Councillor Jan Brown	Councillor Andrew Kain
Councillor Amanda Hampsey	Councillor Liz McCabe
Councillor Graham Hardie	Councillor Luna Martin
Councillor Fiona Howard	Councillor Peter Wallace

Attending: Stuart McLean, Committee Manager
Sheila MacFadyen, Senior Solicitor

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Audrey Forrest and Mark Irvine.

2. DECLARATIONS OF INTEREST

Councillor John Armour declared a non-financial interest in this case as the Licence Holder was a neighbour. Councillor Armour left the meeting and took no part in this hearing.

The Committee resolved in terms of Section 50(A)(4) of the Local Government (Scotland) Act 1973 to exclude the press and public for the following item of business on the grounds that it was likely to involve the disclosure of exempt information as defined in Paragraphs 3 and 14 of Part 1 of Schedule 7A to the Local Government (Scotland) Act 1973.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: REQUEST FOR SUSPENSION OF TAXI DRIVER LICENCE

The Chair welcomed everyone to the meeting. In line with recent legislation for Civic Government Hearings, the parties (and any representatives) were given the options for participating in the meeting today. The options available were by video call, by audio call or by written submission. For this hearing the Licence Holder opted to proceed by way of written submission. It was noted that Police Scotland, having withdrawn their request for suspension of the licence, would not be present for the hearing.

At an interim hearing on 28 September 2022, the Committee agreed to the immediate interim suspension of the Taxi Driver Licence pending a full suspension hearing taking place no later than 6 weeks from the date of the interim hearing.

The Chair outlined the procedure that would be followed and as no parties were present, invited the Members to debate the case before them.

DECISION

The Committee unanimously agreed to recall the order to suspend and to reinstate the Taxi Driver Licence with immediate effect.

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

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

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: 21/02709/PP
Planning Hierarchy: Local
Applicant: Mr Graham Wylie
Proposal: Variation of condition numbers 3, 4, 5 and 6 and removal of conditions 7 and 8 relative to planning permission 20/01150/PP (Erection of dwellinghouse). Access arrangements
Site Address: Rhu Lodge, Ferry Road, Rhu, Helensburgh, Argyll And Bute, G84 8NF

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Variation of condition numbers 3, 4, 5 and 6 and removal of conditions 7 and 8 relative to planning permission 20/01150/PP (Erection of dwellinghouse). Access arrangements

(ii) Other specified operations

- None
-

(B) RECOMMENDATION:

Planning permission be approved subject to conditions recommended herein.

(C) CONSULTATIONS:

Rhu and Shandon Community Council - 07.03.2022 – Object

Rhu and Shandon Community Council have objected on the basis that the proposed roads alterations will harm the character of the conservation area and they would like to see the road remain as is.

Roads Helensburgh And Lomond - 04.03.2022 – Object

Roads Helensburgh and Lomond have objected to the proposals to vary/omit the roads conditions relative to planning permission 20/01150/PP due to the current issues with the existing access road, as follows; Existing carriageway width is less than the acceptable carriageway width of 3.5m for emergency services vehicles, No intervisible Passing Places & No formal turning head In accordance with:

SG LDP TRAN 4. They further note that; Private Access shall be constructed to incorporate minimum standards to function safely and effectively as set out in the Council's Road Development Guide, in particular in relation to adequate visibility splays, access gradients, geometry, passing places, boundary definition, turning capacities, integrated provision for waste management and recycling. Based on this roads have noted that conditions 3, 5, 6, 7 & 8 relative to planning permission 20/01150/PP shall remain unchanged and condition 4 should be revised to suit the roads consultation original response relative to planning application 20/01150/PP being a minimum visibility splay of 2.4 x 25 x 1.05 metres and not the 2.4 x 42 x 1.05 metres as per the decision notice for 20/01150/PP.

(D) HISTORY:

02/00728/DET

Alterations to dwellinghouse
11.06.2002

15/00085/PP

Erection of sunroom extension
02.04.2015

16/00225/PP

Erection of dwellinghouse
23.03.2016

17/00194/PP

Erection of detached garage
13.03.2017

20/01150/PP

Erection of dwellinghouse
18.11.2020

(E) PUBLICITY:

Advert Type: Listed Building/Conservation Advert

Expiry Date: 24.03.2022

(F) REPRESENTATIONS:

i) Representations received from:

Objection

1. *Brian Fleming Abergare House Rhu* 10.03.2022

2. Ruth Chappell Fleming Abergare House Rhu 10.03.2022
3. Tim Lamb Rhu Cottage Ferry Road Rhu Helensburgh 10.03.2022
4. Jim Duncan Shoreacres Artarman Road Rhu Helensburgh Argyll And Bute 10.03.2022

Support

1. Colin Jackson Tanglewood Cumberland Road Rhu Helensburgh 02.03.2022
2. C A Cook Clanard Gareloch Road Rhu Helensburgh 02.03.2022
3. Jane Weir Victoria Cottage Hall Road Rhu Helensburgh 02.03.2022
4. Juliet Baines 1 Rhu Ellen Cottage Gareloch Road Rhu Helensburgh 02.03.2022
5. K Wallace 9 Guthrie Place Rhu Helensburgh Argyll And Bute 02.03.2022
6. Ann McKendrick Lagarie Torwoodhill Road Rhu 02.03.2022
7. Brian Murray 7 Church Road Rhu 02.03.2022
8. J Cairns 3 County Cottage Rhu 02.03.2022
9. R J Sawkins 66 East Clyde Street Helensburgh Argyll And Bute 03.03.2022
10. Danielle Paterson Rocklea Garelochhead Helensburgh Argyll And Bute 22.02.2022
11. Michelle Cameron 17 Nelson Place Helensburgh Argyll And Bute G84 9ES 23.02.2022
12. Kathleen McGinley Ferry Coach House Ferry Road Rhu Helensburgh 24.02.2022
13. John MacBeath Tigh Na Mara Ferry Road Rhu Helensburgh 22.02.2022
14. Maureen Kinnear Rosslea West Ferry Road Rhu Helensburgh 28.02.2022
15. Lynn Nicolson Rhu Lodge Ferry Road Rhu Helensburgh 03.03.2022
16. John McMeeking Ramah Rhu Point Ferry Road Rhu Argyll And Bute G84 8NF 21.02.2022
17. Roderic Taylor Garedale Manse Brae Rhu Helensburgh Argyll And Bute 23.02.2022
18. Emma Dodds 100 West Clyde Street Helensburgh Argyll And Bute G84 8BE 25.02.2022
19. Becky Morgan 100 West Clyde Street Helensburgh Argyll And Bute G84 8BE 25.02.2022
20. William Petrie Ground Floor Flat Craigard Church Road Rhu Helensburgh Argyll And Bute
21. Elizabeth Law 12 Cameron Drive Tullichewan Alexandria G83 0JT 28.02.2022
22. Paul Cairns 3 County Cottage Gareloch Road Rhu Helensburgh 03.03.2022
23. Jon Reid 10 Cumberland Terrace Rhu 03.03.2022
24. Peter Bogden 6 Rhu House Gareloch Road Rhu Helensburgh 03.03.2022
25. Fiona McNair 1 Glebefield Road Rhu Helensburgh Argyll And Bute 03.03.2022
26. Elizabeth Macdonald 4 Braehead Place Rhu Helensburgh Argyll And Bute 03.03.2022
27. Iain Coats 26 Redclyffe Gardens Helensburgh Argyll And Bute G84 9JJ 03.03.2022
28. Jo McKenzie 22 Baird Avenue Helensburgh Argyll And Bute G84 8DW 03.03.2022
29. Andrew Shearar 10 Havelock Street Helensburgh Argyll And Bute G84 7HB 03.03.2022

30. John Young 30 Stuckleckie Road Helensburgh Argyll And Bute G84 7NN
03.03.2022
31. Kathleen Young 30 Stuckleckie Road Helensburgh Argyll And Bute G84
7NN 03.03.2022
32. Roberta Kelly 10 Gallagher Way Renton Dumbarton 03.03.2022
33. Clive Burns 25 Malcolm Place Helensburgh Argyll And Bute G84 9HW
03.03.2022
34. R Boothby 5 Camperdown Helensburgh 03.03.2022
35. C Boothby 5 Camperdown Helensburgh 03.03.2022
36. Anne Marie Johnston 30 Templeton Way Helensburgh Argyll And Bute G84
8FA 03.03.2022
37. Ronald Grant 2/1 23 East Princes Street Helensburgh 03.03.2022
38. C Woolner 5 Princess Way Rosneath Helensburgh Argyll And Bute
03.03.2022
39. J Crossan 145 West King Street Helensburgh Argyll And Bute G84 8DJ
03.03.2022
40. J Cavana 31 Deanston Crescent Helensburgh 03.03.2022
41. L Nott 30 South King Street Helensburgh Argyll And Bute G84 7DX
03.03.2022
42. Margaret Harvey 37 Old Luss Road Helensburgh Argyll And Bute G84 7BN
03.03.2022
43. Tracy McGregor 1 Jeanie Deans Drive Helensburgh Argyll And Bute G84
7TG 03.03.2022
44. S Boothby 13 Kings Crescent Helensburgh Argyll And Bute G84 7RB
03.03.2022
45. Emma Campbell 1 Golf Place Helensburgh Argyll And Bute G84 9HQ
03.03.2022
46. B Cairns 36 Macleod Drive Helensburgh Argyll And Bute G84 9QU
03.03.2022
47. H Scott 77 West King Street Helensburgh Argyll And Bute G84 8EE
03.03.2022
48. William Johnston 30 Templeton Way Helensburgh Argyll And Bute G84
8FA 03.03.2022
49. Linda Conner 6 Hope Street Helensburgh Argyll And Bute G84 7EB
03.03.2022
50. Olly Ross 1 Upper Colquhoun Street Helensburgh Argyll And Bute G84
9AG 03.03.2022
51. Mick Howe Dilmun Ferry Road Rhu Helensburgh Argyll And Bute
07.03.2022
52. Kieran Robertson 18 Laggary Road Rhu Helensburgh Argyll And Bute
02.03.2022
53. Ella Lawson 2 Spys Lane Rhu Helensburgh Argyll And Bute 02.03.2022
54. S Forsyth Flat 1 8 Guthrie Place Rhu Helensburgh 02.03.2022
55. Agnes Murray 7 Church Place Rhu Helensburgh Argyll And Bute
02.03.2022
56. James Ritchie 14 Church Place Rhu Helensburgh Argyll And Bute
02.03.2022
57. A Cameron 9 Church Place Rhu Helensburgh Argyll And Bute 02.03.2022
58. Tim Brown 16 Church Place Rhu Helensburgh Argyll And Bute 02.03.2022
59. Mark Johnstone 1/2 Ardenlea Cumberland Road Rhu 02.03.2022
60. Zoe McEwan Dalarnie Pier Road Rhu Helensburgh 02.03.2022
61. Charlene Hamilton Woodside Cottage Cumberland Road Rhu Helensburgh
02.03.2022
62. Patricia Drummond 16 Rhu Ellen Court Rhu Helensburgh Argyll And Bute
02.03.2022

63. Ross Balfour Whistlers Burn Rhu 02.03.2022
64. Bernard Howe Dilmun Ferry Road Rhu Argyll And Bute G84 8NF
23.02.2022
65. Mrs Lynsey Petchey 3 Kidston Gardens Rhu Road Higher Helensburgh
Argyll And Bute 24.02.2022
66. Mary McGinley Ferry Coach House Ferry Road Rhu Helensburgh Argyll
And Bute
67. Kerry Gould Tummel Cottage Cumberland Road Rhu Helensburgh
08.03.2022
68. O Johnston 12A Cairndhu Gardens Rhu 08.03.2022
69. Paul Rickards 4 Rhu House Gareloch Road Rhu Helensburgh 08.03.2022
70. Elspeth McNicol Lower Lochview Church Road Rhu 08.03.2022
71. Pauline Cochrane 9 Church Road Rhu 08.03.2022
72. Claire Harvey 14 Barge Court Rhu 08.03.2022
73. Ona McPhail 4 East Abercromby Street Helensburgh Argyll And Bute G84
7SP 08.03.2022
74. Paul King 4 East Abercromby Street Helensburgh Argyll And Bute G84 7SP
08.03.2022
75. Margaret Martin 17 Loch Drive Helensburgh Argyll And Bute G84 8PY
08.03.2022
76. Iain Martin 17 Loch Drive Helensburgh Argyll And Bute G84 8PY
08.03.2022
77. K C Gibson 14 old Luss road Balloch G83 8qp 05.03.2022
78. Graham Wylie Rhu Lodge Ferry Road Rhu Helensburgh Argyll And Bute
13.03.2022
79. David Macpherson 27C Queen Street Helensburgh Argyll And Bute G84
9QL 07.03.2022
80. Josephine Brown 21 Brae House Manse Brae Rhu Helensburgh
16.03.2022
81. H McNaught 11 Rhu Ellen Court Rhu Helensburgh Argyll And Bute
16.03.2022
82. D Miller Flat Ground/2 Sunnyside Hall Road Rhu 16.03.2022
83. Unknown Flat 3 22 Barge Court Manse Brae Rhu 16.03.2022
84. R Kilpatrick 14 Bonar Law Helensburgh 16.03.2022
85. David Fletcher 81 B West Princes Street Helensburgh 16.03.2022
86. Jenifer Cox 15 Walker Place Helensburgh 16.03.2022
87. Megan Mundie 25 Baird Avenue Helensburgh Argyll And Bute G84 8DW
16.03.2022
88. David Stewart 49B Dumbarton Road Bowling G60 5AQ 16.03.2022
89. Joan Kilpatrick 14 Bonar Law Avenue Helesnburgh 16.03.2022
90. Robert Morley Flat 1/2 18 West Clyde Street Helensburgh Argyll And Bute
16.03.2022
91. George Stewart Flat 1 Hillhead House Kirk Brae Shandon 16.03.2022
92. Fay Stewart Bochyle Kirk Brae Shandon G84 8NP 16.03.2022
93. J Cox 15 Walker Place Helensburgh 16.03.2022
94. A Cairns 36 Macleod Drive Helensburgh Argyll And Bute G84 9QU
16.03.2022
95. Graham Wylie Rhu Lodge Ferry Road Rhu Helensburgh Argyll And Bute
09.03.2022
96. Russell Leonard 39 Dennistoun Crescent Helensburgh Argyll And Bute G84
7JG 07.03.2022
97. Fiona Braddick 37 Johnson Court Helensburgh Argyll And Bute G84 7LJ
07.03.2022
98. J McMurdo Helensburgh G84 8DS 07.03.2022
99. Unknown 2/5 Hood Court Helensburgh 07.03.2022

100. Maire Sutherland 52 Maitland Court Helensburgh Argyll And Bute G84 7EE 07.03.2022
101. D Hannah 10 Drumadoon Drive Helensburgh Argyll And Bute G84 9SF 07.03.2022
102. Alison Hannah 10 Drumadoon Drive Helensburgh Argyll And Bute G84 9SF 07.03.2022
103. M Siniscalco 13 Maclachlan Road Helensburgh Argyll And Bute G84 9BY 07.03.2022
104. Joan Bissett 13 Maclachlan Road Helensburgh Argyll And Bute G84 9BY 07.03.2022
105. Sybil Kennedy 35 Campbell Street Helensburgh Argyll And Bute G84 8XZ 07.03.2022
106. Alistair Dickson 238 West Princes Street Helensburgh Argyll And Bute G84 8HA 07.03.2022
107. S Mackenzie 1/1 4 Hanover Street Helensburgh 07.03.2022
108. Melanie Andrews 46 Abercromby Crescent Helensburgh Argyll And Bute G84 9DX 07.03.2022

ii) Summary of issues raised:

Objection

- Concern on the possible sub-division and use of previously approved dwelling house on site as three short term lets

Comment: *this application solely relates to; the variation of condition numbers 3, 4, 5 and 6 and removal of conditions 7 and 8 relative to planning permission 20/01150/PP however, it is noted that the owner has since removed the commercial listing for the above*

- Concern that the supposed commercial enterprise of the site of Rhu Lodge could impact the surrounding area

Comment: *as comment above*

- Concern that Ferry Roads integrity as an ancient right of way and drove road as an integral part of Scottish Gaelic life and culture could be undermined

Comment: *the principle of development has been established under the previous consent (ref: 20/01150/PP), this application solely relates to; the variation of condition numbers 3, 4, 5 and 6 and removal of conditions 7 and 8 relative to planning permission 20/01150/PP*

- Concern that the character of Ferry Road could be affected by the proposals

Comment: *as comment above*

- Concern that the proposals could affect the character of the surrounding conservation area

Comment: *as comment above*

- Note that the proposed drawings are not in line with private discussions between neighbours and the applicant

Comment: *This is not a material planning consideration*

- Concern that the boathouse as previously approved under application reference 20/01150/PP could be used commercially

Comment: *This application solely relates to; the variation of condition numbers 3, 4, 5 and 6 and removal of conditions 7 and 8 relative to planning permission 20/01150/PP. The use of this property as a commercial business does not form part of this application nor the previous. If this were to be the case then a future planning application would be required for the change of use*

- Note that it is undesirable and inappropriate for a development within the boundary of Rhu Lodge to overflow beyond the site boundary by way of changes to Ferry Road which could affect the character and layout of Ferry Road and the surrounding conservation area

Comment: *the principle of development has been established under the previous consent (ref: 20/01150/PP), this application solely relates to; the variation of condition numbers 3, 4, 5 and 6 and removal of conditions 7 and 8 relative to planning permission 20/01150/PP*

- Concern about possible public misinformation resulting in the large number of 'pro-forma letters' supporting this application which misinterpret the point at issue

Comment: *This is not a material planning consideration*

- Note that the proposals include development on land not within the applicant's ownership

Comment: *Within the application form the applicant has noted that they are the sole owner of all the land*

Support

- Note that any increase in traffic caused by one additional 2 bed dwelling on Ferry Road would be insignificant

Comment: *The above comments are noted*

- Note that a 3 bed dwelling was constructed on Ferry Road in 2018 with no roads conditions requiring the introduction of a public road

Comment: *Each application is assessed on its own merits*

- Comment that the supposed negligible increase in traffic resulting from the construction of a 2 bed dwelling does not require a publicly adopted road to be installed

Comment: *the area roads manager was consulted on the previous consent (ref: 20/01150/PP) and requires improvements to the existing private road in the interest of road safety*

- Concern that the roads alterations could affect the character of Ferry Road and the wider conservation area

Comment: *the principle of development has been established under the previous consent (ref: 20/01150/PP), this application solely relates to; the variation of condition numbers 3, 4, 5 and 6 and removal of conditions 7 and 8 relative to planning permission 20/01150/PP*

- Note that the introduction of a public road combined with the construction of sea retaining walls, associated guard rails and rock armour would result in the loss of a part of Rhu beach and mature trees

Comment: *the area roads manager was consulted on the previous consent (ref: 20/01150/PP) and requires improvements to the existing private road in the interest of road safety. The drawing submitted under this application indicates the above interventions would be subject to a further planning application if this were to be the proposed method of achieving the roads conditions under consent (ref: 20/01150/PP)*

- Note that a public road is being proposed to replace the private road

Comment: *the area roads manager was consulted on the previous consent (ref: 20/01150/PP) and requires improvements to the existing private road in the interest of road safety*

- Concern that the introduction of a public road could cause more traffic and obstructions than one additional dwelling

Comment: *as comment above*

- Comment that the change of Ferry Road from a private to public road would be detrimental to users of the road

Comment: *as comment above*

- Note that the council currently struggle to maintain existing roads therefore, why would they want to take on further road maintenance

Comment: *this is not a material planning consideration*

- Note that it is understood that 50m of stone boundary wall has to be demolished and a number of mature trees removed to allow for the required visibility splay. This would affect the appearance and character of the conservation area

Comment: *the area roads manager was consulted on the previous consent (ref: 20/01150/PP) and requires improvements to the existing private road in the interest of road safety. The drawing submitted under this application indicates the above interventions would be subject to a further planning application if this were to be the proposed method of achieving the roads conditions under consent (ref: 20/01150/PP)*

- Concern that the properties accessed off Ferry Road will not be able to access their properties while improvement works are undertaken

Comment: *this is a civil matter between the parties concerned*

- Note that if the Rosslea Hotel can host large weddings while accessed off Ferry Road then why can't a 2 bed dwelling be built without the requirement for the roads conditions

Comment: *Each application is assessed on its own merits*

- Concern that the provision of a public road could have a detrimental impact on the area in terms of wildlife and beauty

Comment: *the area roads manager was consulted on the previous consent (ref: 20/01150/PP) and requires improvements to the existing private road in the interest of road safety*

- Note that the roads officer's conditions as per application reference 20/01150/PP state that Ferry Road requires to be a publically adopted road and furthermore, latterly the roads officer confirmed that the road will not be adopted

Comment: *the roads conditions as per application reference 20/01150/PP noted that the private road required improvements for it to be brought up to an adoptable standard, this does not necessarily mean the road will be adopted*

- Comment that the points raised in the community council's consultation response are not in relation to this application

Comment: *This application solely relates to; the variation of condition numbers 3, 4, 5 and 6 and removal of conditions 7 and 8 relative to planning permission 20/01150/PP. The comments raised by the community council in relation to any supposed commercial use are subject to an enforcement investigation*

Has the application been the subject of:

- | | |
|--|---|
| (i) Environmental Statement: | No |
| (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: | No |
| (iii) A design or design/access statement: | No |
| (iv) A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: | Yes, a report by ECS Transport Planning Ltd has been provided. The conclusion of this report is included below; |

In conclusion the request by the Council's local roads officer requiring the road to be reconstructed to an adoptable standard would have a major impact on Rhu Bay. In accordance with the SCOTS National Road Guide a 3.5 metre adopted road width is not possible for the reasons given above and would require to be 5.5 metres wide.

This scale of works is not commensurate with the level of development proposed and therefore does not accord with the Council's planning policies or accord with Designing Streets.

Throughout the application process for the dwelling house and this current application, we have failed to see sight of the local Roads Officer's assessment of usage other than the road serves more than 5 houses is a concern.

We are also concerned at the inconsistent approach taken by the local roads officer in assessing other planning applications for single dwellings served off a private road with more than 10 houses.

The commensurate improvements proposed for Ferry Road have been devised following a comprehensive assessment of usage and have been designed to be sympathetic to the Conservation Area.

The proposed road improvements support road safety and ensure any road concerns have been satisfied giving continuous improvement for the benefit of all road users and are of a scale commensurate with the scale of development.

(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 DM1 – Development within the Development Management Zones

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

LDP 9 – Development Setting, Layout and Design

LDP 11 – Improving our Connectivity and Infrastructure

'Supplementary Guidance to the Argyll and Bute Local Plan 2015' (Adopted March 2016)

SG LDP ENV 17 –Development in Conservation Areas and Special Built Environment Areas

SG LDP HOU 1 – General Housing Development including Affordable Housing

SG LDP Sustainable - Sustainable Siting and Design Principles

SG LDP SERV 1 – Private Sewerage Treatment Plants and Wastewater (i.e. drainage) systems

SG LDP SERV 2 – Incorporation of Natural Features / Sustainable Systems (SUDS)

SG LDP TRAN 4 – New and Existing, Public Roads and Private Access Regimes

SG LDP TRAN 6 –Vehicle Parking Provision

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

- Argyll and Bute Sustainable Design Guidance, 2006
- Scottish Planning Policy (SPP), 2014
- National Roads Development Guide
- Consultation Responses
- Third party representations

Argyll and Bute proposed Local Development Plan 2 (November 2019) – The unchallenged policies and proposals within pLDP2 may be afforded significant material weighting in the determination of planning applications at this time as the settled and unopposed view of the Council. Elements of the pLDP2 which have been identified as being subject to unresolved objections still require to be subject of Examination by a Scottish Government appointed Reporter and cannot be afforded significant material weighting at this time. The provisions of pLDP2 that may be afforded significant weighting in the determination of this application are listed below.

- Policy 35 – Design of New and Existing, Public Roads and Private Access Regimes
- Policy 36 – New Private Accesses
- Policy 37 – Development Utilising an Existing Private Access or Existing Private Road
- Policy 38 – Construction Standards for Public Roads
- Policy 39 – Construction Standards for Private Access
- Policy 41 – Off Site Highway Improvements
-

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

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

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

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

(O) Requirement for a hearing: No. This is a local application. It is considered that the proposed development is in accordance with the relevant provisions of the Argyll and Bute Local Development Plan and that the material land-use planning issues arising are not unduly complex. As such it is not considered that a Hearing will add value to the determination process.

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

Permission is sought for the following; Variation of condition numbers 3, 4, 5 and 6 and removal of conditions 7 and 8 relative to planning permission 20/01150/PP (Erection of dwelling house) access arrangements. The site is located at; Rhu Lodge, Ferry Road, Rhu, Helensburgh, which is within the minor settlement boundary of Rhu, where policies LDP DM 1 and LDP SG HOU1 of the adopted Local Development Plan accepts the principle of small scale development (5 dwellings or less). The site is also within the Rhu Conservation Area; where policies LPD 3 and SG LPD ENV 17 of the adopted Local Development Plan require that

any new development within these areas must be of the highest quality and respect and enhance the Conservation Area.

It is noted that the principle of development has been established under the previous consent (ref: 20/01150/PP). This application solely relates to the variation of roads conditions; numbers 3, 4, 5 and 6 and removal of conditions 7 and 8 relative to planning permission 20/01150/PP.

Set out below is the main assessment from the previous consent which establishes the principal of development on the site;

'Planning Permission is sought for the erection of a dwelling house within the garden ground of; Rhu Lodge, Ferry Road, Rhu, Helensburgh. The site is within the minor settlement boundary of Rhu, where policies LDP DM 1 and LDP SG HOU1 of the adopted Local Development Plan accepts the principle of small scale development (5 dwellings or less). The site is also within the Rhu Conservation Area; where policies LPD 3 and SG LPD ENV 17 of the adopted Local Development Plan require that any new development within these areas must be of the highest quality and respect and enhance the Conservation Area. Within these areas location, siting, design, materials and boundary treatments must all be high quality and tree protection / management will be essential. The site area is approximately 1000 square metres with the site itself being generally level with a gentle slope to the South Eastern boundary. The surrounding area is established residential.

The site is bounded to the South East by a 2 metre high stone wall. In front of this stone wall is the access road – Ferry Road. The proposed house plot is located to the Southern corner of the site in front of an existing garage. There have been a number of consents for domestic development and extension on this site. None of these consents are located within the proposed development area for this dwelling house. It is proposed to sub-divide the garden ground of Rhu Lodge which at present has two vehicular accesses off Ferry Road. It is proposed that the garden ground is divided to give this new proposed dwelling house sole access via the existing Southern access and furthermore it is proposed that the land allocated to this proposal will include the existing detached double garage. There are two mature beech trees located on the proposal site however the dwelling house has been positioned to avoid these trees and furthermore raft foundation have been proposed over typical trench foundations to again avoid impact on the roots of these trees.

The proposed new dwelling house is set back from the existing stone boundary wall by approximately 8 metres and has a footprint of approximately 110 square metres. The dwelling house will be 1.5 storeys high (eaves approximately 8m above ground level) and will be of a contemporary 'boat house' style. The two bedroom will be located on the ground floor with the open plan living accommodation above on the first floor. The proposed external materials are; walls & roof – standing seam zinc (front inset elevation to have small area of timber cladding), rainwater goods – folded PPC coated steel, base course – engineering brick, windows (including roof lights) & doors – dark grey alu-clad. There will be a small area of decking to the front of the proposal with a glass balustrade.

The proposal requires careful consideration in relation to the surrounding Conservation Area in terms of design. The primary matters for determination relate

to scale, siting, residential amenity and materials to ensure that a high quality development is delivered. The proposed contemporary 'boat house' style dwelling is of a high quality architectural design that is well detailed and utilises high quality materials. The scale is appropriate to the site and wider conservation area. The proposal is not considered over development of the site as the overall Rhu Lodge site ownership extends to approximately 10500 square metres with the new site boundary of the proposal extending to approximately 1000 square metres and the new dwelling house having an approximate foot print of 110 square metres.

The Area Roads Manager has provided observations and conditions that will be appended to this report to ensure the means of vehicular access, sightlines and parking/turning arrangements will be subject to further assessment by the Planning Authority.

Furthermore a connection to the existing public sewer may require further consents from the Water Authority and all hardstanding areas shall comply with SUDS regulations. These matters can be secured by notes to applicant or safeguarding condition and be in accordance with supplementary guidance SG LDP SERV 2 - Incorporation of Natural Features / Sustainable Drainage Systems (SuDs).

Taking account of the above, it is recommended that planning permission be granted. The site is within the settlement boundary where there is a presumption in favour residential developments. The proposed plot is considered to be acceptable and it is considered to be of a density comparable with other plots in the area. The scale and design is acceptable and there are no issues with regards to loss of amenity to surrounding properties or the wider area. The proposals raise no issues in terms of overlooking or loss of daylight / privacy to surrounding properties. It is therefore considered that the proposal is in accordance with Policies LDP START1, LDP DM1, LDP 3, LDP 9, SG LDP ENV 17, SG LDP - Sustainable Siting and Design Principles, SG LDP HOU 1, SG LDP TRAN 4 and SG LDP TRAN 6 of the Argyll & Bute Council Local Development Plan.'

As part of the previous approval's (ref: 20/01150/PP) determination process, upon receipt of the roads officers consultation response the applicant was contacted by the planning authority to flag-up the roads conditions to ensure they were aware of them and could meet them. The applicant responded that they were aware of the roads conditions and were not concerned. It is noted at this point, if the applicant had informed the planning authority that they could not meet the required roads conditions then we would have proceeded with a recommendation for refusal on roads grounds.

It is noted that during the determination process a revised package of information was submitted by the applicants which included a set of revised drawings, a report by ECS Transport Planning Ltd and a covering letter from the agent which details the basis of their reasoning behind their proposal to vary / remove the roads conditions relative to planning permission 20/01150/PP and what variations / omissions are being proposed. The roads officer was subsequently re-consulted on the basis of this revised package of information and in turn the applicants have passed comment on this consultation, to which the roads officer has provided a further response.

This application solely relates to the variation of roads conditions; numbers 3, 4, 5 and 6 and removal of conditions 7 and 8 relative to planning permission 20/01150/PP. The previous conditions as per 20/01150/PP, the proposed variations/omissions and the roads officers' consultation response to this application are assessed in Appendix A.

On the basis of the assessment in Appendix A, subject to planning conditions, it is considered that the proposed development is in accordance with the relevant provisions of the Argyll and Bute Local Development Plan – 2015 and all other associated guidance.

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

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

It is considered that, subject to planning conditions, the proposed development is in accordance with all relevant provisions of the Argyll and Bute Local Development Plan and does not give rise to any other material land-use planning matters such as would warrant a departure to these provisions

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

Not applicable – It is considered that the proposed development accords with all relevant provisions of the Development Plan

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

Author of Report: Emma Jane **Date:** 08.11.2022

Reviewing Officer: Howard Young **Date:** 08.11.2022

Fergus Murray
Head of Development & Economic Growth

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 21/02709/PP**1. PP - Approved Details & Standard Notes – Non EIA Development**

The development shall be implemented in accordance with the details specified on the application form dated 20/12/2021 and, the original approved drawings from application ref; 20/01150/PP listed in the table below and the related amendment approved under this unless the prior written approval of the planning authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Plan Title.	Plan Ref. No.	Version	Date Received
Location Plan	1 of 14	A	02.02.2020
Site Photographs Sheet 1	2 of 14	A	02.02.2020
Site Photographs Sheet 2	3 of 14	C	02.02.2020
Site Photographs Sheet 3	4 of 14	-	02.02.2020
Site Photographs Sheet 4	5 of 14	-	02.02.2020
Site Plan/Roof Plan as Proposed	6 of 14	C	02.02.2020
Floor Plans as Proposed	7 of 14	A	02.02.2020
North and West Elevations as Proposed	8 of 14	B	02.02.2020
South and East Elevations as Proposed	9 of 14	B	02.02.2020
Cross Section X X as Proposed	10 of 14	-	02.02.2020
Proposed Landscape and Planting Layout Plan	11 of 14	-	02.02.2020
Topographic Survey	12 of 14	-	02.02.2020
Arboricultural Report	13 of 14	-	02.02.2020
Design and Access Statement 2020	14 of 14	-	02.02.2020

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

2. Notwithstanding the effect of Condition 1; Prior to the commencement of development the developer shall submit written evidence to the Planning Authority that an agreement with Scottish Water is in place for the connection of the proposed development to the public water supply.

Reason: *In the interests of public health and to ensure the availability of an adequate water supply to serve the proposed development.*

3. Notwithstanding the effect of Condition 1; the following improvement works to the access road are required:

- a) The provision of a 3.5 metre adopted road between A814 and the entrance dwellings.
- b) Passing places at a maximum of 100 metre spacing's should be provided as per Operational Services Drg No SD 08/003 rev a.

Full details of these proposed road improvements at Ferry Road shall be submitted to and agreed in writing with the Planning Authority in consultation with the Council's Road Network Manager prior to works commencing on site. Thereafter the improvements shall be completed and in place before the dwellinghouse hereby approved shall be completed or brought into use.

Reason: *In the interest of road safety and in accordance with the Councils 'Roads Guidance for Developers'.*

4. Notwithstanding the effect of Condition 1; In accordance with 'Roads Guidance For Developers' a sightline visibility splay of 2.4 x 25 x 1.05 metres at the driveway access with Ferry Road. Prior to work starting on site this visibility splay shall be cleared of all obstructions over one metre in height above the level of the adjoining carriageway and thereafter shall be maintained clear of all obstructions over one metre in height to the satisfaction of the Planning Authority.

Reason: *In the interest of road safety and in accordance with the Council's 'Roads Guidance for Developers'.*

5. Notwithstanding the effect of Condition 1; The private access to the dwelling house should be constructed as per Drg SD 08/002.

Reason: *In the interest of road safety and in accordance with the Council's Roads Guidance for Developers'.*

6. Notwithstanding the effect of Condition 1; Prior to construction of the dwelling house, the private access shall be surfaced with bituminous material (or other approved hard material) for a distance of 5m from the edge of the carriageway and graded to prevent the discharge of water/materials onto the public road.

Reason: *In the interest of road safety and in accordance with the Council's 'Roads Guidance for Developers'.*

7. Notwithstanding the effect of Condition 1; The gradient of the private accesses will not exceed 5% for the first 5 metres and no more than 12.5% over the remainder of the access. Details of this shall be submitted to and approved in writing by the Planning Authority prior to works starting on site.

Reason: *In the interest of road safety and in accordance with the Council's 'Roads Guidance for Developers'.*

8. Notwithstanding the effect of Condition 1; Prior to work starting on site full details of 2 No. parking spaces to be provided within the curtilage of the dwellinghouse shall be submitted to and approved in writing by the Planning Authority. Thereafter the required car parking spaces shall be fully implemented prior to the occupation of the dwellinghouse.

Reason: *In the interest of road safety and in accordance with the Council's 'Roads Guidance for Developers'.*

9. Notwithstanding the effect of Condition 1; Samples of the proposed materials to be used for the external walls and roof of the development hereby granted consent shall be submitted to and approved in writing by the Planning Authority prior to any work starting on site.

Reason: *In the interests of visual amenity and in order to integrate the proposal with its surroundings.*

NOTE TO APPLICANT

•The proposed road improvements to the existing private road to bring it to an adoptable standard will require the submission of an application for a roads construction consent. After subsequent Approval a finance security road bond will be required to be lodged before any works commence on site.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 21/02709/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The application site is located within the minor settlement boundary of Rhu, where policies LDP DM 1 and LDP SG HOU1 of the adopted Local Development Plan accepts the principle of small scale development (5 dwellings or less).

It is therefore considered that the original proposed development for a dwellinghouse is consistent in principle with the LDP Settlement and Spatial Strategy.

B. Location, Nature and Design of Proposed Development

The application site area is approximately 1000 square metres and sits within the garden ground of; Rhu Lodge, Ferry Road, Rhu, Helensburgh. The site is generally level with a gentle slope to the South Eastern boundary. The surrounding area is established residential. The site is bounded to the South East by a 2 metre high stone wall. In front of this stone wall is the access road – Ferry Road.

The principle of development has been established under the previous consent (ref: 20/01150/PP), as such the key issues in this instance do not relate to establishing the principal of development but to the roads and access issues. An extract from the original report justifying the dwellinghouse is included above.

C. Road Network, Parking and Associated Transport Matters.

The site is served by an existing private road, Ferry Road. Policy LDP 11 and SG LDP TRAN 4 generally require that new development is served by an appropriate standard of access and SG LDP TRAN 6 requires that adequate provision is made for off-street car parking in accordance with approved parking standards.

The consultation response from the Council's Area Roads Engineer has noted that in accordance with SG LDP TRAN 4;

(A) Developments shall be served by a public road (over which the public have right of access and maintainable at public expense;

Except in the following circumstances:-

(2) Further development that utilises an existing private access or private road will only be accepted if:-

(i) the access is capable of commensurate improvements considered by the Roads Authority to be appropriate to the scale and nature of the proposed new development and that takes into account the current access issues (informed by an assessment of usage); AND the applicant can;

(ii) Secure ownership of the private road or access to allow for commensurate improvements to be made to the satisfaction of the Planning Authority;

Further to this the roads officer has noted the following issues with the current access;

1. Existing carriageway width is less than the acceptable carriageway width of 3.5m for emergency services vehicles
2. No intervisible Passing Places
3. No formal turning head

SG LDP TRAN 4 notes that the private access shall be constructed to incorporate minimum standards to function safely and effectively as set out in the Council's Road Development Guide, in particular in relation to adequate visibility splays, access gradients, geometry, passing places, boundary definition, turning capacities, integrated provision for waste management and recycling.

When reviewing the below planning conditions '*Circular 4/1998: The use of conditions in planning permissions*' has been considered and in particular the six tests as follows;

Conditions imposed on a grant of planning permission can enable many development proposals to proceed where it would otherwise have been necessary to refuse planning permission. While the power to impose planning conditions is very wide, it needs to be exercised in a manner which is fair, reasonable and practicable. Planning conditions should only be imposed where they are:

- *Necessary*
- *relevant to planning*
- *relevant to the development to be permitted*
- *enforceable*
- *precise*
- *reasonable in all other respects*

Set out below are the original conditions together with the suggested amendments and an analysis in conjunction with the roads area manager.

Condition 3 as per approval reference 20/01150/PP;

Notwithstanding the effect of Condition 1; the following improvement works to the access road are required:

- a) The provision of a 3.5 metre adopted road between A814 and the entrance dwellings.
- b) Passing places at a maximum of 100 metre spacing's should be provided as per Operational Services Drg No SD 08/003 rev a.

Full details of these proposed road improvements at Ferry Road shall be submitted to and agreed in writing with the Planning Authority in consultation with the Council's Road Network Manager prior to works commencing on site. Thereafter the improvements shall be completed and in place before the dwellinghouse hereby approved shall be completed or brought into use.

Reason: *In the interest of road safety and in accordance with the Councils 'Roads Guidance for Developers'.*

Proposed change as per this application;

The applicants wish to replace conditions 3a & b with the following;

Notwithstanding the effect of Condition 1; prior to the first occupation of the dwelling hereby approved, the following improvement works to the access road are required:

The provision of a private access road, between the A814 and the entrance to the approved new dwelling, with a minimum width of 3.5 metres, incorporating the traffic calming measures as shown on approved ECS drawing number 22034_006, and drawings 19/20/R2 Rev A, 19/20/R4 Rev B, 19/20/R5 Rev B, 19/20/R7 Rev B and 19/20/R9 Rev B.

The applicants have provided a detailed reasoning as to why this condition should be changed, which has been summarised below;

The applicants have stated that the local roads officer fails to provide reasons to demonstrate that the additional traffic generated from a new single dwelling would make Ferry Road unsafe. They also note that condition 3 (a) requires a 3.5 metre adopted road; however, this fails to adhere to the National Road Development Guide, their reasoning behind this is to ensure that the utility providers are able to gain access to their apparatus in the future and if Ferry Road is required to be reconstructed to an adoptable standard it would be necessary to provide a 5.5 metre wide carriageway not 3.5 metres.

In terms of 3 (b) the applicants have noted that the minimum standard detailed for a private access within the Council's LP and LDP allow for a 4.5 metre width for a distance of 10 metres from the junction with the public road. As a 4.5 metre access width is acceptable at the location with the highest risk. The passing place design should take account of the setting of the place and the type of traffic travelling along the route. Except for the bin lorry the general vehicle movements are standard motor cars. Therefore, the requirement for all passing places to be 5.5 metres wide is an over engineered solution.

Conclusion;

The roads officer has concluded that conditions 3a & 3b should remain unchanged for the reasons detailed below;

In response to the above the roads officer has provided an extract from the National Roads Development Guidance, paragraph 3.1.6 (e), Services in Shared Surfaces, which facilitates service strips within the running surface and notes that manholes should be located within parking areas or widened areas within the total road width. Therefore, the roads officer notes that it would be possible for utility providers to gain access to their apparatus on a 3.5 metre wide carriageway. The roads officer has also noted; the provision of 3.5m adoptable road accounts for the presence of the existing verge, were the carriageway to be bound by a wall, the minimum width for emergency service vehicles, as per the National Roads Development Guide is 3.7m. A minimum road width of 3.5 plus verge is therefore, required to facilitate safe access and egress of pedestrians, vehicles and emergency service vehicles. In addition, roads have commented that the surfacing extents shown with drawing 19/20/R9B do not comply

with the aforementioned condition to provide a 3.5 metre adopted road between the A814 and the entrance dwellings.

The roads officer has also advised that a lack of forward visibility has underlined the requirement for localised carriageway widening to 5.5m at points of intervisibility. To allow any further development on this private access road, intervisible passing places must be provided and constructed in accordance with SD08/003. All vehicle passing places should be constructed in accordance with the minimum geometry requirements set out with SD08/003. They also note that on review of drawing 22034_006 and in accordance with the National Roads Development Guide, all intervisible passing places should provide a minimum width, throughout its length, of 5.5 metres, note this should be shown over the length of the intervisible passing place and not solely at the radius/ access point.

Further to the above the roads officer has advised that as the existing road currently serves 10 dwellings and a hotel, the private access road is deemed substandard and will, in the interest of pedestrian and vehicle safety require improvements prior to any further development. The roads officer has further commented that on review of the revised drawings the removal of an existing verge/ pedestrian 'step-off', between the A814 and the access to the Rosslea property, to achieve a minimum carriageway width is considered an unacceptable method towards achieving a minimum carriageway width. This is in direct contradiction of the hierarchy of road users and, places vehicle traffic over pedestrian movements. As such, the removal of any existing verge/ 'step-off' would not be supported.

Condition 4 as per approval 20/01150/PP;

Notwithstanding the effect of Condition 1; In accordance with 'Roads Guidance For Developers' a sightline visibility splay of 2.4 x 42 x 1.05 metres at the driveway access with Ferry Road. Prior to work starting on site this visibility splay shall be cleared of all obstructions over one metre in height above the level of the adjoining carriageway and thereafter shall be maintained clear of all obstructions over one metre in height to the satisfaction of the Planning Authority.

***Reason:** In the interest of road safety and in accordance with the Councils 'Roads Guidance for Developers'.*

Proposed change as per this application;

The applicants wish to replace condition 4 with the following;

Notwithstanding the effect of Condition 1; prior to the first occupation of the dwelling hereby approved, the access to the dwelling hereby permitted shall be formed in accordance with the details shown on approved ECS drawings number 22034_006 and drawing 19/20/R10. The access shall incorporate visibility splays measuring 2 x 25 x 1.05 metres, and these shall be maintained in perpetuity, unless otherwise agreed in writing with the Local Planning Authority.

Conclusion;

The roads officer has concluded that condition 4 should be altered for the reasons detailed below;

The original roads consultation response to application 20/01150/PP noted a sightline visibility splay of 2.4 x 25 x 1.05 metres at the driveway access with Ferry Road. Whereas the decision notice noted 2.4 x 42 x 1.05 metres. Therefore this condition should be altered to;

Notwithstanding the effect of Condition 1; In accordance with 'Roads Guidance For Developers' a sightline visibility splay of 2.4 x 25 x 1.05 metres at the driveway access with Ferry Road. Prior to work starting on site this visibility splay shall be cleared of all obstructions over one metre in height above the level of the adjoining carriageway and thereafter shall be maintained clear of all obstructions over one metre in height to the satisfaction of the Planning Authority.

Reason: *In the interest of road safety and in accordance with the Councils 'Roads Guidance for Developers'.*

Condition 5 as per approval 20/01150/PP;

Notwithstanding the effect of Condition 1; The private access to the dwelling house should be constructed as per Drg SD 08/002.

Reason: *In the interest of road safety and in accordance with the Councils 'Roads Guidance for Developers'.*

Proposed change as per this application;

The applicants wish to replace condition 5 with the following;

Notwithstanding the effect of Condition 1; Prior to the first occupation of the dwelling hereby permitted, the parking and turning provisions as shown on approved Drawing 19/20/10 shall be implemented in full. Thereafter the approved parking and turning provisions shall be maintained in perpetuity, unless otherwise agreed in writing with the Local Planning Authority.

The applicants have provided a detailed reasoning as to why this condition should be changed, which have been summarised below;

The applicants have stated that the local roads officer fails to recognise that this private access is in fact an individual driveway for which the minimum width of 2.75 metres is all that is required to be in accordance with the National Road Development Guide. The applicants have also noted; that the gradient shown is less than the 12.5% (1 in 8), the existing levels show a gradient 1 in 11.6 (8.5%) this is below the maximum gradient requirements and they have confirmed that it would be possible to provide drainage to prevent surface water discharge.

Conclusion;

The roads officer has concluded that condition 5 should remain unchanged for the reasons detailed below;

The roads officer has noted that the access should be constructed in accordance with SD08/002 titled, Private Drive Way from Un-kerbed Road. Within which, drawing note 6 details "Where access is bounded by walls the minimum width will be 3.7m." therefore, 2.75m is unacceptable. Furthermore, the roads officer has commented on drawing 19/20/R10 and notes, that this drawing fails to detail a minimum access width of 4.5m, does not achieve the drainage requirements defined with SD 08/002A and fails to detail the radius of the realigned boundary walls.

Condition 6 as per approval 20/01150/PP;

Notwithstanding the effect of Condition 1; The private access shall be surfaced with bituminous material for a distance of 5 metres from the edge of the carriageway and graded to prevent the discharge of water/materials onto the public road.

Reason: In the interest of road safety and in accordance with the Councils 'Roads Guidance for Developers'.

Proposed change as per this application;

The applicants wish to remove condition 6 as they believe this condition conflicts with condition 5 which allows for a bituminous or concrete surface, and they have suggested that it is not unreasonable to vary the condition to allow for any other approved hard material.

Conclusion;

The roads officer has concluded that condition 6 can be amended as follows;

Notwithstanding the effect of Condition 1; Prior to construction of the dwelling house, the private access shall be surfaced with bituminous material (or other approved hard material) for a distance of 5m from the edge of the carriageway and graded to prevent the discharge of water/materials onto the public road.

Reason: In the interest of road safety and in accordance with the Councils 'Roads Guidance for Developers'.

Condition 7 as per approval 20/01150/PP;

Notwithstanding the effect of Condition 1; The gradient of the private accesses will not exceed 5% for the first 5 metres and no more than 12.5% over the remainder of the access.

Reason: In the interest of road safety and in accordance with the Councils 'Roads Guidance for Developers'.

Proposed change as per this application;

The applicants wish to remove condition 7 as the gradient requirements have been detailed within the most recent drawing package.

Conclusion;

The roads officer notes that whilst the gradient requirements have been detailed within the most recent drawing ref; 19/20/R10, there are other elements included within this drawing which are not in accordance with roads guidance. Therefore, this condition shall remain as part of the application review to ensure implementation. However, it is noted that the phasing was not included within this condition and therefore, the roads officer has concluded that condition 7 can be amended as follows;

Notwithstanding the effect of Condition 1; The gradient of the private accesses will not exceed 5% for the first 5 metres and no more than 12.5% over the remainder of the access. Details of this shall be submitted to and approved in writing by the Planning Authority prior to works starting on site.

Reason: *In the interest of road safety and in accordance with the Councils 'Roads Guidance for Developers'.*

Condition 8 as per approval 20/01150/PP;

Notwithstanding the effect of Condition 1; The provision for car parking within the curtilage of each dwelling shall be in accordance with the Council's Local Development Plan supplementary guidance SG LDP TRAN 6 Vehicle Parking Provision.

Reason: *In the interest of road safety and in accordance with the Councils 'Roads Guidance for Developers'.*

Proposed change as per this application;

The applicants wish to remove condition 8 as the parking provision requirements have been detailed within the most recent drawing package.

Conclusion;

The roads officer notes that whilst the parking provision requirements have been outlined within the most recent drawing ref; 19/20/R10, there are other elements included within this drawing which are not in accordance with roads guidance. Therefore, this condition shall remain as part of the application review to ensure implementation. However, it is noted that the phasing was not included within this condition and therefore, the roads officer has concluded that condition 8 can be amended as follows;

Notwithstanding the effect of Condition 1; Prior to work starting on site full details of 2 No. parking spaces to be provided within the curtilage of the dwellinghouse shall be submitted to and approved in writing by the Planning Authority. Thereafter the required car parking spaces shall be fully implemented prior to the occupation of the dwellinghouse.

Reason: *In the interest of road safety and in accordance with the Councils 'Roads Guidance for Developers'.*

When reviewing the above planning conditions it is considered that they do meet the six tests as per '*Circular 4/1998: The use of conditions in planning permissions*'. Based on the above assessment, it is considered that subject to the revised conditions set out above, the proposed development is in accordance with the relevant provisions of the Argyll and Bute Local Development Plan – 2015 and all other associated guidance.

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Application Site

0 5 10 20 Meters

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Location Plan Relative to Planning Application: 21/02709/PP



1:1,250

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

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: 21/02718/PP
Planning Hierarchy: Major
Applicant: Gearach Limited
Proposal: Erection of distillery and visitor centre, with associated and ancillary development including support warehousing buildings, Installation of sewage treatment plant, two solar panel sites and formation of accesses
Site Address: Gearach Farm (ili Distillery), Port Charlotte, Isle Of Islay

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of distillery and visitor centre;
- Erection of ancillary warehouse building;
- Erection of support building incorporating hydrogen plant, battery storage and substation.
- Hydrogen store
- Cooling Tower
- Pot ale tank
- Spent lees tank
- Grain store
- Installation of private sewage treatment plant;
- Installation of two solar panel arrays with a total installed capacity of 4.25MW and associated access track;
- Formation of three vehicular accesses;
- Formation of onsite parking and turning;
- Formation of hard surfaces;
- Infrastructure for extraction of private water supply from Gearach Loch;
- Boundary treatment and hard landscaping;

(ii) Other specified operations

- Soft landscaping
-

(B) RECOMMENDATION:

- (i) It is recommended that Members grant planning permission as a minor departure from Policy DM1 subject to the conditions and reasons attached.
-

(C) CONSULTATIONS:

Environmental Health: (21.02.22) – Comments on private water supply

(03.03.22) – Comments on construction site noise (conditions); external lighting (condition), noise from operation of solar array (condition if not addressed in advance).

(15.03.22) – Contaminated Land Questionnaire was not received, so a condition in this respect will be attached to any approval.

Area Roads Officer: (15.03.22) – An initial deferred response was superseded after extensive discussions with the applicant and their representatives concluding with revised reports on 14.07.2022 and 01.09.2022. This included a number of recommendations and suspensive conditions relating to Transport Impact Assessment (TIA), passing places and vulnerable sections of road.

Biodiversity Officer: (13/5/22) acknowledged the EIAR and highlighted areas where more information and/or clarity is required. The council engaged with NatureScot with regard to the points raised.

Flood Risk Advisor: (7/3/22) No objections subject to conditions. Water course crossings. Delivery of SuDS

NatureScot – (05.09.2022) Responded with a detailed response requesting Appropriate Assessments for both bird species and butterflies. Additionally a number of suspensive conditions are requested. This was in response to a previous submission from them on 03.05.2022 outlining a number of concerns which were agreed and addressed by the applicant and their agents.

(2.2.22) Response in relation to additional information submitted. The proposal could affect internationally important natural heritage interests therefore NatureScot object to the proposal unless it is made subject to conditions so that the works are done strictly in accordance with the mitigation detailed in our appraisal. The proposal is located within the Rinns of Islay SAC designated for its marsh fritillary butterfly. The Rinns of Islay is also a SSSI for several qualifying features including blanket bog, breeding bird assemblage, chough, corncrake, Greenland barnacle goose (non-breeding), Greenland white-fronted goose (non-breeding), hen harrier and whooper swan. Argyll and Bute Council is required to consider the effect of the proposal on the SPA and SAC before it can be consented (commonly known as Habitats Regulations Appraisal).

Our advice is that this proposal is likely to have a significant effect on the Greenland white-fronted goose and Hen harrier populations of the Rinns of Islay SPA and the Marsh fritillary metapopulations supporting the main populations on the Rinns of Islay SAC. Consequently, Argyll and Bute Council, as competent authority, is required to carry out an appropriate assessment in view of the site's conservation objectives for its qualifying interests.

Scottish Water – (05.05.2022) Proposal is within Drinking Water Protected Area. Scottish Water have agreed to deal with the applicants Environmental Agents to set out requirement for provision of further information confirming:

Volume of water required for distillation

Volume of water required for hydrogen production

Information detailing demand profiles and potential seasonal fluctuations

Confirmation on whether potable (public SW) supply is considered as an alternative – if so further info on demand required

Details of precautions to protect drinking water supplies in peatland and opportunities for peatland restoration.

SEPA (15.3.22): No objections.

Historic Environment Scotland – No objections

West of Scotland Archaeology Service (11.03.2022) – The application lies in a landscape populated with recorded archaeological sites of prehistoric and later periods. The proposals will affect recorded sites as detailed in the EIA cultural heritage chapter, the conclusions and recommendations of which are agreeable. The large area of ground that will be disturbed by this development stands a good chance of unearthing visible or buried unrecorded remains which could be of any period and which may survive below ground level. As such, a potential archaeological issue is raised by the proposals. A planning condition is proposed.

Highlands and Islands Airports Ltd (dated 11/11/22): There are no objections to the proposed solar arrays.

NATS Safeguarding (dated 11/11/22): Wind turbines are a particular problem for us and we still have a requirement to be consulted for all planning applications containing turbines. Solar panels however present no unusual problems for our equipment therefore we are happy to treat them like any other building. For Argyll and Bute means we only need to be consulted within the defined zones around our installations at Machrihanish and on Tiree. On Islay, if you have consulted HIAL regarding the airport you should have covered all the aviation bases.

Islay Community Council (16.03.22)– While we welcome this development we wish to draw to your attention concerns expressed by members of our community: increased traffic in the Rinns area; the adequacy of the proposed parking at Gearach given the number of projected visitors; the impact on available housing; the impact on ferry usage; possible road safety issues for children at Port Charlotte Primary School. We have recently had a fruitful discussion with the iLi development team where we relayed these concerns and note their willingness to address issues raised.

(D) HISTORY:

21/01629/PAN Proposal of Application Notice for a proposed distillery and visitor centre. Associated and ancillary development to include; distillery, warehouse buildings, services and hardstanding areas, parking, access roads and footpaths. Associated plant and infrastructure including; renewable energy infrastructure (hydrogen plant, solar panels and a wind turbine up to 76.5 metres high to blade tip, drainage arrangements, electrical sub-station, hard and soft landscaping 05.10.2021

21/01889/SCREEN Screening opinion for a proposed distillery and visitor centre. Associated and ancillary development to include; distillery, warehouse buildings, services and hardstanding areas, parking, access roads and footpaths. Associated plant and infrastructure including; renewable energy infrastructure (hydrogen plant, solar panels and a wind turbine up to 76.5 metres high to blade tip, drainage arrangements, electrical sub-station, hard and soft landscaping 28.09.2021

21/02063/SCRSCO Proposed distillery and visitor centre. Associated and ancillary development to include; distillery, warehouse buildings, services and hardstanding areas, parking, access roads and footpaths. Associated plant and infrastructure including; renewable energy infrastructure (hydrogen plant, solar panels and a wind turbine up to 76.5 metres high to blade tip, drainage arrangements, electrical sub-station, hard and soft landscaping 02.12.2021

(E) PUBLICITY:

PAC consultation process commenced 05.10.2021
Regulation 20 advert Oban Times expired 24.03.2022
Neighbour Notification expired 06.03.2022

(F) REPRESENTATIONS:

(i) Representations received from:

Objections

1. Mrs Kate Agashi 9A Cambridge Place Falmouth TR114QR
2. David Brooks The Old Police House, Main Street, Port Charlotte, PA48 7TL
3. Susan Brooks The Old Police House, Main Street, Port Charlotte, PA48 7TL
4. Mrs Bronwen Currie Taigh Na Torraig Bruichladdich Isle Of Islay
5. Ms Hannah Davies 3 Edgeborough Court Upper Edgeborough Road Guildford GU1 2BL
6. Mr Trevor Davies Pinewood Swanpool Falmouth TR11 5BA
7. Mr Tom Evans 11 High Street Portnahaven Isle Of Islay
8. Max Parkin 86 Main Street Port Charlotte Isle Of Islay PA48 7TX
9. Ms Sara Parkin 86 Main Street Port Charlotte Isle Of Islay
10. Mrs Valerie Peacock Taigh Na Creag Shore Street Port Charlotte Isle Of Islay
11. Eleanor Piper Gearach Forest Lodge Port Charlotte Isle Of Islay PA48 7UB
12. Mark Piper Gearach Forest Lodge Port Charlotte Isle Of Islay PA48 7UB
08.03.2022
13. Mr David Pomeroy Tara House School Street Port Charlotte Isle Of Islay
14. Mrs Jan Reavey Lorgba House Main Street Port Charlotte Isle Of Islay
15. Dr Stephen Rogers Carraig Mhor Emerivale Port Ellen Isle Of Islay
16. Mrs Gael Roy Sgiba House Lorgba Main Street Port Charlotte Isle Of Islay
17. Mr Jimmy Roy Carraigmor Main Street Port Charlotte Isle Of Islay
18. Diana Wharton 94 Main Street Port Charlotte Isle Of Islay PA48 7TY
19. Tony Wharton 94 Main Street Port Charlotte Isle Of Islay PA48 7TY
20. Wendy Feist No Address Given
21. Hannah Davies Address Not Provided
22. Trevor Davies Address Not Provided

Support

1. Lorraine Gillies 5 School Street Port Charlotte Isle Of Islay PA48 7TW

2. Anne Kemp Tormisdale Croft Isle Of Islay
3. Roderick J MacFarlane Tormisdale Farm Port Charlotte Isle Of Islay
4. Mr Ronnie MacLellan 226 Abingdon Road Oxford OX1 4SP
5. Steven Mithen Carduncan Farmhouse Gruinart Isle Of Islay PA44 7PS
6. James Redman Whinhill Tormisdale Port Charlotte Isle Of Islay PA48 7UE
7. Roy Redman Tormisdale Croft Isle Of Islay
8. C Cleland No Address Provided
9. Neil McAslan No Address Provided
10. Heather McLellan No Address Provided
11. Neil McLellan No Address Provided
12. Sheila McLellan No Address Provided

Representation

1. Steven Mithen Department Of Archaeology Whiteknights Box 227 Reading RG6 6AB

(ii) Summary of issues raised:

Objection

Landscape and Design Issues

Negative impact on wild land.

Comment: There is no designated wild land in the vicinity of the site.

The distillery will look completely out of place and ruin the aesthetic for those who value nature.

Comment: See assessment.

Roads Issues

Road infrastructure is insufficient especially emerging into Port Charlotte Exit into the conservation area of Port Charlotte is unsuitable for industrial vehicles The condition and design of the road is unsuitable for large vehicles.

The cross roads at the bottom of School Street has very limited visibility when turning left or right. School Street has no pavements for the primary school children to walk on. The narrow bridge over the burn near to Yoth Hostel would be put under great strain to accommodate a steady stream of large lorries.

The increased traffic will have an adverse impact on the Port Charlotte Conservation Area.

The popularity of cycling on Islay is not fully recognised in the EIAR nor is the popularity of Kilchiaran Road for walkers and cyclists.

Comment: There has been extensive dialogue with the roads department mainly in regard to the lack of passing places and the land required to create a sufficient number of standard sizes. The condition of existing verges and track sides. Detailed plans regarding surveying, construction and maintenance of the existing and any new or upgraded road surfaces. These aspects would be addressed in plans that would be conditions of any recommendation.

Natural Heritage Issues

The proposed development will impact on nature conservation sites of international, national and local importance.

Comment: See assessment.

Sustainability

The proposed development claims to be sustainable, however, there has been no detail provided regarding proposed waste management or how the applicant aims to achieve carbon neutral production.

Comment: A sustainability checklist has been completed and a waste management arrangements are detailed in the EIAR.

Economic Issues

Islay already has more jobs than workers with a critical lack of accommodation, this development will only exacerbate this problem.

The economy of Islay is already too dependent of distilleries and the short tourist season and this development will only exacerbate the problem.

Comment: These are not material considerations in the determination of this planning application.

Other

There is no capacity on the ferry.

Comment: This is not a material consideration in the determination of this planning application.

The solar panel sites are situated at a considerable distance from the distillery buildings. Direct current constitutes a potential life-threatening hazard and suffers considerable losses of power over cable lengths.

Comment: This is not a material planning consideration.

There is a right of way over the application site for other parties to extract timber. The warehouse building will impact on this route.

Timber transport lorries will have to drive through the site between the support and warehouse buildings.

The construction of solar panels and equipment to the east of the southern end of the track interferes without right of way and interferes with our right to construct a connecting road from the forestry to the existing track. This is vital for future access and in line with the Council's Woodland Forestry Strategy.

Comment: The access to extract timber will be maintained.

Support

We are being told farms need to diversify to survive. This is a family with a background in agriculture and forestry, experience in looking after the biodiversity of their land. The huge investment will create jobs and due to the size of the distillery should not have a detrimental effect on the immediate environment once built.

This is a well-considered and sensitively and environmentally designed proposal.

This distillery will be carbon neutral and powered with renewable energy from the start.

The design of the proposal is of a very high standard.

Comment: These points are noted.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) Environmental Impact Assessment Report:** Yes
The submitted EIAR contains chapters on:
- Introduction
 - Proposed development
 - EIA Methodology
 - Planning Policy
 - Landscape and Visual
 - Hydrology and Hydrogeology
 - Glint and Glare
 - Carbon Balance
 - Air Quality and Odour
 - Safety, Major Accidents and Disasters
- (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** Yes. Two reports attached.
- (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:**
SHP Planning Statement

(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 6 – Supporting the Sustainable Growth of Renewables
LDP 7 – Supporting our Town Centres and Retail
LDP 8 – Supporting the Strength of our Communities
LDP 9 – Development Setting, Layout and Design
LDP 10 – Maximising our Resources and Reducing our Consumption
LDP 11 – Improving our Connectivity and Infrastructure

Local Development Plan Schedules

'Supplementary Guidance to the Argyll and Bute Local Plan 2015' (Adopted March 2016)

Natural Environment

SG LDP ENV 1 – Impact on Habitats, Species and our Biodiversity
SG LDP ENV 2 – Impact on European Sites
SG LDP ENV 4 – Impact on SSSIs and National Nature Reserves
SG LDP ENV 6 – Impact on Trees / Woodland
SG LDP ENV 7 – Water Quality and the Environment
SG LDP ENV 11 – Protection of Soil and Peat Resources

Landscape and Design

SG LDP ENV 13 – Development Impact on Areas of Panoramic Quality
SG LDP ENV 14 – Landscape
SG LDP ACE 1 – Area Capacity Evaluation (ACE)

Historic Environment and Archaeology

SG LDP ENV 20 – Impact on Sites of Archaeological Importance

Support for Business & Industry: General

SG LDP BUS 2 – Business & Industry Proposals in the Countryside Zones
SG LDP BUS 5 – Economically Fragile Areas

Support for Business & Industry: Main Potential Growth Sector: Tourism

SG LDP TOUR 1 – Tourist Facilities and Accommodation, including Static and Touring Caravans
SG LDP TOUR 3 – Promoting Tourism Development Areas

Retail Developments (Including COU to and from Shops)

SG LDP RET 4 – Retail Development within the Countryside Zones

Planning Gain

SG LDP PG 1 – Planning Gain

Bad Neighbour Development

SG LDP BAD 1 – Bad Neighbour Development

Sustainable Siting and Design

SG LDP Sustainable – Sustainable Siting and Design Principles

Resources and Consumption

SG LDP SERV 1 – Private Sewage Treatment Plants & Wastewater Systems

SG LDP SERV 2 – Incorporation of Natural Features / SuDS

SG LDP SERV 3 – Drainage Impact Assessment

SG LDP SERV 4 – Contaminated Land

SG LDP SERV 5(b) – Provision of Waste Storage & Collection Facilities within New Development

SG LDP SERV 6 – Private Water Supplies and Water Conservation

Addressing Climate Change

SG LDP SERV 7 – Flooding and Land Erosion – Risk Framework

SG LDP Sust Check – Sustainability Checklist

Transport (Including Core Paths)

SG LDP TRAN 1 – Access to the Outdoors

SG LDP TRAN 2 – Development and Public Transport Accessibility

SG LDP TRAN 3 – Special Needs Access Provision

SG LDP TRAN 4 – New & Existing, Public Roads & Private Access Regimes

SG LDP TRAN 5 – Off-site Highway Improvements

SG LDP TRAN 6 – Vehicle Parking Provision

Renewables

SG Renewable Energy

(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.

- Scottish Planning Policy

Argyll and Bute proposed Local Development Plan 2 (November 2019) – The unchallenged policies and proposals within pLDP2 may be afforded significant material weighting in the determination of planning applications at this time as the settled and unopposed view of the Council. Elements of the pLDP2 which have been identified as being subject to unresolved objections still require to be subject of Examination by a Scottish Government appointed Reporter and cannot be afforded significant material weighting at this time. The provisions of pLDP2 that may be afforded significant weighting in the determination of this application are listed below:

- Policy 14 – Bad Neighbour Development

- Policy 23 – Tourist Development, Accommodation, Infrastructure and Facilities
- Policy 35 – Design of New and Existing, Public Roads and Private Access Regimes
- Policy 36 – New Private Accesses
- Policy 37 – Development Utilising an Existing Private Access or Existing Private Road
- Policy 38 – Construction Standards for Public Roads
- Policy 39 – Construction Standards for Private Access
- Policy 41 – Off Site Highway Improvements
- Policy 58 – Private Water Supplies and Water Conservation
- Policy 63 – Waste Related Development and Waste Management
- Policy 78 – Woodland Removal

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

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

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

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

(O) Requirement for a hearing:

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

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

Twenty-two objections, twelve support and 1 representation have been received regarding the proposed development.

It is considered that all of the material planning issues raised have been effectively addressed in the report and planning conditions have been recommended where appropriate.

It is the opinion of the Planning officers that the representations received, together with officer assessment of the relevant planning issues contained within this report, provide all the information required to enable Members to make an informed decision based on the adopted development plan and other material considerations.

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

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

The proposal seeks detailed planning permission for the erection of a new, 'large scale' industrial distillery and ancillary visitor centre development at a Countryside Zone location and partly within the 'rural opportunity area' (ROA) development management zones. Development of this location would not ordinarily be supported by the provisions of policy LDP DM 1 and SG LDP BUS 2; however, the applicant has satisfactorily set out a locational/operational need for the development of this location in the absence of any readily identifiable, sequentially preferable alternative. Islay is identified as an 'Economically Fragile Area

The proposed development would result in jobs creation, roads improvements, new sources of sustainable power, and the preservation and enhancement of habitats for protected species.

This proposal is EIA Development and the determination of this application is also subject to the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. There is a requirement to examine the environmental information submitted and reach a reasoned conclusion on the significant environmental effects of the proposal.

The recommendation on this application has been guided by the conclusions of the EIAR and the proposal has been assessed against the policies of the adopted Local Development Plan and other material considerations.

(Q) Is the proposal consistent with the Development Plan: No the proposal is considered to be a minor departure from Policy DM1

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

The proposal will deliver sustainable economic development within an 'economically fragile area' in a manner which, notwithstanding the concerns expressed by third parties, will not give rise to any unacceptable, or significant adverse effect upon the receiving environment. The proposal satisfies development plan requirements and there are no material considerations which would indicate the need to withhold consent in this case.

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

LDP policy DM1 requires an Area Capacity Evaluation (ACE) to be carried out for large scale development within the countryside. An ACE is a process which assesses the capacity of a landscape to absorb the proposed development.

However, this proposal is an EIA Development which contains a Landscape and Visual Impact Assessment (LVIA) undertaken in accordance with the recognised methodology set out in The Guidelines for Landscape and Visual Impact Assessment (Landscape Institute and IEMA, 2013). This is a more robust analysis which is undertaken by professional landscape architects and in these circumstances an ACE carried out by the planning officer is considered to be unnecessary. Taking account of the above, it is considered that this would represent a justifiable minor departure from Policy DM1.

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

Author of Report: Derek Wilson **Date:** 11/11/22

Reviewing Officer: Sandra Davies **Date:** 11/11/22

Fergus Murray
Head of Development & Economic Growth

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 21/02718/PP**1. PP - Approved Details & Standard Notes – Non EIA Development**

The development shall be implemented in accordance with the details specified on the application form dated 21/12/21; , supporting information and, the approved drawings listed in the table below unless the prior written approval of the planning authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Plan Title.	Plan Ref. No.	Version	Date Received
Inset Site Plan	C4632 (1) 107		08.02.2022
Inset Site Plan - Eastern Solar Site	C4632 (1) 109		08.02.2022
Inset Site Plan - Southern Solar Site	C4632 (1) 108		08.02.2022
Inset Site Plan - Support Building	C4632 (1) 105 Rev A		08.02.2022
Drainage Strategy Plan	C4632 (1) 106 Rev A		08.02.2022
Ground Mounted Solar Layout	C4632 (1) 103		08.02.2022
Hydrological Figures	C4632-1232/Figure 6.2 V 0.1		24.01.2022
Landscape Design Plan	C4632-1232/Figure 5.13 v 1.0		24.01.2022
Overall Site Layout	C4632 (1) 101 Rev A		08.02.2022
Partial Section Plan A-A	059 PL21		22.12.2021
Partial Section Plan A-A	059 PL22		22.12.2021
Partial Section Plan A-A	059 PL23		22.12.2021
Reflected Ceiling Plan Upper Level	059 PL13		22.12.2021
Solar Unit Elevation	C4632 (1) 104 Rev A		08.02.2022
Support Building Compound Plan and Elevations	059 PL29		08.02.2022
Support Building Layout Plan	059 PL27		08.02.2022
Supporting Distillery Location Plan with Key Detail	058 PL01		22.12.2021
Supporting Site Plan 1:1250	058 PL02A		08.02.2022.
Location Plan	C4632 (1) 102		08.12.2022
Location Plan 1:2500	058 PL01A		08.02.2022
Supplementary Location Plan	C4632 (1) 100 Rev 0		22.12.2021
Roof Plan Entrance Level	059 PL12		22.12.2022
Lower Floor Plan Distillery Level	059 PL11		22.12.2021

Support Building Floor Plan	C4632 (1) 110 Rev 0		08.02.2022
Upper Floor Plan Visitors Level	059 PL10		22.12.2021
Warehouse Floor Plan	059 PL25		08.02.2022
North East Elevation - Distillery	059 PL17		22.12.2021
North West Elevation - Distillery	059 PL18		22.02.2022
South East Elevation - Distillery	059 PL16		08.02.2022
Support Building Elevations	059 PL28		08.02.2022
Warehouse Elevations	059 PL26		08.02.2022

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

Clarification of Use Approved

2. Notwithstanding the provisions of Condition 1, the buildings hereby approved shall be used solely as production and storage of whisky and other spirit, and attendant administrative and visitor related uses and no other use including any other purpose in Class 6 and Class 4 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. Furthermore, the storage building hereby approved shall be used solely for the storage of whisky and other spirit distilled on the island of Islay. A detailed inventory of the contents of the building shall be kept and all reasonable opportunity for the inspection of this inventory shall be afforded, by prior arrangement, to any designated representative of the council in pursuance of their duties in order to ensure compliance with the provisions of this planning condition.

Reason: In order to define the authorised use and to underpin the 'special need' argument that underlies the justification for the development as a departure to the Development Plan, and to enable the Planning Authority to control any subsequent change of use which might otherwise benefit from deemed permission that might erode the original justification for the development, and to protect the amenity of the locale.

Roads Conditions

3. Notwithstanding the provisions of Condition 1,
 - I. The proposed accesses for use by HGV vehicles shall be formed in accordance with the Council's Roads Standard Detail Drawing SD08/001 Rev a.
 - II. Junctions which will be used by general vehicles only are to be constructed as per the Council's standard detail drawing ref: SD 08/002 Rev a. with access width to be 5.50 metres, minimum and access radius to be a minimum of 6.00 metres,
 - III. All junctions shall be staggered with visibility splays of 2.40m x 75m x 1.05m. The accesses shall be surfaced with a bound material in accordance with the stated Standard Detail Drawing.
 - IV. Prior to work starting on site the accesses hereby approved shall be formed to a minimum base course standard and the visibility splays shall be cleared of all obstructions such that nothing shall disrupt visibility from a point 1.05 metres

above the access at point X to a point 0.6 metres above the public road carriageway at point Y. The final wearing surface on the accesses shall be completed prior to the development first being brought into use and the visibility splays shall be maintained clear of all obstructions thereafter.

Reason: In the interests of road safety.

- 4 Notwithstanding the provisions of Condition 1, no development works shall commence until:
- I. A Traffic Management Plan including a Method Statement has been submitted to and approved in writing by the Planning Authority in consultation with the Roads Authority. The Traffic Management plan shall include details of all materials, plant, equipment, components and labour required during the construction works.
 - II. A Traffic Impact Assessment has been submitted to and approved in writing by the Planning Authority in consultation with the Roads Authority. This is required for the section of the C16 Port Charlotte - Kilchearan Road, between the A847 Bridgend-Portnahaven Road / C16 Port Charlotte-Kilchearan Road junction and the application site.

Thereafter the development shall be carried out in accordance with these details.

Reason: To address abnormal traffic associated with the development in the interests of road safety.

- 5 No development shall commence until 12 new passing places with passing place signs have been provided between the A847 Bridgend-Portnahaven Road / C16 Port Charlotte-Kilchearan Road junction and the application site entrance. The passing places shall be equally spaced and intervisible where possible. Prior to work starting on the passing places, a plan showing the exact locations and specifications of the passing places shall be submitted to and agreed in writing by the Planning Authority in consultation with the Roads Authority. The passing places shall accord with the Council's Typical Passing Place Detail drawing SD 08/003 Rev a, unless otherwise agreed in writing by the Planning Authority in consultation with the Roads Authority. Thereafter the road improvements shall be constructed in accordance with the approved details prior to the commencement of development.

Reason. In the interests of road safety.

- 6 No development shall commence until a condition survey of the road from the A847 (Bridgend to Portnahaven Road) to the application site shall be recorded by means of video and photographs. The results of this along with details of an ongoing inspection regime and service level agreement for the repair of the road defects to be carried out at the applicant's expense shall be submitted to and approved in writing by the Planning Authority in consultation with the Council's Roads service. Thereafter the development shall be carried out in accordance with these details.

Reason: In order to ensure any damage to the road caused as a result of the development of the proposal is rectified by the developer.

- 7 No development shall commence until full details identifying vulnerable areas of the road from the A847 (Bridgend to Portnahaven Road) to the application site have been submitted to and approved in writing by the Planning Authority in consultation with the Roads service. This shall include an assessment of any culverts or other structures

and will include measures to mitigate against any likely damage through the construction phase. Thereafter the development shall proceed in accordance with these details prior to the commencement of development.

Reasons: In order to secure an appropriate standard of road capable of conveying traffic associated with this development.

Materials Condition

- 8 Notwithstanding the effect of Condition 1, no development shall commence until written details of the type and colour of materials to be used in the construction of walls, roofs, doors, windows and plant housing have been submitted to and approved in writing by the Planning Authority. The development shall thereafter be completed using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.

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

External Lighting Condition

- 9 Prior to the installation of external lighting full details of any external lighting to be used within the site shall be submitted to and approved in writing by the Planning Authority. Such details shall include the location, type, angle of direction and wattage of each light which shall be so positioned and angled to prevent any glare or light spillage outwith the site boundary. Regard must be made to governmental Guidance Notes on Environmental Zone E1: Intrinsically Dark Areas. No external lighting shall be installed except in accordance with the duly approved scheme.

Reason: In order to avoid light pollution in the interests of amenity.

Landscape and Boundary Treatment Condition

- 10 Notwithstanding the provisions of Condition 1, no development shall commence until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved in writing by the Planning Authority. The scheme shall comprise a planting plan and schedule which shall include details of:

1. Existing and proposed ground levels in relation to an identified fixed datum;
2. Existing landscaping features and vegetation to be retained;
3. Location, design and materials of proposed walls, fences and gates;
4. Proposed soft and hard landscaping works including the location, species and size of every tree/shrub to be planted;
5. A programme for the timing, method of implementation, completion and on-going maintenance.

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme unless otherwise approved in writing by the Planning Authority.

Any trees/shrubs which within a period of five years from the completion of the approved landscaping scheme fail to become established, die, become seriously diseased, or are removed or damaged shall be replaced in the following planting season with equivalent numbers, sizes and species as those originally required to be planted unless otherwise approved in writing by the Planning Authority.

Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity.

CEMP Condition

- 11 No development shall be commenced (including any land engineering works or any associated operations) until a full site specific Construction Environmental Management Plan (CEMP) and Pollution Prevention Plan (PPP) have been submitted to and approved in writing by the Planning Authority. The CEMP shall include:
- Details of pre-construction checks for any Hen harrier nests or roosts within 750m of the application site;
 - Distribution of CEMP to project team and sub-contacts as applicable;
 - Staff Site Induction – toolkit talks, Environment Posted and site notices – risk assessment briefings;
 - Pre-start survey results;
 - Specific species protection plans for each relevant SPA and SAC qualifier species. In relation to the Marsh fritillary butterfly this should provide detail in relation to specific measures to be taken if Marsh Fritillary or their caterpillar webs are found during construction so that there is confidence that there would be no adverse effect to site integrity. It also needs to ensure there is no potential for any reckless offence under the Wildlife and Countryside Act 1981;
 - Species and Habitat Management Plan;
 - Habitat Restoration Plan and method statement;
 - Habitat Creation Plan and management plans;
 - Logging procedure of delivery of plans, surveillance and non-compliant instances;
 - Monitoring template to be drafted for site monitoring, the results are to be submitted to the Planning Authority on a quarterly basis;
 - Site Waste Management Plan.

All of the above requirements of the CEMP shall be delivered and overseen by an Ecological Clerk of Works (ECoW). Thereafter the development shall proceed in accordance with the approved CEMP.

Reason: In order to protect natural heritage assets in the interest of nature conservation.

Nature Conservation Conditions

- 12 No construction activities relating to the solar array installation shall take place between October and March inclusive unless otherwise approved in writing by the Planning Authority in consultation with NatureScot.

Reason: In order to protect natural heritage assets in the interest of nature conservation.

- 13 Prior to the commencement of development, a Visitor Management Plan shall be submitted to and approved in writing by the Planning Authority in consultation with NatureScot. This shall detail how disturbance to roosting Greenland white-fronted geese arising from additional human activity shall be prevented. Thereafter the development shall be carried out in accordance with these details.

Reason: In order to protect natural heritage assets in the interest of nature conservation.

- 14 Prior to the commencement of development, a Distillery Operations Mitigation Plan shall be submitted to and approved in writing by the Planning Authority in consultation with NatureScot. This shall detail how disturbance to roosting Greenland white-fronted

geese arising from night time operation of the distillery shall be mitigated. Thereafter the development shall be carried out in accordance with these details.

Reason: In order to protect natural heritage assets in the interest of nature conservation.

- 15 Notwithstanding the provisions of condition 1, no development shall commence until full details of a Restoration Method Statement and Restoration Monitoring Plan has been submitted for the approval of the Planning Authority, in consultation with Scottish Natural Heritage. The restoration method statement shall provide restoration proposals for those areas disturbed by construction works, including access tracks, hardstandings and other construction areas. Restoration of construction disturbed areas shall be implemented as agreed in writing with the Planning Authority. The monitoring programme shall include a programme of visits to monitor initial vegetation establishment and responses to further requirements, and long term monitoring.

Reason: To ensure that disturbed areas of the site are reinstated in a proper manner following construction in the interests of amenity, landscape character and nature conservation.

Decommissioning Condition

- 16 There shall be no Commencement of Development unless a decommissioning, restoration and aftercare strategy for the solar array sites has been submitted to and approved in writing by the Planning Authority in consultation with NatureScot and SEPA. The strategy shall outline measures for the decommissioning of the Development, restoration and aftercare of the site and will include, without limitation, proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works, and environmental management provisions.

No later than 3 years prior to decommissioning of the Development a detailed decommissioning, restoration and aftercare plan, based upon the principles of the approved decommissioning, restoration and aftercare strategy, shall be submitted to the Planning Authority for written approval in consultation with NatureScot. The detailed decommissioning, restoration and aftercare plan will provide updated and detailed proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provisions which shall include:

- a. a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
- b. details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
- c. a dust management plan;
- d. details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
- e. a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
- f. soil storage and management;
- g. a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;

- h. sewage disposal and treatment;
- i. temporary site illumination;
- j. the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
- k. details of watercourse crossings;
- l. a species protection plan based on surveys for protected species (including birds) carried out no longer than 18 months prior to submission of the plan.

The Development shall be decommissioned, site restored and aftercare thereafter undertaken in accordance with the approved plan, unless otherwise agreed in writing in advance with the Planning Authority in consultation with NatureScot and SEPA.

Reason: To ensure the decommissioning and removal of the Development in an appropriate and environmentally acceptable manner and the restoration and aftercare of the site, in the interests of safety, amenity and environmental protection.

Water Supply Suspensive Condition

- 17 No development shall commence until all of the main sources of water supply for the development have been fully assessed and agreed with Scottish Water. Full details of post consent site investigation surveys in relation to the adjacent private spring and boreholes shall be submitted to and approved in writing by the Planning Authority in consultation with Scottish Water.

Reason: In order to ensure that Scottish Water can maintain its security of public water supply.

Solar Array Conditions

- 18 The solar arrays hereby approved shall be finished in an anti- reflective coating.

Reason: In order to reduce the chance of arrays being mistaken for water in the interest of nature conservation.

- 19 Permission for operation of the solar arrays is limited to a period of 30 years from the commissioning of the development, following which the permitted equipment shall be removed and the land reinstated, unless on application to the Planning Authority permission has been granted for its retention for a further period. Decommissioning and site restoration shall be completed no later than whichever is the earlier of the following dates:

- a. 2 years from the end of the 30 year period stipulated in this condition, or
- b. 2 years from the date on which the development ceases to supply electricity for consumption on the airbase, or for export to the national grid, or both.

Reason: In view of the life expectancy of the proposed development and to ensure the removal of redundant equipment in the interests of amenity.

- 20 No solar panel shall be fixed at an angle greater than 35° relative to the horizontal and the structures supporting the solar panels shall contain no moving parts unless otherwise agreed in writing with the Planning Authority.

Reason: In order to avoid possible glint and glare nuisance in the interests of residential amenity.

- 21 Within 2 months from receipt of a written request from the Local Planning Authority following a substantiated complaint from occupiers of a sensitive property, the solar farm operator shall, at its expense, undertake a glint and glare assessment which shall be submitted for the written approval of the Planning Authority. Any identified mitigation measures arising from this assessment, and the Planning Authority's consideration thereof, shall be implemented within two months of being notified in writing to the operator.

Reason: In order to address identified glint and glare nuisance in the interests of residential amenity

Drainage Impact Assessment

- 22 Prior to the commencement of development, a detailed Drainage Impact Assessment shall be submitted to and approved in writing by the Planning Authority. Thereafter, the agreed measures in the Drainage Impact Assessment shall be implemented in full unless otherwise agreed in writing with the Planning Authority.

Reason: In order to ensure that the proposed drainage arrangements are acceptable.

Archaeology

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

Micrositing

- 24 Tracks, solar infrastructure, compounds and areas of hardstanding shall be constructed in the position indicated on the approved drawings. A variation of the indicated position of any such infrastructure shall not be carried out unless :
- a) If the micro-sited position is less than 10 metres, the local planning authority is notified in writing prior to the variation, or
 - b) If the micro-sited position is between 10 metres and 25 metres it shall only be permitted following written approval of the planning authority.

No variation in position over 25m shall be carried out. The ECoW shall supervise and agree all proposed micrositing proposals.

Reason: To control environmental impacts while taking account of local ground conditions.

Environmental Health Conditions

- 25 Prior to the commencement of the site, a detailed Noise Action Plan shall be submitted in writing to the Planning Authority. The plan must clearly identify all practical and managerial control measures, to be adopted to eliminate/minimise the impact of site noise on surrounding areas.

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

- 26 The permitted hours of demolition and construction works shall be restricted to 0800 hours to 1800 hours Monday to Friday and 0800 hours to 1300 hours on Saturday. No construction or demolition works shall take place outwith these hours, or on Sundays or Bank or Scottish Public Holidays, unless the written agreement of the Planning Authority has been obtained in advance, in which case the specified operations shall be confined to activities which do not present any likely source of nuisance in terms of noise, vibration, dust or any other consequence likely to be prejudicial to the interests of residential amenity. The above times shall include additional vehicular traffic related to the construction works.

Reason: In order to protect the residential amenities of the area.

- 27 Prior to the commencement of development a noise assessment relating to the solar arrays shall be submitted to and approved in writing by the Planning Authority in consultation with Environmental Health. This shall demonstrate that the project will not generate noise disturbance on the nearest occupiers of residential properties.

Reason: In order to protect the amenities of the area from noise disturbance.

Contaminated Land Condition

- 28 Unless otherwise agreed in writing and in advance by the Planning Authority, prior to any development commencing on site, a scheme will be submitted by the Developer (at their expense) to identify and assess potential contamination on site. No construction work shall commence until the scheme has been submitted to, and approved, by the Planning Authority, and is thereafter implemented in accordance with the scheme so approved.

The scheme shall be undertaken by a competent person or persons in accordance with relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination to the satisfaction of the Planning Authority, and must include:-

- a) A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the Council prior to addressing parts b, c, and d of this condition.

Should the desk study show the need for further assessment this will be undertaken in the following sequence:

- b) A detailed investigation of the nature and extent of contamination on site, and assessment of the risks such contamination presents.

- c) Development and agreement of a remedial strategy (if required) to treat/remove contamination ensuring the site is made suitable for its proposed use (this shall include a method statement, programme of works, and proposed verification plan).

d) Submission of a verification report for any agreed remedial actions detailing and evidencing the completion of these works.

Written confirmation from the Planning Authority, that the scheme has been implemented and completed shall be required by the Developer before any development hereby approved commences. Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Planning Authority.

Reason: To ensure that the potential risks to human health, the water environment, property, and, ecological systems arising from any identified land contamination have been adequately addressed.

Watercourse Crossings

29 New watercourse crossings should not decrease the capacity of the watercourse post development. Ideally any new crossing should be designed to convey the 1 in 200-year flood level plus an allowance for climate change and freeboard.

Comment: In the interests of preventing flooding.

NOTE TO APPLICANT

- A Section 96 Legal Agreement will be required for the section of road between the A847 Bridgend - Portnahaven Road / C16 Port Charlotte-Kilcheeran Road junction and application site.
- Please see Scottish Water's consultation response dated 5/5/22
- Please see SEPA's consultation response dated 15/3/22

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 21/02718/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

Policy Context:

The application site is partly located within a 'Rural Opportunity Area' (ROA), the remainder is within land zoned as 'Countryside' wherein the provisions of policy LDP DM 1 offer general support for 'small' scale development on appropriate infill, rounding-off, redevelopment and change of use of existing buildings; plus support for up to and including 'large' scale development on appropriate sites in exceptional circumstances where this accords with an 'Area Capacity Evaluation' (ACE).

Policy LDP DM1 requires that both land use designations are considered and in this case as the majority of the site is within the Countryside Zone paragraph (E) of policy is the main consideration. It encourages small scale development on appropriate sites. The existing derelict buildings to the centre of the overall site qualify as redevelopment; a development of new buildings involving significant demolitions. However, they are a small part of the proposed development site which is designated as large scale under Schedule B1 – Business and Industry scales of development:

Large-scale – buildings exceeding 600m² footprint, gross site area exceeding 2 hectares. This proposal site qualifies on both counts and must therefore be treated as an exceptional case under policy and therefore accord with an area capacity evaluation (ACE). As this is an EIA Development and a full LVIA has been submitted as part of the EIAR, it is not considered that an ACE would be necessary in this case an LVIA is a much more thorough and robust process than an ACE. It is therefore considered that this would represent a justifiable minor departure from Policy DM1.

The provisions of policy LDP 5 sets out that the Council will support the development of new industry and business which helps deliver sustainable economic growth. The supporting detail to policy LDP 5 identifies Islay as being both an Economically Fragile Area, and a Tourism Development Area.

Policy SG LDP BUS 2 sets out that proposals for new business and industry development (Use Classes 4, 5, 6 and 7) in the Countryside Development Management Zones will only be permitted where:

- A) The development is of a form, location and scale, consistent with policy LDP DM 1. Development proposals must also take account of SG LDP ENV 14 and comply with Schedule B 1 and Schedule B 3; OR,
- B) Proposals are for all scales of development in Rural Opportunity Areas, or for small scale development in the Countryside Zone, where the applicant can demonstrate a clear operational need for a specific location within these zones.

Schedule B1 sets out large Business and Industry development as per para 2. The provisions of Schedule B1 also note that within Economically Fragile Areas consideration will be given to variation of the permitted scales of development in line with the provisions of policy SG LDP BUS 5.

Schedule B3 sets out the preferred locations for business and industry development in the countryside expressing a preference only for 'small scale' development in 'non-residential locations' outwith the allocations and PDAs. Schedule B3 also defines 'non-residential locations' as being "locations where residential use does not predominate – this includes mixed use areas".

The explanatory text to SG LDP BUS 2 sets out that the Council recognises that "Argyll and Bute has a number of indigenous and emerging industries that are not suited to a location within an existing settlement. The special needs of the fragile economic areas are also recognised. ... Therefore, where an applicant can clearly demonstrate that their proposal requires a location in the countryside, permission will normally be granted, providing that redundant buildings and brownfield sites are used where possible."

In operation however, policy SG LDP BUS 5 effectively overrides the settlement strategy considerations built into SG LDP BUS 2 as it sets out that in the Economically Fragile Areas that consideration will be given to varying the permitted scales of economic development where it is judged by the Planning Authority that:

- It has been demonstrated that no suitable preferred location is available;
- The proposal is directly linked to the main potential growth sectors supported by the LDP and the EDAP (Economic Development Action Plan);
- A sustainability checklist has been completed and it has been demonstrated that any concerns that have been identified over the sustainability of the proposal can be addressed satisfactorily;
- Greenfield sites are avoided if brownfield land is available in close proximity;
- In residential locations, the proposed development would not erode the residential character of the area, or adversely affect local residents, through an increase in traffic levels, noise, fumes, or hours of operation;
- The proposal is consistent with any other relevant Local Development Plan policy and associated Supplementary Guidance;
- The design, scale and siting of the new development respects the landscape/townscape character and appearance of the surrounding area.

The explanatory text accompanying SG LDP BUS 5 confirms that whilst the LDP sets out a settlement strategy which provides a framework to deliver sustainable development the provisions of SG LDP BUS 5 serve to provide additional flexibility from the planning system in support of LDP objectives for sustainable economic growth and to support population retention and growth.

The proposal also includes a visitor centre (which should be viewed as an ancillary development to that of the main distillery) and accordingly regard should be had to the provisions of LDP 5 and SG LDP TOUR 1 and SG LDP TOUR 3.

Policies LDP 5 and SG LDP TOUR 3 offer broad encouragement for new and improved tourism facilities, particularly within designated Tourism Development Areas such as Islay. SG LDP TOUR 1 sets out a criteria-based approach, with a general presumption in favour of new or improved tourism facilities provided certain criteria are met:

- The development is of a form, location and scale consistent with Policy LDP DM 1;
- They respect the landscape/townscape character and amenity of the surrounding area;
- They are reasonably accessible by public transport where available, cycling and on foot, or would deliver major improvements to public transport services;

- They are well related to the existing built form of settlements or the existing development pattern outwith the settlements and avoid dispersed patterns of development, unless the developer has demonstrated a locational requirement based on the need to be near to the specific tourist interest being exploited, and that the facility will not damage those interests;

AND

- The proposal is consistent with other policies and SG contained in the Local Development Plan

The sustainable power element of the proposal comprises two solar arrays one to the east of the site and visible from the road and the proposed distillery and the other beyond woods to the south in a sloping area enclosed by wooded hills. They are intended as a power source for the complex and for a hydrogen plant creating clean sustainable power for the major production elements. Policy LP SG Renewables does not adopt a particular stance on solar energy developments but indicates that commercial scale photovoltaics should be considered against Policies LDP DM 1, LDP 6 and 10 and relevant Supplementary Guidance.

Assessment of the Proposal:

The proposal is for a distillery incorporating a visitor centre with associated parking, a maturation warehouse for casks and a support building with a battery energy storage facility and hydrogen plant along with two remote sites for solar arrays. The core site is around 80m (AOD) around 3.5km east of the conservation village of Port Charlotte. The main two storey circular building 150m north of the road is around 990sqm and will be partially built into the hill side which rises to the north. The building will reach heights between 4.5 – 9.5m. allowing absorption into this and surrounding higher hills although the rear will be above the ridge line. The outside will be glazing and stone cladding with the main fenestration to the north east facing the loch. The roof is mainly flat with a slight rise to the centre and the entrances are to the north east and south east. Parking for 17 cars (2 accessible spaces) would be located south of the building with new and separated accesses for production traffic and visitors. A SuDS system with a soakaway field will be towards the road. A temporary compound will be created at the roadside.

The warehouse and service buildings are to be on the vacant site containing derelict buildings south of the road. The new support building is a 600sqm rectangular building rising to around 10m including the roof ridge vents and its principle elevation addresses the road. There are large roller doors in each gable and is of a standard agricultural/industrial type design. It will house the batteries, hydrogen plant and an electricity sub-station. To the rear of this building is the ancillary plant; hydrogen store; cooling tower; pot ale and spent lees tanks; grain store. These are subordinate to the service building with the cooling tower rising to around 7m. The warehouse is to the east of these. It is 9m high (to shallow roof ridge) single storey rectangular 932sqm building addressing the road with further outdoor storage at the roadside. The design is standard industrial with main doors facing the entrance access. There is waste storage to the rear.

This site has existing infrastructure of the access from the road which will run through the site to the track which leads through the woods one of the solar sites. There is existing drainage around the site which is to be supplemented with a SuDS system including a soakaway field to drain the upgraded hard standing and parking areas.

The solar sites are for around 7850 panels on 334 mounting structures holding up to 34 panels each at 30 degrees. These will be in south westerly facing rows. Electricity

transformers will be on each site and connections to the support building infrastructure formed. The existing tracks to the site will be improved and in the case of the site closest to the distillery, lengthened with improved access at the road. There are no identified constraints to developing the site with regards to flooding, aircraft movement, archaeology or core paths subject to conditions where appropriate.

The applicant is a three year old company with a small staff based in London and are registered as having business activity of distilling, rectifying and blending of spirits. The company have identified a commercial requirement for a new Islay malt and have expressed a desire to work with the Council to promote not only the new malt but also Islay as a whisky brand. The retention and creation of jobs in both tourism and the food sectors are benefits identified in the Argyll and Bute Economic Development Action Plan (EDAP) 2013 – 18, as is support for strengthening the branding of Argyll and Bute indigenous food and drink products. Once fully operational the jobs created may number 23 on Islay, a further 3 in the council area and 22 more in Scotland. The value added to the island from this employment is estimated to be around £1-2million per annum.

The application is accompanied by supporting information which seeks to demonstrate that the proposed development meets the key principles of Sustainable Development defined in policy LDP STRAT 1, that there is no sequentially preferable location available for the proposed development, and that the location of the distillery requires to be operationally linked to an appropriate water source. Other known sites on the island would not afford the scale or orientation for the solar arrays to provide power for the buildings and the production of hydrogen as a sustainable fuel.

The supporting information provides a summary assessment detailing that various locations, including the existing business and industry allocations on Islay and other countryside redevelopment locations, are technically unsuitable to accommodate the requirements of the proposed development. The scale of the renewable power elements preclude designated sites. Other large sites in the countryside may offer similar suitable topologies, but the existing derelict buildings and their wider site lend weight to the suitability over similarly sized sites. Additionally, the proximity to a water source, few neighbouring land uses and buildings, and the low level of sensitivity by designated species of flora and fauna are deemed supportive to this choice of location. Officers are unaware of any other suitable locations either within settlement areas, or of any 'brownfield' sites on Islay which should be given consideration as sequentially preferable locations for the development. Islay is recognised as an 'Economically Fragile Area' in the LDP and accordingly it is not considered appropriate in this instance to extend consideration of potential alternative development locations to the wider Council area.

The development is not located within a "residential location" having regard to the definition provided by Schedule B3. The effects of the proposed development upon the amenity of the locale, including existing residential property within the locality is subject to detailed assessment in Section B below.

The proposal is supported by a Landscape and Visual Impact Assessment. The impact of the design, scale and siting of the proposed development is subject to detailed comment in Section F below.

The proposed development is not readily accessible by public transport, nor is there any segregated pedestrian or cycle access route to the site as an alternative to the existing single track road. The public road is recognised as unsuitable for an increased volume of larger vehicles and has therefore been subject to discussions regarding its

improvement which are accepted as a general infrastructure improvement for the wider benefit of communities and visitors. Part of the business case includes the provision of tourism facilities and creating a destination which is likely to generate significant additional visitor traffic in its own right.

In summary, the proposal represents a 'large-scale' business and industry/tourism development within a 'Rural Opportunity Area'/'Countryside Zone' where a clear locational/operational need has been demonstrated. The provisions of SG LDP BUS 5 recognise the requirement for flexibility within Economically Fragile Areas such as Islay and make provision for the normal provisions of the Council's Settlement Strategy to be varied to accommodate up to 'large scale' development in rural areas in appropriate circumstances. Accordingly, it is considered that the principle of the development is consistent with policies LDP STRAT 1, LDP 5, SG LDP BUS 2, SG LDP BUS 5, SG LDP TOUR 1.

B. Location, Nature and Design of Proposed Development

The proposal requires to be assessed against the relevant provisions of policy LDP 9 and SG LDP Sustainable in terms of development setting, layout and design.

The provisions of policy LDP 9 set out that new development shall be required to be sited and positioned so as to pay regard to the context within which it is located, that the development layout and density shall effectively integrate with the setting of the development, and that the design of the development shall be compatible with its surroundings.

The provisions of SG LDP Sustainable relating to new industrial development within isolated locations advises that the form and pattern of the landscape will largely determine the acceptability of the proposal, and that the extent to which the proposal would be clearly visible from public roads, viewpoints and neighbouring local communities is also an important factor. Assessment of proposals shall include consideration of the visual impact of the size and extent of the proposal and the distance/location from which it is seen; the location of the proposal and its landscape setting, including the way in which the development has used natural contours of the site is of prime importance – in this respect it is noted that a large building must be absorbed by the landscape as much as possible, whether by excavating, using existing landforms to mask the development or screening by new trees. The design and colour of the development and any ancillary structures can be used to minimise their perceived bulk and visual impact – it is noted that the use of natural materials such as timber and stone will help fit a large building into the landscape, as will dark colours.

The majority of the proposal is on greenfield sites which require minimal preparation or clearing for the solar arrays. The distillery complex is also greenfield but more rocky and with vestiges of previous settlements which are only recognisable as such when on site. The site for the support buildings is brown/greenfield and will require clearing, upgrade and mitigation for the new buildings.

The main receptors examined with regards to the development are generally within 300m of the sites and therefore

- that area of the Rhinns of Islay SPA and SSSI and its indigenous and migratory nature,
- water resources including the loch and its attendant drainage,
- solar infrastructure glint and glare,

- roads and human scale infrastructure,
- noise and odours from the operation of the distillery and its construction and remediation phase,
- and accessible viewpoints for workers, travellers and tourists and residents.

These are examined in the relevant sections of this report and are generally compliant with relevant policies.

C. Natural Environment

The sites are within nature conservation designations of Rinns of Islay Site of Special Scientific Interest (SSSI) and Special Protection Area (SPA) which would be directly or indirectly affected by the proposed development. The proposal which is located within 3km of The Rinns of Islay Special Area of Conservation (SAC) protected for its Marsh fritillat butterfly could also have likely significant effects on this site. There are a number of notable species within the wider area and concerns in this regard have been raised by NatureScot and some objectors. The application is accompanied by a detailed Ecological Impact Assessment which included policy, methodology and criteria, determination of ecological features and an Ecological Impact Assessment.

NatureScot were involved in a series of discussions with the applicant and their agents especially with regards to the disturbance of habitats. Supplementary reports in this regard were submitted and accepted with regard to policies. They agreed that the proposed development is unlikely to give rise to any significant loss of habitat or biodiversity if conditions are in place regarding construction times and methods, remediation and creation of surrounding habitats and reports regarding the habits of the protected species throughout the seasons. Two appendices to this report are supplied containing Appropriate Assessments in relation to the Rinns of Islay SPA and the Rinns of Islay SAC.

The Council's Biodiversity Officer, following the provision of the supplementary information, is satisfied that the proposed development will not have an adverse impact upon biodiversity interests within the area, subject to the mitigation measures and landscape planting identified.

The purpose of the designation is to avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained:

- Population of the species as a viable component of the site;
- Distribution of the species within site;
- Distribution and extent of habitats supporting the species;
- Structure, function and supporting processes of habitats supporting the species;
- No significant disturbance of the species.

The main species to be effected are migratory birds to their breeding grounds and fritillary fauna; the habitats and feeding of both. The information examined and agree is consistent with the aims of LDP 3, SG LDP ENV 1, ENV 2 and ENV 4 and the objectives of the designations and the overall integrity of the area will not be compromised.

Policies LDP 3 and SG LDP ENV 7 examine the potential impact of development on:

- water quality and quantity, ecological status including morphology and flow rate
- riparian habitats and wildlife;
- leisure and recreational facilities and users;
- economic activity.

It was determined that the categories of sensitive receptor within the study area: surface water features, (the lochs and their tributaries), pipelines, peatland and the wildlife designations would be protected and where possible enhanced by careful design of the site layout, and the implementation of mitigation methods as outlined in the accepted plans and conditions that would require to be attached to any approval. The details of the proposal intend to ensure that any potential risks identified are avoided and the associated risk is reduced to acceptable levels. Further examination of the use of water resources is within the infrastructure section of this report.

Peat lands contain large reservoirs of carbon. Undisturbed, peatlands sequester carbon from the atmosphere through photosynthesising vegetation. This carbon is then stored in the soil. This accumulates primarily in waterlogged conditions, where there is a low potential for decomposition. No peat displacement is required to accommodate the development thereby retaining important carbon storage consistent with policies LDP 3 and ENV 11.

The accompanying EIAR did not identify significant ecological effects for the development construction and operation, in isolation as present or with similar rigour applied to any future proposals within its locus. Proposals have been made to enhance biodiversity for a net gain to the stabilisation and development of habitats with special regard to Marsh Fritillary and migrating birds which includes habitat creation in and around the solar arrays. Proposals are consistent with policy are included to ensure low magnitude effects during construction and comply with good practice.

D. Historic Environment

The proposed development does not give rise to any direct or indirect effects upon the site or setting of any listed building, scheduled monument, or conservation area. The development site is however located within an archaeological trigger area and accordingly requires to be assessed against the relevant provisions of policies LDP 3 and SG LDP ENV 20.

Historic Environment Scotland (HES) did not object to the proposed development. They noted that some scheduled monuments are located in the vicinity of the proposals but considered that significant impacts on their settings are unlikely. The West of Scotland Archaeological Service (WoSAS) advised that the application lies in a landscape populated with recorded archaeological sites of prehistoric and later periods. The proposals will affect recorded sites as detailed in the EIAR cultural heritage chapter, the conclusions and recommendations of which are agreeable. The large area of ground that will be disturbed by this development stands a good chance of unearthing visible or buried unrecorded remains which could be of any period and which may survive below ground level. As such, a potential archaeological issue is raised by the proposals. A planning condition is proposed.

HES agreed with the EIAR findings that the site is close to the historic settlement of Gearach which appears to have been abandoned and resettled over a long period of time. However, the potential for artefacts as far back as Roman times to be present or

recoverable is low. However, there may be prehistoric remains which are difficult to identify with an archaeological watching brief.

Once built and operational, the concern is the landscape/visual impact on existing site up to, for example 2km from of the distillery building. Site visits indicate that there is little if any intervisibility between historic sites in the vicinity of the proposal. The proposal is deemed to be consistent with policies LDP 3 and LDP ENV 20

E. Impact of Woodland

The large area of woodland to the south and through which the second solar array site is accessed and framed will not require felling or any non commercial replanting. This is consistent with policy LDP 10 which seeks to avoid the loss of trees and woodland. The policy also provides opportunities for new planting and this should be in accordance with the local pattern of woodlands, thereby avoiding erosion of distinctive landscape patterns and enhancing landscape character.

The main focus of the planting plan is to achieve year round screening of the warehouse and support building south of the minor road, from the road and some views from the distillery site. The tree varieties will be coniferous (eg Scots pine). Although positioned mainly for screening they will also integrate and strengthen the existing pattern of trees along the southern side of the minor road. Further planting will flank the new service access road to the distillery creating an avenue effect. These will add to the existing woodland which currently lines the road and help strength the landscape character.

New plantings will assist with drainage and soil retention in what are exposed areas of the wider site. No key landscape features will be lost, and elements such as dry-stone dykes and woodland will be enhanced through reinstatement and planting,

The provisions of policies LDP 3, LDP 10 and SG LDP ENV 6 are consistent with the proposals maintaining and enhancing the existing plantings. A representation was made regarding access to the commercial woodland. The submitted plans are not deemed to show conflict with the neighbouring commercial plantings and their management.

F. Landscape and Visual Impact

The application site is not located within a landscape designation so its impact upon local landscape character should be assessed against the provisions of LDP 9, LDP 3 and SG LDP ENV 14.

The provisions of SG LDP ENV 14 state that outwith scenic designations that the council will consider landscape impact when assessing development proposals, and will resist development when its scale, location or design will have a significant adverse effect on the character of the landscape, unless is demonstrated that any such effects upon the landscape quality are clearly outweighed by social, economic or environmental benefits of community wide importance; AND that the Council is satisfied that all possible mitigation measures have been incorporated into the development proposal to minimise adverse effects.

Furthermore, the proposal is for a 'large' scale development located within a site encompassing both 'Rural Opportunity Area' and 'Countryside' development management zones. The applicant has satisfactorily set out grounds allowing the

proposal to be considered as an 'exceptional case' and the application is accompanied by a 'Landscape and Visual Impact Assessment' (LVIA) report prepared on behalf of the applicant by qualified Landscape Architects (this report may be reviewed in full via public access) - including visualisations of the proposal from key viewpoints.

The development is located in the Rocky Moorland landscape of Argyll and Bute. Taking account of the LVIA process it is concluded that the distillery and visitor centre and warehouse support buildings can be accommodated in this landscape with minimal impacts. Mitigation in the form of appropriate tree planting and the use of dry-stone dykes will assist with this.

The impact of the solar arrays is examined in section I of this report and therefore the impact, visual influence and mitigation of the distillery, warehouse and support buildings only will be examined here. The applicant has supplied a series of viewpoint natural images which show the sites from a variety of locations and giving a current representation of the site in the round. As the site south of the road is already occupied by buildings, and the elevations for the distillery are realised within the plans and are deemed to be easily referenced with the viewpoints, proposed visualisations were not deemed required as an addition to officers own visits.

Policy requires the council to resist development when its scale, location or design will have a significant adverse impact on the character of the landscape unless it is demonstrated that:

- (A) Any such effects on the landscape quality are clearly outweighed by social, economic or environmental benefits of community wide importance; AND
- (B) The Council is satisfied that all possible mitigation measures have been incorporated into the development proposal to minimise adverse effects.

The landscape is rocky moorland consistent with this part of Islay and the circular stone clad distillery, functional but modern warehousing and support buildings and expected modern infrastructure are designed proposing materials, positions and scales to complement the existing landscape character and are able to be accommodated with minimal impacts from key viewpoints and passing traffic. It is deemed to be in character with the landscape and have a relatively small footprint minimising disruption or contrast to the baseline where elements are minor and only affect the landscape immediately adjacent to the development. No key landscape features will be lost, and elements such as dry-stone dykes and woodland will be enhanced through reinstatement and planting' as required by policy LDP 9.

Proposed mitigation measures can be grouped under three headings:

- Mitigation built into the design. The design process has aimed to reduce environmental impacts through careful siting of proposed infrastructure.
- Adoption of Best Practice during construction, including further micro-siting where required.
- Restoration and enhancement of the site post-construction.

These will be controlled by conditions by conditions attached to any approval.

G. Road Network, Parking and Associated Transport Matters

The provisions of policy LDP 11 set out that the Council will seek to ensure that an appropriate standard of access is delivered to serve new developments, including off-site highway improvements where appropriate.

In this instance, the development is served by a sub-standard public road which presently connects to Port Charlotte at the A847 for some 3.45km. Access to the proposed development would involve negotiating the single track public road which is not only narrow in width but also is also sinuous in nature and contains a number of tight bends. The provisions of policy SG LDP TRAN 5 sets out that there is a requirement for developments to contribute proportionately to improvements to an agreed section of the public road network where the proposals will significantly increase vehicular or pedestrian traffic on a substandard public approach roads. The suitability of the existing public road to accommodate additional vehicle traffic associated with the proposed development has been subject to comment and concern from the council's roads department. They identified as priorities a Traffic Impact Assessment, upgrades of existing passing places and the creation of more passing places on the route with intervisibility and sufficient space for large vehicles to idle while others pass without detriment to the road surfaces or their verges. The upgrade of existing vulnerable sections of road is also required.

The roads team have further commented that the applicant should be made aware that there will be no financial contributions from Argyll & Bute Council towards the work required to facilitate the works or to make good any damage directly attributable to the construction works and that the applicant should be made aware that they will be responsible for making good any damage to the public road which is directly attributable to the construction of the development. The commensurate improvements such as new passing places, may require land outwith the applicant's control. The plan showing the suggested locations for passing places, **Reference 21064_005** does not show equally spaced (as far as possible) passing places and it will be a condition of any approval that an acceptable plan is agreed with the council's officers.

The site itself will use the existing access to the south for the warehouse, ancillary buildings and the track to one of the solar array sites. New accesses for the distillery complex, its parking and servicing will be created on the north side of the road. Another access to service the other solar array will also be created. The roads team require conditions to be attached to any approval recommendation to cover:

- Traffic Impact Assessment for section of C16 Port Charlottee – Kilchearan Road
- identify requirement for additional passing places (with ABC Roads) on public approach road,
- provide plan identifying location and specification of new/upgraded passing places, and confirmation whether 3rd party land is required for any of these to be formed.
- report on public approach roads vulnerable to proposed traffic loading – assessment of culverts or structures and measures to mitigate damage.
- Traffic Management Plan,
- Method Statement for transportation of materials, plant and equipment – include pre-
- development road survey, Inspections of road, repair of roads defects,
- delivery of off site passing places and provision of signage,
- parking and turning to be provided as per plan,
- junction details to be agreed to adoption standard,
- provision of onsite turning for HGV.

The provisions of policies LDP 11, SG LDP TRAN 4 and SG LDP TRAN 6 set out the Council's requirements in respect of site access and parking provision require consideration. Subject to suspensive conditions requiring considerable surveying and upgrading of the route to the distillery site, the roads department are content that the applicant has the information, specification and capability to effect these works in advance of any construction works. The necessary work is also recognised as an opportunity for planning gain through offsite road improvements under policy SG LDP PG 1.

The area is used for recreation but there are no core paths crossing the site and the development will actually enable access to some prominent viewpoints and is acceptable under policy SG LDP TRAN 1. The introduction of the pathways, access improvements and parking (including wide berths) will be of benefit to visitors of restricted ability and is compliant with policy SG LDP TRAN 3. There are no existing public transit routes to the site and although the proposal will be a journey generator it is not contrary to SG LDP TRAN 2: indeed the required roads improvements may encourage non motor travel.

H. Infrastructure / Waste Management

The proposal is to have separate drainage systems on site for the north (distillery and visitor car park) of the road and south of the road (cask warehouse and renewables support building). For the north, surface water will be treated via SuDS methods and storage provided up to the 200yr critical storm level. Discharge will be restricted to the equivalent 2yr green field run-off and outfall into an existing adjacent watercourse. Foul water will pass through a sewage treatment plant and discharge to a drainage field to be licenced by SEPA It may be possible to also discharge this to a watercourse if the drainage field is unfeasible. For the southerly buildings surface water will also be treated via SUDS methods and storage provided as above. Foul water will pass through a sewage treatment plant and discharge to an existing adjacent watercourse with a SEPA registration. The SEPA standing guidance is required to be followed in this respect.

SEPA's Flood Risk Map within the area and has identified both Loch Gearach and the headwaters of Abhainn Gearach to be at a high likelihood of both surface water and river flooding. The Map does not identify any other risk of river flooding within the area however, it does indicate that there are some limited areas with a high risk of surface water flooding. These flood extents are in the southern, western, and northern regions of the area and are associated with the burns that pass through the forestry, firebreaks within the forestry, and Loch Conailbhe. These remain confined to the watercourse channels and to periodic pools within the forestry. There are no 'Potentially Vulnerable Areas' noted within the area, i.e. no potential impacts of flooding on potentially vulnerable areas of people, properties, community services and specific environmental sites. These results are within defensible and remedial parameters and are consistent with the aims of policies LDP 10 and SG LDP SERV 7. The proposer supplied detailed sustainability information as part of the overall EIA and its detail is sufficient to be acceptable under policy.

The Water Treatment Works (WTW) at Port Charlotte abstracts raw water from Loch Gearach, producing a potable drinking supply for existing customers as well as future customers as per this proposal. The supplied EIA documentation acknowledges that Loch Gearach is a 'small water body' and understanding is required as to what

abstraction may be achievable from the loch. Scottish Water note that two other sources of water are being considered for the development's supply:

- a borehole to be identified and tested for quality and quantity,
- an existing adjacent private spring

The applicant has stated "Post consent site investigation surveys will commence to establish the borehole location(s) and to assess the existing spring". Therefore, whilst the application mentions three sources of water as potential points of supply, two of those sources will only be subject to detailed hydrological verification post consent.

With that being the case, Scottish Water would have to responsibly consider both the best case and worst case outcomes of those future investigations and its impact upon raw water yields and demands at Loch Gearach.

Scottish Water have identified Process Specific Demands as follows:

Distillery

- Approximate requirement of 18m³/daily (process only)
- Approximate requirement of 2m³/daily (domestic usage – distillery/visitor centre)
- Approximate requirement of 7m³/daily (hydrogen production)

Water Usage would equate to a total water usage of 27m³/daily 'after filtration and required purification stages. The proposers require to work closely with Scottish Water to explore the potential as to what abstraction may be achievable from Loch Gearach itself.

If for any reason should these proposed boreholes and adjacent spring be found to be insufficient to meet a significant portion of water demands post consent, this could in effect mean that a considerable proportion of the 27m³ daily demand would need to be abstracted from Loch Gearach itself. If that were to be the case, Scottish Water's ability to maintain its general security of supply would have to be carefully assessed. A suspensive condition is proposed to ensure that post consent water supply surveys are submitted to the planning authority and agreed with Scottish Water before the development can proceed.

Scottish Water note the details relating to protective measures as outlined in the relevant Control of Major Accidents and Hazards (COMAH) assessment tables and mitigations detailed in order to minimise the environmental knock-on effects of any process incidents or failures that may impact upon the environment and public water supply. Containment measures relating to cleaning chemicals, ethanol or fire water, spreading to the surrounding environment, particularly to Loch Gearach itself, is welcomed. Proposed detection measures to be in place to warn of such spillages require a documented procedure for liaising with Scottish Water, should any risk of, or actual occurrence of, such named substances accidentally enter Loch Gearach.

Scottish Water requires access general access through the site for maintenance and monitoring and also to protect any underground assets. They also require vehicle and operative access to the reservoir at any point within a 24 hour and 7-day period when necessary.

With regards to the above information and agreements, Scottish Water are content with the proposal and the detail contained in the accompanying EIAR.

The proposer intends to construct a compound beside the main road in order to facilitate the construction process and the handling of waste material for separation and removal from the site. This area will be remediated once construction has been completed. It is expected that if borrow pits are required for winning materials during construction, these will be subject to a separate application.

The industrial waste created by the distillery process which consists of spent lees and pot ale is to be stored to the rear of the support building where it can be collected using the upgraded infrastructure of this part of the site.

The detail and options outlined by the proposer and the terms of agreements regarding the water systems and waste management with the council and consultees, will require conditions attached to any approval. Further consultation specifically with water supply require to be ongoing. The proposal is deemed to be consistent with policies LDP 10, SG LDP SERV 1, SG LDP SERV 2, SG LDP SERV 3, SG LDP SERV 5(b) and SG LDP SERV 6.

The proposed LDP 2 upgrades this policy advice but is broadly similar in intention.

I. Renewable Energy Generation (Ancillary to Industrial Development)

The proposal is to install 7857 photovoltaic panels, each with a generating capacity of 265 watts which together would produce an overall installed capacity of around 4.25 MW. These will be arranged on two sites and a 700kW hydrogen electrolyser and a 5MW battery energy storage system to be housed across from the distillery next to the warehousing between the two array sites. The northerly site array is 3.3 hectares (20 rows of varying lengths to fit the irregular site) and the southerly 2.9ha. (19 rows, either side of the access) with 6.4m between each row, in order to avoid shadowing between rows. Each panel measures 1.7 x 1.0m and will be aligned so that it is facing towards the south at an inclined angle of around 30 to 35 degrees. The panels will be affixed to mounting frames which, dependant on ground conditions, are likely to be screwed into the ground rather than being more permanently affixed. The mounting frame will be 1m above ground level and the top of the inclined plane of each panel will reach a maximum height of 2.9 metres.

Wiring from the banks of panels will connect via underground cable to a nearby electricity sub-station with switchgear to be accommodated in an adjacent building. The only additional element will be a pre-fabricated transformer enclosure finished externally in green and measuring 5.0 x 2.5m in area and 2.5m high, which will be located adjacent to the existing sub-station. For security purposes the whole of the array will be enclosed by a 2m high weldmesh fence mounted on wooden poles. The site will be subject to remote surveillance by pole mounted CCTV infra-red cameras, which will obviate any requirement for on-site lighting. A section of 4m wide hardcore access track will be bisect the site and form a connection between the taxiway to the north and the roadway to the south, in order to serve vehicles required for construction, maintenance and decommissioning. The design life of the array is expected to be up to 30 years, following which the site will either be decommissioned or re-equipped

Landscape and Visual Effects

The solar element would have the biggest footprints of the complex. The locations of the solar elements sit within a medium scale landscape and should be easily accommodated with minimum impact. It is unlikely that the development would

dominate the character of the area due to the focal point of the distillery and the replacement buildings on the vacant site.

The easterly array will be positioned within a shallow glen, which minimises any potential effects on the skyline. It may be visible from the surrounding area but will not form the skyline from any viewpoint. The southerly array development will be backdropped by mature woodland reducing the skyline impacts. The immediate landscape is dominated by moorland, woodland and rocky outcrops, which are all evident in close proximity to the development. The presence of these features gives a strong sense of character. The southerly array being beyond the woods will not be visible from accessible viewpoints until on site, where it will be framed and dominated by the woodland. The easterly will act as an introduction to the complex when arriving from Port Charlotte, but is unlikely to be a distraction from the simple aesthetics of the distillery building on the higher ground as you draw near. The hills will act as a backdrop to views when approaching from the west.

Glint and Glare

Government advice prompts the requirement for a 'glint and glare' assessment to consider the effects of development on ground based and aviation receptors. This has been carried out by the applicants and addresses the issue of reflectivity and the extent to which this might pose problems. Glint is produced as a direct reflection of the sun on the surface of the PV panel whereas glare is a continuous source of brightness, relative to diffused lighting reflected from the bright sky around the sun. Glare is significantly less intense than glint.

A condition is proposed to require the operator to undertake remedial measures in the event of any substantiated complaint from the occupiers of a residential property in respect of a persistent glint and glare impact upon residential amenity.

Conclusion

Government and local development plan policy encourages a wide portfolio of sources of renewable electricity generation in sustainable locations where effects upon the receiving environments are within acceptable limits.

The proposal is therefore deemed consistent with policies LDP 6 and SG Renewable Energy.

J. Amenity Issues

The Council will resist any proposal that would have an unacceptable adverse impact upon the amenity of neighbouring land uses resulting from, but not limited to the following:

- noise or vibration
- odour or fumes
- light pollution or flicker

Policy LDP 6 in supporting the growth of renewables has limited reference to the effects of solar arrays. This cumulative impacts on neighbouring buildings, natural environments, landscape character and visual amenity have been examined within the other sections of this report.

Policies LDP 8 and SG LDP BAD 1 and emerging LDP policy 14 provide for transport, servicing and light to be such that no loss of amenity is suffered by neighbouring land uses including dwellings. This report has examined these themes and the likelihood of glint/glare from the arrays is minimal and the access and servicing will be by agreed designated and clear routes from the main road. The prevailing wind should mitigate the odour issues a distillery is bound to produce as they would tend to drift over the loch rather than the nearest dwellings or roads users.

The proposer supplied a detailed survey regarding the possibility of disturbing contaminated land as the previous uses although probably domestic may contain contaminants. The survey was negative and therefore accepted under policies LDP 10 and SG LDP SERV 4.

K. Socio Economic Issues

The proposers have a ten year plan predicated on sales from year four to ten and have posited a figure of £1.2 million in Gross Value Add (GVA) by year ten. This figure is the value of output less the value of intermediate consumption; it is in this case a measure of the contribution to GDP made by an individual producer with the profit element removed. There is also an expectation of the overall business supporting 23 jobs on the island by this stage and having supported construction jobs for eight years at a figure worth between £5 and 6 million. Overall the estimate for the construction of the buildings, plant and solar arrays may be £15 million.

The applicant intends to contract with large firms who have access to staff on the island. Construction jobs represent about 7% of the current job market on the island. The supply chain for the distillery may secure two or more of the jobs and be worth around £100000 GVA.

Catering for the tourist sector will account for many of the created jobs and the proposer suggests that the distillery will attract around a further 2% of existing numbers. It is of course accepted that the majority of visitors to the distillery would not be additional but would be visiting anyway whether as whisky or other leisure tourists.

The company are considering community interest opportunities which may include share options for local people, purchase of revenue streams and/or a community benefit fund paid as a fixed amount or linked to output.

The applicant has also suggested that the economic multiplier effect for induced and indirect impacts may be £72000 once adjusted for tariffs from staff salaries. Should these figures be accurate the housing deficit on the island is recognised and the availability in Port Charlotte as identified in the most recent Islay Strategic Housing Overview is below the likely requirement level. However, permission has been granted for 29 houses just north of Bruichladdich which is extant although yet to break ground.

The economic case is consistent with policies LDP STRAT 1 paragraph a) LDP 5 and SG LDP BUS 5 in showing an exceptional economic case with attendant socio economic benefits for the locale, the island and the wider council area.

The tourism expectation for distilleries in rural Scotland (and almost all new builds) is that there will be tour arrangements with a tasting and retailing opportunity at the end. This proposal intends to offer a retail facility to complement the visitor experience within the distillery building. Islay is a Tourism Development Area. It is not anticipated the proposed land uses on site will have a detrimental impact on the viability of existing comparison and convenience offerings within the settlements of Islay. The proposal is deemed consistent with policies LDP 5, SG LDP TOUR 1 and 3 and LDP 7, SG LDP RET 4.

**HABITATS REGULATIONS 'APPROPRIATE ASSESSMENT'
HABITAT DIRECTIVE 92-43-EEC
THE CONSERVATION (NATURAL HABITATS AND C.) REGULATIONS 1994
AS AMENDED**

Rinns of Islay Special Area of Conservation (SPA)

Purpose of the designation

The Habitats Directive aims to conserve biodiversity by maintaining or restoring species to favourable conservation status. The Rinns of Islay Special Protection Area (SPA) was classified on 25 April 1990; extended 27 November 1995 and the (amended) citation adopted on 27 April 2018.

It covers a large site covering areas of wetland, open moorland and low intensity agricultural land on the island of Islay on the west coast of Scotland. The boundary of the SPA overlaps wholly with the Rinns of Islay Site of Special Scientific Interest (SSSI).

It has a qualifying interest by regularly supporting populations of European importance of the species: hen harrier *Circus cyaneus*, corncrake *Crex crex*, chough *Pyrrhocorax pyrrhocorax*, whooper swan *Cygnus Cygnus* and Greenland white-fronted goose *Anser albifrons flavirostris*. Rinns of Islay SPA further qualifies under Article 4.2 by regularly supporting a population of European importance of the migratory species: common scoter *Melanitta nigra*

The purpose of the designation is to avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained:

- Population of the species as a viable component of the site;
- Distribution of the species within site;
- Distribution and extent of habitats supporting the species;
- Structure, function and supporting processes of habitats supporting the species;
- No significant disturbance of the species.

Consequences of the designation

In circumstances where European Protected Species could be subject to significant effects as a consequence of development proposals, the competent authority, in considering whether development should be consented, is required to undertake an 'appropriate assessment' to inform its decision-making process, on the basis that where unacceptable effects are identified, or in cases of 'reasonable scientific doubt', then permission ought not to be granted.

An 'appropriate assessment' is required to be undertaken in cases where any plan or project which:

- (a) Either alone or in combination with other plans or projects would be likely to have a significant effect on a European site designated for nature conservation; and
- (b) Is not directly connected with the management of the site.

It is considered by NatureScot (SNH) that the development proposed by means of planning application (ref: 21/02718/PP) could affect the qualifying interests which are: Greenland White

Fronted Geese (GWFG), Hen Harriers (HH), Corncrake, Common Scoter, Chough and Whooper Swan.

Otters and bats are not deemed to be at risk from the proposal.

The proposed site lies entirely within the SPA and the SSSI with the nearest boundary of the designation approximately 450 metres to the north east then recommences at around 1000m. This is within the mean maximum foraging range for birds identified as the qualifying interest of the SPA. As a consequence, Argyll Bute Council has conducted an 'appropriate assessment', as per the Conservation (Habitats and C.) Regulations 1994 (as amended), having regard to the anticipated effects of development and the conservation objectives for the site's qualifying interests. This assessment is detailed below.

Characteristics of the development

The proposal is for the erection of a distillery and visitor centre, with associated and ancillary development including support warehousing buildings, installation of a sewage treatment plant, two nearby solar panel sites and formation of all necessary accesses.

The development sites have the potential to disrupt breeding and nesting birds of low populations and protected species and cause damage or displacement to feeding areas used by the qualifying species. The solar panels may be a distraction and danger to flight and nesting patterns. The development of a large area (over 2ha) within the protected areas may disrupt the habitats and movements of all fauna, protected or otherwise. The use of the waters from the nearby loch may affect water levels and therefore the hydrology of the wider area including domestic supplies.

Assessment

The assessment considers the impact of the proposals on the birds identified as the qualifying interest and has regard to the applicant's submitted information in support of the planning application, and to consultation advice provided by NatureScot.

NatureScot has raised concerns about the submitted proposal on the basis that this proposal is likely to have a significant effect on the Greenland white-fronted goose and Hen harrier populations of the Rinns of Islay SPA supporting the main populations on the Rinns of Islay SAC and have detailed a series of outline topics and recommendations to be conditioned should the application be approved in accordance with the proposed mitigation measures as listed below:

- No construction or activities required for solar array installation to take place between October and March inclusive.
- An agreed visitor management plan to prevent disturbance to roosting GWFG from the additional human activity should be in place prior to construction commencing.
- An agreed distillery operations mitigation plan to prevent disturbance to roosting GWFG from the night time operation of the distillery should be in place prior to construction commencing.
- Anti-reflective coating must be used on solar panels.

- Pre-construction checks for any Hen harrier nests or roosts within 750m of the proposal must be carried out.
- An agreed specific species protection plan for each relevant SPA and SAC qualifier species should be in place prior to construction commencing.
- An agreed decommissioning plan should be in place prior to construction commencing.
- The detailed Habitat Management Plan should be agreed prior to construction commencing.

Nature Scot further commented that the applicant's breeding bird survey did not identify any species of concern however, as this is a snapshot in time they suggested that winter Vantage Point surveys are taken especially with regard to GFWG and included in management plans required under suggested conditions. The mitigation plans utilising (especially) pre-construction surveys require to be robust and to deal with any potential reckless offence under the Wildlife and Countryside Act 1981, which in practical terms means construction works, particularly the solar array work, was carried out outwith the breeding bird season when possible.

The developments should also seek to provide net benefits with regard to habitat preservation, mitigation and introductions of new habitats including peat land. This should be additional to the design requirements of avoidance, minimisation or compensation. Opportunities have been identified for this with corncrake in and around the solar but this needs careful consideration to ensure the habitat enhancement is compatible with the solar array management requirements. The full impacts of solar arrays is as the report states not fully known as there are no compatible comparator sites identified. The scale of the two proposed sites are small and unlikely to lead to significant loss of supporting habitats or introduce a significant collision risk.

The applicant has produced a comprehensive Environmental Impact Assessment Report (EIAR) in which appendix 12.1 concerns a Habitat and National Vegetation Classification Survey covering carbon and soil profiles, description of habitat types, notable and invasive species, evaluation of botanical interest and the impact to sensitive habitats and mitigation considerations which have helped inform proposed conditions to be attached to any approval. The NatureScot comments also highlight the comments made in the EIAR which identify potential adaptive management measures and are expected to be included in detail in the required plans as outlined in the suggested conditions.

Conclusion

The potential impacts of the development in relation to the conservation objectives cited in the SPA designation have been considered in the light of the above and it has been concluded that with identified mitigation measures in place the impacts arising from the operation of the development as proposed will not, with identified mitigation in place, have a significant impact upon qualifying interests, and accordingly there is no reason to withhold permission on European nature conservation grounds.

**HABITATS REGULATIONS 'APPROPRIATE ASSESSMENT'
HABITAT DIRECTIVE 92-43-EEC
THE CONSERVATION (NATURAL HABITATS AND C.) REGULATIONS 1994
AS AMENDED**

Rinns of Islay Special Area of Conservation (SAC)

Purpose of the designation

The Habitats Directive aims to conserve biodiversity by maintaining or restoring species to favourable conservation status.

The site lies within 3km of the Rinns of Islay SAC. It has a qualifying interest by regularly supporting populations of European importance of the species of Marsh fritillary metapopulations which are not exclusive to the boundaries of the SAC. NatureScot reviewed the applicant's survey on 10 August 2022

The purpose of the designation is to avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained:

- Population of the species as a viable component of the site;
- Distribution of the species within site;
- Distribution and extent of habitats supporting the species;
- Structure, function and supporting processes of habitats supporting the species;
- No significant disturbance of the species.

Consequences of the designation

In circumstances where European Protected Species could be subject to significant effects as a consequence of development proposals, the competent authority, in considering whether development should be consented, is required to undertake an 'appropriate assessment' to inform its decision-making process, on the basis that where unacceptable effects are identified, or in cases of 'reasonable scientific doubt', then permission ought not to be granted.

An 'appropriate assessment' is required to be undertaken in cases where any plan or project which:

- (a) Either alone or in combination with other plans or projects would be likely to have a significant effect on a European site designated for nature conservation; and
- (b) Is not directly connected with the management of the site.

It is considered by NatureScot that the development proposed by means of planning application (ref: 21/02718/PP) could affect the qualifying interests which are Marsh fritillary metapopulations.

Characteristics of the development

The proposal is for the erection of a distillery and visitor centre, with associated and ancillary development including support warehousing buildings, installation of a sewage treatment plant, two nearby solar array sites and formation of all necessary accesses.

Marsh fritillary are a qualifying species of a nearby SAC. This species is known to rely on meta populations so populations found outwith the SAC boundary can be important components of the SAC population. This is highlighted in the Conservation Advice Package (CAP)7 document for the site, which states “The population at the Rinns of Islay SAC also use suitable habitat in the surrounding wider countryside. When assessing the effects of any plan or project consideration should be given to whether impacts outwith the SAC could affect achievement of this conservation objective.”

Assessment

This assessment considers the impact of the proposals on butterflies identified as the qualifying interest and has regard to the applicant's submitted information in support of the planning application, and to consultation advice provided by NatureScot.

NatureScot has raised concerns about the submitted proposal on the basis that this proposal could have likely significant effects on the Marsh Fritillary metapopulations of the Rinns of Islay supporting the main populations on the Rinns of Islay SAC and their environs. The major threats to the marsh fritillary population at Rinns of Islay SAC are: habitat loss from land development and agricultural improvement, afforestation, changes in grazing regimes, and increasing fragmentation and isolation of habitats. The development will remove habitat at the distillery site and on the access track and impact habitat at the solar array sites therefore the development presents a likely significant effect to marsh fritillary. Due to the metapopulation nature of this species, populations and habitat outwith the SAC are important.

On the basis of further information submitted by the applicant, NatureScot has advised that Due to the metapopulation nature of this species, populations and habitat outwith the SAC are important. Given the marginal existing habitat and low numbers recorded, it likely this area does not hold a significant population therefore the disturbance to the species is likely to be small scale, relatively localised and potentially reversible with the provision of habitat improvement, therefore not likely to cause an Adverse Effect on Site Integrity.

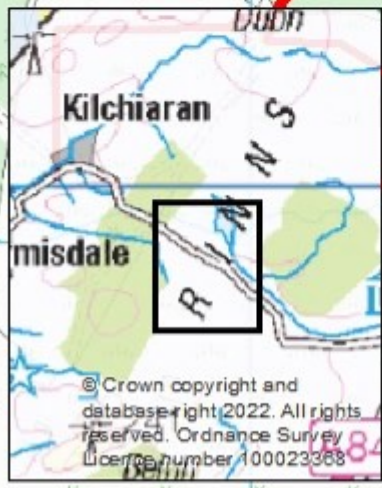
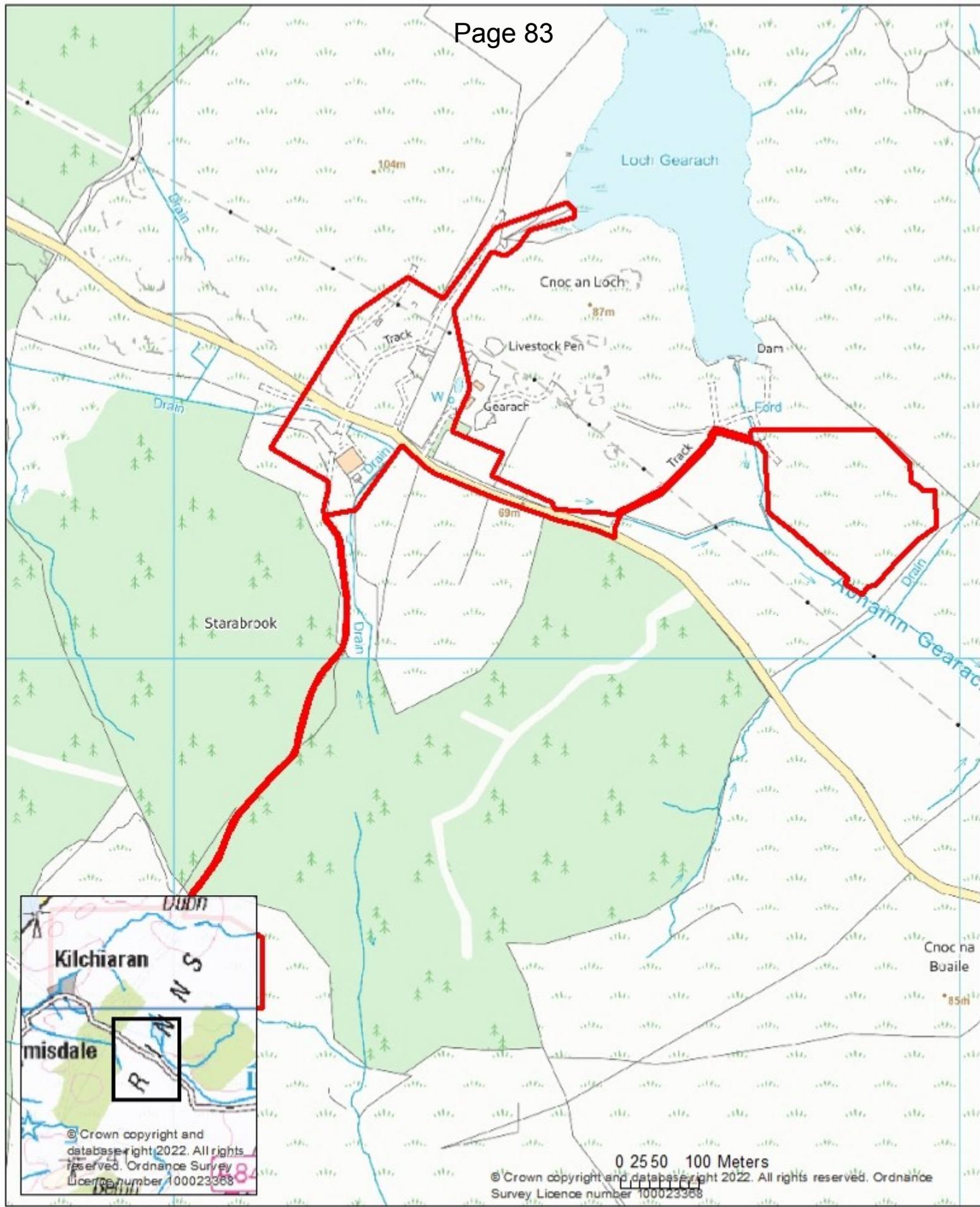
Due to the protected status of the Marsh fritillary an agreed **species protection plan** should be in place prior to construction commencing which will be a condition of any approval. This should provide detail in relation to specific measures to be taken if Marsh Fritillary or their caterpillar webs are found during construction so that there is confidence that there would be no adverse effect to site integrity. It also needs to ensure there is no potential for any reckless offence under the Wildlife and Countryside Act 1981.

The applicant's outline habitat management plan states that habitat management will be carried out to provide marsh fritillary habitat within the two solar array areas, or could be accomplished elsewhere within the ownership boundary which would potentially provide biodiversity net gain.

The habitat management plan needs to ensure that the marsh fritillary management requirements are referenced to the maintenance requirements of the solar arrays. The final habitat management plan must detail the current grazing regime. The habitat management needs to identify and present the likely effectiveness of the any new proposed ground and equipment management. **The detailed Habitat Management Plan should be agreed prior to construction commencing.**

Conclusion

The potential impacts of the development in relation to the conservation objectives cited in the SAC designation have been considered in the light of the above and it has been concluded that with identified mitigation measures in place the impacts arising from the operation of the development as proposed will not, with identified mitigation in place, have a significant impact upon qualifying interests, and accordingly there is no reason to withhold permission on European nature conservation grounds.



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Location Plan Relative to Planning Application: 21/02718/PP



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

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: 22/00996/PP
Planning Hierarchy: Local
Applicant: Mr J Lafferty
Proposal: Erection of new detached dwelling
Site Address: 47 Campbell Street, Helensburgh G84 9QW

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of a dwellinghouse
- Formation of new private vehicle access junction with public road
- Formation of new gated access within existing boundary wall
- Formation of parking turning area

(ii) Other specified operations

- Tree felling
 - Connection to public drainage network
 - Connection to public water supply
-

(B) RECOMMENDATION:

Planning permission be refused for the reasons set out within this report.

(C) CONSULTATIONS:

Area Roads – 24.08.2022 - No objections subject to planning conditions to require that the proposed access design is in accordance with standards relating to minimum width, surfacing materials, maximum gradients; drainage; and the provision of parking and turning within the application site in accordance with adopted standards.

Helensburgh Community Council (HCC) – A Design Assessment has been submitted that concludes that the HCC does not object to a house being built on this site in principle however the proposed design “*does not do justice to the site or its position on it.*” HCC suggest potential areas for design improvements. HCC also supports other objections with regard to the position of the proposed access onto Barclay Drive on grounds including adverse impact on road safety and the visual

character of the conservation area. An alternative access onto Campbell Street would be preferable. In view of the volume of objections from local residents and the consultation response from Area Roads, HCC calls for a public hearing of the PPSL Committee to be held.

Scottish Water – 22.08.2022 - No objection. This does not confirm that the development can currently be serviced. Further investigations into Water & Waste Water capacity may be required once a formal application has been submitted to Scottish Water. Surface water connection into existing Scottish Water combined sewer system will be allowed only in exceptional and justified circumstances.

(D) HISTORY:

No relevant planning history.

(E) PUBLICITY:

Site Notice - Conservation Area – Expired 21.09.2022

Listed Building/Conservation Advert – Expired 22.09.2022

(F) REPRESENTATIONS:

(i) Representations received from:

A total number of 22 no. representations have been received comprising 19 no. objections and 3 no. making representations.

Objection: -

Peter Holmes - 2 Barclay Drive, Helensburgh, Argyll And Bute G84 9RD
Ruth H Holmes - 2 Barclay Drive, Helensburgh, Argyll And Bute G84 9RD
Steve McGlynn - 10 Barclay Drive, Helensburgh, Argyll And Bute G84 9RD
Bethany McGlynn - 10 Barclay Drive, Helensburgh, Argyll And Bute G84 9RD
Amanda McGlynn - 10 Barclay Drive, Helensburgh, Argyll And Bute G84 9RD
Wendy Hamilton - 8 Barclay Drive, Helensburgh, Argyll And Bute G84 9RD
Richard M Glen - 23 Queen Street, Helensburgh, Argyll And Bute G84 9QL
David Whitney - 6 Barclay Drive, Helensburgh, Argyll And Bute G84 9RD
Elizabeth Whitney - 6 Barclay Drive, Helensburgh, Argyll And Bute G84 9RD
Tricia Stewart - 24A Queen Street, Helensburgh, G84 9LG
Tom Stewart - 24A Queen Street, Helensburgh, G84 9LG
Geoffrey Holliman - 28 Queen Street, Helensburgh, Argyll And Bute G84 9QL
Alison Holliman - 28 Queen Street, Helensburgh, Argyll And Bute G84 9QL
Fiona Baker – Hillcroft, Station Road, Rhu, Helensburgh
Mrs Tracey Wightwick - 4 Barclay Drive, Helensburgh, Argyll And Bute G84 9RD
Neil Wightwick - 4 Barclay Drive, Helensburgh, Argyll And Bute G84 9RD
Karin Gow - 57 Campbell Street, Helensburgh, Argyll And Bute G84 9QW
Sheila Wilson - 12 Barclay Drive, Helensburgh, Argyll And Bute G84 9RD
Emma Mason - 21 Queen Street, Helensburgh, Argyll And Bute G84 9QL

Representation: -

Gordon Miller - 66 Campbell Street, Helensburgh, G84 9QW

Fiona Miller - 66 Campbell Street, Helensburgh, G84 9QW

Mrs Deborah Dennett - 64 Campbell Street, Helensburgh, Argyll And Bute G84 9QW

(ii) **Summary of issues raised:**

Access Issues

- Barclay drive is unsuitable to accommodate additional traffic generated by the proposed development by reason of narrow width; poor visibility at the junction with Campbell Street; on-street parking making it difficult for large vehicles to pass; quiet character used by local children and other pedestrians.
- The above constraints to using Barclay Drive would cause problems particularly during the construction phase of the proposed development.
- The proposed opening in the existing boundary wall onto Barclay Drive does not appear to be wide enough to allow vehicles to turn in and out of it. It's likely that the opening will have to be considerably wider requiring a greater level of demolition of the stone boundary wall to the detriment of the character and appearance of the conservation area
- It is strongly suggested that any new vehicular access to the site be from Campbell Street which is wider and has better visibility.

Comment: - The application must be assessed as it has been submitted i.e. with a proposed vehicular access onto the south side of Barclay Drive notwithstanding that local residents may consider that an alternative access onto Campbell St. is preferable. The Council's Area Roads Engineer has assessed this proposal and has no objections in principle on road safety grounds subject to planning conditions relating to, amongst other issues, the private access having a minimum width of 4.5 metres over the first 20 metres back from the public road.

Impact on Trees

- The proposed development is within a garden area characterised by many specimen plants, shrubs and trees. It is important both in terms of "the Green Agenda" and the visual amenity of the conservation area that as many as possible of the existing trees and shrubs are retained.
- Proposed vehicular access onto Barclay Drive will be particularly damaging in terms of loss of trees.
- The application does not indicate how many or which trees will be required to be removed.

Comment: - The planning authority considers that the information submitted with regard to development impact on trees within a conservation area is inadequate to allow a full and thorough assessment of this key consideration. Additional information has been requested. In the event that the requested information is not forthcoming it is recommended that the application be refused on this basis.

Impact on the Built Character and Appearance of the Conservation Area

- The proposed development will not preserve or enhance the character and appearance of the Upper Helensburgh conservation area contrary to the provisions of policy LDP 3 and SG LDP ENV 17.

- The proposal by reason of high density of development, scale, siting, orientation and design is unsuitable for its location contrary to policy LDP 9 and associated SG.
- The 'townscape block' bounded by Suffolk St., Barclay Dr., Campbell St. and Queen St. is one of the few remaining areas in the Upper conservation area where the houses and their gardens remain as originally built. The proposal to "shoehorn" a house of modern design into the Victorian pattern of built development will not conserve or preserve the area.
- This proposal is for the sub-division of the private curtilage of a large Victorian Villa in the conservation area and it is inappropriate to assess the plot size and built development pattern to the more modern pattern of bungalow development along Barclay Drive to the north and upper Campbell Street.
- The excessive height of the proposed house in relation to nearby development will have an adverse impact on the conservation area.
- Proposed external material finishes are out of keeping with the conservation area.
- The stone boundary wall is a special feature within this part of the conservation area. Any loss or damage to the wall should be minimised. The creation of an opening in the unbroken section of boundary wall along Barclay Drive would set an unnecessary precedent.
- Potential damage to grass verges during construction.

Comment: - An assessment of impact upon the character and appearance of the conservation area will be assessed in full, having regard to all material considerations including relevant LDP policy in Section (P) and Appendix 1 below.

Impact on Residential Amenity

- Proposed house will overlook the rear garden of no. 28 Queen St.
- Removal of trees adjacent to the boundary wall with Barclay Drive will impact on the privacy of residents on the north side of Barclay Drive.
- Proposal has two balconies that threaten privacy by overlooking properties to the east and west.
- The quiet amenity of the private rear garden at no. 28 Queen St. will be disturbed by noise from regular traffic movements on the proposed driveway/parking area adjacent to the shared boundary wall.

Comment: - Impact upon residential amenity will be assessed in more detail in Section (P) and Appendix 1 below. (By way of clarification to one of the above representations, the proposed house has only one external balcony at first floor level facing east, however it does have what is commonly referred to as a "Juliet balcony" i.e. full height glazed opening doors with a balustrade across the opening) at first floor level on the west facing elevation.

Drainage

- The supporting Design Statement makes no reference to surface water drainage. It is noted from the consultation response that Scottish Water will allow surface water connection into their combined sewer system in limited exceptional circumstances where a justification can be demonstrated. Taking into account prevailing ground levels, this may

lead to flooding. Developer must address this by designing a private surface water drainage system.

Comment: - Point acknowledged. Drainage infrastructure will be assessed in Section (P) and Appendix 1 below.

Miscellaneous

- Occupiers of nearby houses who work from home may be adversely affected during construction hours, particularly if the site is accessed from Barclay Drive.
- Noise from the construction phase may conflict with the use of the existing house at 47 Campbell Street, understood by the contributor to be supported accommodation for young adults.

Comment: - This is not a material land-use planning consideration that can be given material 'weight' as part of this assessment. Establishment of this principle would in effect place a 'blanket' restriction on new construction within any residential area. As such, if the planning authority was minded to approve planning permission, then it is considered that such a condition would not be 'necessary' or 'reasonable' with reference to Government advice on the use of planning conditions. It would be reasonable to restrict hours of construction operation to 08.00-17.00 weekdays and 09.00-13.00 Saturdays to protect residential amenities.

- Several comments are made addressing alleged inaccuracies/omissions within the applicants Design Statement.

Comment: - Noted. The planning authority will assess the design taking into account all the relevant material considerations including the applicants Design Statement; the LDP Supplementary Guidance on Sustainable Siting and Design Principles; the consultation response from HCC; and, the comments on the proposed design submitted by third parties. The design assessment in relation to the conservation area setting will be set out in full in Section (P) and appendix 1 below.

- One of the objections insists on any planning permission that may be approved being subject to a series of specified planning conditions.

Comment: - The objectors concerns are noted. However, should the planning authority be minded to approve planning permission then then officers will consider the requirement for planning conditions, and frame them accordingly, with reference to Government advice on the use and format of planning conditions.

- Those contributors who have made neutral representations as opposed to an explicit objection have outlined concern related to several considerations including potential impact on the conservation area, road safety and residential amenity, and seek assurance that any planning permission that may be approved be subject to appropriate safeguarding conditions to mitigate against any impact on the matters raised including re-positioning of the vehicular access onto Campbell St.

Comment: - Noted.

- Several representations call for an on-site assessment by planning officers and/or PPSL Committee.

Comment: - Having regard to the criteria-based assessments set out in current protocol, it is considered that a Pre-Determination Hearing will not add value to the decision-making process, and is not required. Refer to Section (O) below for a full assessment.

(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 |

Summary of key issues below:

- The surrounding land use is private housing (photographs of examples of adjacent houses are included).
- Application site is 950m² and the average plot size of surrounding properties is 885m².
- Site is level and level with the ground levels adjacent to the south, west and northern boundaries. To the east, Campbell Street has a significant gradient falling to the south.
- Site is not liable to flooding.
- Topsoil is boulder clay with poor drainage qualities.
- The site is currently a rear garden area described as part lawn and partially wooded mostly with small ornamental trees and shrubs. Several trees and shrubs will require to be removed. House is to be positioned within the lawn area so that most of the trees and shrubs, particularly along the boundaries with Campbell Street and Barclay Drive will be retained.
- The rear elevation of no. 47 Campbell Street has no significant windows and there are no windows in the proposed house facing towards the rear of no. 47.
- The 1 ½ storey detached house design and external material finishes are in keeping with existing buildings both within and outside of the conservation area.

- To minimise visual impact of forming an opening within an important boundary wall it is proposed to locate the access on Barclay Drive, which is considered to be less prominent than Campbell Street (and to offer a level access.)
- No other changes proposed to stone boundary walls other than new opening which will have black painted timber gate at same height as wall.
- Proposed house will not cause threat or nuisance to any surrounding properties.

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

(H) PLANNING OBLIGATIONS

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 8 – Supporting the Strength of our Communities
LDP 9 – Development Setting, Layout and Design
LDP 10 – Maximising our Resources and Reducing our Consumption
LDP 11 – Improving our Connectivity and Infrastructure

'Supplementary Guidance to the Argyll and Bute Local Plan 2015' (Adopted March 2016)

Natural Environment

SG LDP ENV 1 – Impact on Habitats, Species and our Biodiversity
SG LDP ENV 6 – Impact on Trees / Woodland

Historic Environment and Archaeology

SG LDP ENV 16(a) – Impact on Listed Buildings
SG LDP ENV 17 – Development in Conservation Areas and Special Built Environment Areas (SBEAs)
SG LDP ENV 18 – Demolition in Conservation Areas

General Housing Development

SG LDP HOU 1 – General Housing Development Including Affordable Housing Provision

Sustainable Siting and Design

SG LDP Sustainable – Sustainable Siting and Design Principles

Resources and Consumption

SG LDP SERV 2 – Incorporation of Natural Features / SuDS
SG LDP SERV 5(b) – Provision of Waste Storage & Collection Facilities within New Development

Transport (Including Core Paths)

SG LDP TRAN 4 – New & Existing, Public Roads & Private Access Regimes
SG LDP TRAN 6 – Vehicle Parking Provision

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

- Scottish Planning Policy
- *Argyll and Bute proposed Local Development Plan 2 (November 2019): - The unchallenged policies and proposals within pLDP2 may be afforded significant material weighting in the determination of planning applications at this time as the settled and unopposed view of the Council. Elements of the pLDP2 which have been identified as being subject to unresolved objections still require to be subject of Examination by a Scottish Government appointed Reporter and cannot be afforded significant material weighting at this time. The provisions of pLDP2 that may be afforded significant weighting in the determination of this application are listed below.*
 - Policy 35 – Design of New and Existing, Public Roads and Private Access Regimes
 - Policy 36 – New Private Accesses
 - Policy 39 – Construction Standards for Private Access

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

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

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

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

(O) Requirement for a hearing: No

A total of 22 representations have been received in objection to the proposed development (19 objections and 3 representations of a neutral nature.)

The approved Hearing protocol advocates a lesser emphasis on the previous numbers (of representations) threshold as a 'trigger' for a Hearing and more reliance on a criteria based approach in order to 'add value' to the determination process.

- In relation to the assessment of this application proposal, it is considered that notwithstanding the number of representations, there is consensus between the local community (including the HCC) and the planning authority's recommendation.
- The material considerations in relation to the proposal are not considered to be significantly complex and are largely limited and impact upon the character and appearance of the conservation area (including impact on trees); impact on residential amenities of nearby residents; and impact on technical highways matters with reference to the proposed new access point.
- The proposed development is considered to be contrary to fundamental and up-to-date Local Development Plan policies and supplementary guidance. As such, the recommendation does not seek to justify a departure to the provisions of the Local Development Plan.

Therefore, having regard to the criteria-based assessments set out in current protocol, it is considered that a Pre-Determination Hearing will not add value to the decision-making process, and is not required.

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

The application site comprises most of the private amenity space to the rear of an existing, 2-storey detached sandstone villa set in large private grounds. The villa is not listed, but forms part of a planned townscape block of five similar villas bounded by Queen St., Campbell St., Barclay Drive and Suffolk St. located within the Upper Helensburgh Conservation Area. The site is bounded to the south by the remaining curtilage of the existing villa, no. 47 Campbell St.; to the west by the residential curtilage to no. 28 Queen St.; and the north and east by Barclay Drive and Campbell St. respectively. The boundaries of the site with these two public roads are demarcated by an historic stone wall some 1.7-1.8 metres high. The boundary of the conservation area in this location runs along the northern side of Barclay Drive,

immediately to the north of the application site. The garden contains a significant number of trees and large shrubs.

The proposed development is for the erection of a 4-bedroom house with a new vehicular access from Barclay Drive. The proposed dwellinghouse has a relatively large footprint and is to be sited centrally within the application site with the principal elevation facing east towards the frontage with Campbell St. The massing is broken down into a 1 $\frac{3}{4}$ storey volumetric form containing the principal living accommodation, and a smaller single storey form linked to the main built form, the latter providing service spaces, 2 smaller bedrooms and an integral garage. Orientation is east to west with all of the windows to habitable rooms facing either east or west with the exception of a large glazed opening to the dining room facing north towards Barclay Drive. Material finishes are to be smooth render to walls with feature larch cladding panels to the upper parts of the gables; dark grey coloured uPVC window and door frames, grey roof slates and dark grey rainwater goods. It is proposed to install an array of photovoltaic solar panels on the south facing roof plane. The application site comprises most of the private amenity space to the rear of an existing, 2-storey detached sandstone villa set in large private grounds. The villa is not listed, but forms part of a planned townscape block of five similar villas bounded by Queen St., Campbell St., Barclay Drive and Suffolk St. located within the Upper Helensburgh conservation Area. The site is bounded to the south by the remaining curtilage of the existing villa, no. 47 Campbell St.; to the west by the residential curtilage to no. 28 Queen St.; and the north and east by Barclay Drive and Campbell St. respectively. The boundaries of the site with these two public roads are demarcated by an historic stone wall some 1.7-1.8 metres high. The boundary of the conservation area in this location runs along the northern side of Barclay Drive, immediately to the north of the application site. The garden contains a significant number of trees and large shrubs.

The proposed development is for the erection of a 4-bedroom house with a new vehicular access from Barclay Drive. The proposed dwellinghouse has a relatively large footprint and is to be sited centrally within the application site with the principal elevation facing east towards the frontage with Campbell St. the massing is broken down into a 1 $\frac{3}{4}$ storey volumetric form containing the principal living accommodation, and a smaller single storey form linked to the main built form, the latter providing service spaces, 2 smaller bedrooms and an integral garage. Orientation is east to west with all of the windows to habitable rooms facing either east or west with the exception of a large glazed opening to the dining room facing north towards Barclay Drive. Material finishes are to be smooth render to walls with feature larch cladding panels to the upper parts of the gables; dark grey coloured uPVC window and door frames, grey roof slates and dark grey rainwater goods. It is proposed to install an array of photovoltaic solar panels on the south facing roof plane.

The primary considerations in this instance are an assessment of the impact of the proposed development on the character and appearance of this part of the Upper Helensburgh Conservation Area; impact on road safety and amenity by reason of the proposed new access onto Barclay Drive; and impact upon residential amenity.

At this stage it is useful to set out selected criteria for the designation of Conservation Areas from HES – Interim Guidance on Designation of Conservation Areas and Conservation Area Consent – April 2019: -

“It is the character of an area, either architectural or historic, created by buildings and open spaces and their relationship with one another which the designation of a conservation area seeks to preserve.”

This pattern of built development created by the siting, densities, scale, design and material finishes of built development in relationship with the private and public spaces around and between built development is considered to be a fundamental qualifying consideration in the designation of the Upper Helensburgh Conservation Area. As described elsewhere, a particular characteristic of the Upper Helensburgh Conservation Area is largely a grid-iron street layout with a loose-grain texture of development comprising mostly large detached villas oriented southwards within expansive landscaped grounds. Elsewhere within the Conservation Area, some of these villas had service structures such as coach houses, located to the rear of the villas however these buildings are traditionally sited in an unobtrusive location, with a modest scale and design reflecting their subordinate functional relationship with the primary villa building. Some infill residential development, involving the subdivision of original properties has taken place elsewhere within the conservation area, however spatial character of this particular townscape block has not been compromised by previous insensitive sub-division and new development and as such provides a good example of the historic development pattern in Helensburgh.

Notwithstanding, that the massing of the proposed dwellinghouse has been 'broken down' into linked volumetric forms, the proposed house, with a 'footprint' area similar to that of the original part of the stone villa, is still considered to be of an inappropriately large scale in relation to the size of the plot and the existing house. Furthermore, its prominent setting within the centre of the site will afford it an inappropriate level of 'presence' and status in relation to the original villa. This central siting, within 12 metres of the existing villa, fails to provide an appropriately subordinate relationship with the principal built form on the original site and would materially compromise the historic setting of the main villa and the clear spatial built development pattern of this townscape block and the wider conservation area. The detailed design of the proposed development and the external materials have a generic quality and the supporting information fails to support the design concept or design development having regard to its prominent and sensitive siting within the curtilage of a Victorian era villa in relation to the adjacent villas. Instead, the design approach appears to rely on the proposed design making reference to other 20th century in-fill development on different sites within the conservation area and the late 20th century housing estate design typologies outside of the conservation area designation to the north of Barclay Drive. Given the very sensitive and immediate relationship between the proposed site and the existing development that comprises the townscape block within which it 'sits', it is considered that the design evolution would be more appropriately informed by a detailed assessment of this historic environment as opposed to generic types of later 20th century housing development on sites that are different in character to this application site. On this basis it is considered that the proposed development, by reason of site location, siting/layout, scale, massing, detailed design and material finishes would result in an prominent and incongruous intervention that does not reflect the historic pattern of development to the significant detriment of the character and appearance of the conservation area. Additionally, the open spaces to the rear of these villas can also be considered as a transitional zone between the built development pattern of the conservation area in relation to the very distinct housing estate development to the north of the conservation area. At the moment, there is a very well-defined and distinct edge to the conservation area along Barclay Drive. The proposed development of this space, particularly with a house typology that reflects the housing estate as opposed to the conservation area, would serve to 'blur' this boundary condition and undermine the setting of the conservation area in this location. The proposal is contrary to Policies LDP 3 and SG LDP ENV 17.

This part of the assessment is consistent with previous advice offered to the applicant in respect of the proposed development of this site to provide a dwellinghouse as part of an application for pre-application advice ref: 17/02801/PREAPP.

The site comprises a well-landscaped private walled garden, an open space which has a strong relationship with the existing villa, and which has a significant number of trees and large shrubs. The presence of maturely landscaped open spaces, including mature trees, often along boundaries between the public and private realms is an important qualifying feature of the Upper Helensburgh Conservation Area. The character of Barclay Drive with trees along the boundary typifies this. This site is prominent in views from the public street to the north and east and as such the existing planting makes a positive contribution to the visual amenity of the area as well as the character of the conservation area. The proposal would result in the loss of a significant number of trees within the site. The application submission does not indicate the exact location of trees in relation to the proposed development and as such, it has not been demonstrated to the satisfaction of the planning authority that the character and amenity of the site can be preserved in relation to trees and shrubs.

Notwithstanding concerns expressed by local residents with regard to 'overlooking', having regard to the orientation of the proposed house and the distances between the proposed development and existing houses to the east and north, the planning authority is satisfied that the relationship is not uncommon with residential areas and complies comfortably with adopted guidelines. As such, it is not considered that the proposed development will have a materially adverse impact upon residential amenity of nearby houses by reason of loss of privacy, over-shadowing or other disturbance.

Again, notwithstanding concerns by local residents, it is not considered that the proposed new access onto Barclay Drive will result in detriment to road safety or an adverse impact upon visual amenity or the character and appearance of the conservation area. Officers appreciate that there are no other vehicular gateways off of the south side of Barclay Drive, however gated entrances within rear stone boundary walls (particularly if they have an understated appearance) are not uncommon features within the conservation area, and a new access, in principle, would not support a refusal of this application. This is consistent with the consultation response from the Council's area Roads Engineer.

The application submission does not show a means of surface water drainage (SuDS or otherwise). The Design Statement advises that the ground conditions have poor drainage qualities. In this context, it is noted from the consultation response from Scottish Water that they will not allow a surface water connection into their combined sewer system for reasons of sustainability and to avoid flooding of the sewer system. The application does not include any information to demonstrate that Scottish Water will allow such a connection as an exception, however very strong justification would be required to achieve this. Therefore, on the basis of the above, it has not been demonstrated that the proposed development can be served by adequate surface water drainage infrastructure and this is likely to lead to flooding on the site and adjacent land.

Having regard to a balanced assessment of all material considerations as set out above, it is recommended that this application for planning permission be refused.

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

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

The proposed development by reason of siting, scale, massing, form, design detailing, material finishes and impact upon trees would be detrimental to the character and appearance of the conservation area and as such is considered to be an unsustainable form of development, inconsistent with the LDP Settlement and Spatial Strategy. In addition, on the basis of the information currently available, it has not been demonstrated to the satisfaction of the planning authority that the proposed development can be adequately served by existing public, or proposed private surface water drainage infrastructure which is likely to result in flooding on and adjacent to the application site. There are no other material considerations that would warrant a departure from these provisions.

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

Not applicable

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

Author of Report: Norman Shewan

Date: 8th November 2022

Reviewing Officer: Howard Young

Date: 8th November 2022

Fergus Murray
Head of Development & Economic Growth

REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO. 22/00996/PP

1. Having regard to the siting, scale, massing, form, design detail and external material finishes in relation to the proposed development it would be severely detrimental to the visual amenity of the area and the character and appearance of the Upper Helensburgh Conservation Area. The proposed building is to be sited within almost the entirety of the rear private amenity space of a Victorian stone villa forming part of a planned 'townscape block' within a conservation area. The proposed house is to be sited in an unduly prominent central location in the centre of the rear garden some 12 metres from the villa and has an unduly large scale relative to the villa such that it would have a wholly inappropriate spatial and formal relationship with the primary built form of the villa to the serious detriment of the setting of the original villa within its historic curtilage. The proposed design is generic in terms of massing, form, design detailing and material finishes that appears to respond to the housing estate development adjacent to the north of the conservation area rather than its immediate context and as such would result in an incongruous and discordant built form with reference to the clear spatial pattern of built development in this part of the conservation area and serve to erode the integrity of the current clear edge between this part of the Upper Helensburgh Conservation Area and the later 20th century housing estate development to the north of Barclay Drive.

Given the above, the proposal is contrary to provisions of Policies LDP STRAT 1, LDP DM 1, LDP 3, LDP 9, SG LDP ENV 17 and SG on Sustainable Siting and Design Principles which presume against development which is contrary to sustainable development principles identified in the Local Development Plan in terms of adverse impact on built heritage resources and as such is contrary to the Settlement and Spatial Strategy and which does not preserve or enhance the character or appearance of an existing Conservation Area or protect local visual amenity.

2. The application site comprises an established, maturely landscaped garden in a prominent corner siting with a significant number of trees and large shrubs which make a significant contribution to the character and appearance of this edge of the Upper Helensburgh Conservation Area. One of the qualifying features for the conservation area designation is the relationship between large, detached stone villas and their curtilages, often characterised by mature tree planting. The trees within this site play a particularly important role in that they form a natural edge in the transition area between historic built form within the conservation area and modern estate development immediately adjacent to the north of the conservation area boundary. Notwithstanding general comments made in the submitted Design Statement the proposed development will result in the loss of a significant number of trees and large shrubs within the site as a result of the scale and siting of the proposed house and the formation of a new vehicular access and parking/manoeuvring area. No information in the form of a detailed tree impact report based on an accurate tree survey has been submitted to demonstrate to the satisfaction of the planning authority that the proposed development can be implemented without significant loss of trees and large shrubs to the detriment of local visual amenity and to the established character and appearance of this part of the Upper Helensburgh Conservation Area. On the above basis, the proposed development is contrary to the provisions of Policies LDP STRAT 1, LDP DM1, LDP 3, SG LDP ENV 6 and LDP ENV 17.
3. The proposed development does not make provision for a Sustainable Drainage System and the application forms and drawings do not provide any information with regard to proposed surface water drainage infrastructure. The Design Statement addresses surface water drainage only to confirm that the site is not liable to flooding and that the ground condition has poor drainage qualities. With reference to surface

water drainage, the consultation response from Scottish Water advises that in order to protect their customers from potential sewer flooding, they will not accept any surface water connections into the public combined sewer system without significant justification. The application is not supported by any submitted evidence that Scottish Water are prepared to make an exception in relation to this proposal. On the basis of the information currently available, it has not been demonstrated to the satisfaction of the planning authority that the proposal can be adequately served by public or private surface water drainage infrastructure and as such the proposal may result in localised flooding on the site and adjacent land including the public road system contrary to the provisions of Policy LDP 10 and SG LDP SERV 2.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 22/00996/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The application site is located within the Main Town settlement of Helensburgh as identified in the Argyll and Bute Local Development Plan – 2015 (LDP), wherein the provisions of policy LDP DM1 (A) gives encouragement to sustainable forms of development, up to and including large scale development, on appropriate sites.

Policy LDP STRAT 1 sets out a series of Sustainable Development principles that the planning authority will use in assessing applications. The policy advises that developers should seek to demonstrate how those principles have been addressed. The principles include: -

(h) Conserve and enhance the natural and built environment and avoid significant adverse impacts on biodiversity, natural and built heritage resources

Policy LDP 8 and SG LDP HOU 1 establish a general presumption in favour of housing development that is located in accordance with the spatial strategy (LDP DM 1) and advise that such proposals will be supported *“unless there is an unacceptable environmental, servicing or access impact.”*

Having regard to all material considerations and the site specific merits of this proposal, it is considered that the proposed development will have a materially adverse impact upon the character and appearance of the Helensburgh Upper Conservation Area and the general visual amenity of the area contrary to the provisions of policies LDP 3, LDP 9, SG LDP ENV 17 and Supplementary Guidance on Sustainable Siting and Design Principles. This element of the assessment is set out in greater detail section (D) below. As such, the proposal is not considered to qualify as “sustainable development” with reference to the provisions of policy LDP STRAT 1 and cannot be supported under the provisions of policy LDP 8 and associated SG LDP HOU 1.

The proposed development is therefore assessed as unsustainable and inappropriate to this site contrary to the LDP Settlement and Spatial Strategy as established by policy LDP DM 1 (A).

B. Location, Nature and Design of Proposed Development

The application site comprises the majority of the private rear garden to the rear (north) of a large, detached 2-storey sandstone villa dating from circa late 19th century. Surrounding land uses are residential. The site lies within the Upper Helensburgh Conservation Area.

The existing villa at 47 Campbell Street forms the easternmost of five large, traditional villas that form a planned townscape block that addresses Queen St. to the south, and bounded by Suffolk St. to the west, Campbell St. to the east, and by the swept curve of Barclay Drive to the north. Built development to the east, south and west of this identified townscape block is also within the designated Helensburgh Upper Conservation Area. The development pattern to the west, south and east is generally very similar in terms of being a 19th century planned street layout originally comprising

mainly large detached villas set in spacious and maturely landscaped grounds predominantly facing southwards towards the water. Some incremental infill development has taken place over period of the 20th Century within the wider conservation area, notably including the erection of a linear row of 6 no. houses of mid-late 20th century design fronting onto the eastern side of Campbell Street from the rear of no. 26 Campbell Street to the south up the hill to the railway line to the north. These houses are mostly of single storey bungalow design with the exception of one two-storey house. The boundary of the Upper Helensburgh Conservation Area in this area runs along the northern side of Barclay Drive immediately to the north of 47 Campbell St. and the current application site. The boundary between the five villas south of Barclay Drive between Suffolk St. and Campbell St. is defined by an historic high stone wall, which as local residents have pointed out, is largely 'unbroken' with the exception of 3 no. pedestrian gates. The crescent of Barclay Drive would historically have formed the northern edge of classically planned Victorian expansion to Helensburgh in this area.

The land to the north of Barclay Drive and east of Campbell Street (north of its junction with Barclay Drive) lies outside of the Upper Helensburgh conservation area. This relatively large area, bounded to the north by the railway line has since been comprehensively developed with street layout, development pattern, densities, scale and house design typical of mid-late 20th century housing estate development. This period of development, where it fronts into the northern side of Barclay Drive, is characterised by attractive but relatively modestly scaled bungalows or 1 ½ storey design within more compact curtilages with a generally regular 'building line' relative to the curve of Barclay Drive. Some of these houses have an eaves height and roof form typical of a single-storey bungalow but with accommodation within the roof volume, sometimes with dormer additions – conventionally referred to as 1 ½ storey design.

No. 47 Campbell Street, as described above, is the easternmost of a 'block' of five villas constructed in the late 19th century. It is a two storey, cream sandstone villa of imposing scale set back from the Queen Street frontage behind a large front garden. The boundary with Queen St. is demarcated by a low stone retaining wall augmented by a continuous hedgerow, with a group of mature specimen trees immediately behind. The principal, formal elevation of the villa faces southwards over this maturely landscaped garden setting towards the Clyde and Gareloch, typical of the prevalent historic pattern of built development within the extensive conservation area. The principal formal access to the villa is off of Campbell Street just to the north of its junction with Queen Street. The existing property is bounded to the east by Campbell Street, which is demarcated by a low stone retaining wall and attractive landscape planting adjacent to the front garden northwards up to a second, more informal gated access that traditionally would have given 'service' access from Campbell Street to the rear of the villa. Beyond these gates, the boundary of the rear private curtilage with Campbell Street is formed by an original stone boundary wall approximately 1.8 metres high. This stone wall continues around the corner of Campbell Street to form the form the rear (northern) boundary of the property with Barclay Drive. The property is bounded to the west by another detached villa of very similar age, scale, siting, form, design and (cream sandstone) materiality to no. 47 Campbell St.

Number 47 Campbell Street is not a listed building. The closest listed building to it, some 65 metres distant, is a category C listed dwellinghouse. Number 32 Queen Street is 3 houses to the west of no. 47 Campbell Street, within the same townscape 'block.'

The rear private curtilage to no. 47 Campbell Street measures approximately 0.1136 ha. The application submission states that the application site comprises 950m² (some 84%) of this existing rear curtilage to no. 47 Campbell Street. The southern

boundary of the application site will adjoin the remaining curtilage of the original villa at 47 Campbell Street, approximately 10.86 metres to the north of the rear wall of the existing villa. The application site is bounded to the west by a residential property, no. 28 Queen Street and to the north and east by Barclay Drive and Campbell St respectively.

The rear garden to no. 47 Campbell Street is relatively level and has an open lawn area at its southern part adjacent to the rear of the existing villa. The northern part of the application site is characterised by a significant number of trees growing at fairly close intervals as well as some large shrubs.

The proposed development is for a 4-bedroom detached house sited roughly centrally within the site. The footprint of the proposed house is generally rectangular in plan with a footprint area of approximately 176m². The principal elevation faces east addressing Campbell Street and is set back from the boundary with the street the same distance as the east (side) elevation of the existing villa. The principal volumetric form is a 1 ¾ storey 'wing' accounting for approximately 50% of the total footprint and accommodating the main living spaces (living room, dining room, kitchen/breakfast room and hallway at ground floor level with 2 no. en-suite bedrooms at first floor level.) This 'main' volumetric form has an eaves height approximately half way between that of a single-storey design and a conventional 2 storey design. (The planning authority refers to this type of development as a 1 ¾ storey design.) The ridge of the roof is orientated east-west presenting a gable elevation to the east, facing Campbell Street. This elevation incorporates a recessed external balcony to the main bedroom at first floor level. The other en-suite bedroom at first floor level has a large, west facing floor-to-ceiling opening with a pair of glazed doors with a fixed glazed light to either side. The door opening has an external glass balustrade across its width creating what is commonly referred to as a 'Juliet balcony.' An addition the south of the main 1 ¾ storey volumetric form comprises a single storey 'wing' with pitched roof ridge aligned east-west (to match the 'main' part of the house linked to the 1 ¾ storey form by a single storey link which has a pitched roof with the ridge running north south. These single storey forms accommodate 2 smaller bedrooms, utility room, bathroom, separate w.c and integral single garage. In this way, it can be said that the massing of the building is 'broken' up into a principle volumetric form and a smaller reciprocal volume on the same orientation with a slightly recessed volume linking the two. Windows to habitable rooms are largely orientated to face west and east with the exception of a large glazed opening to the ground floor dining room (and rooflights to en-suite shower/bathrooms) on the north facing elevation. There are no windows on the southern elevation facing towards the rear elevation of no. 47 Campbell Street. External material wall finish is ivory coloured smooth render with feature vertical larch cladding to the upper areas of the gabled elevations. The roofs are to be clad in grey coloured modern tiles. Window/door frames are to be anthracite coloured uPVC.

The remaining area to the north of the proposed house will provide landscaped private amenity space and the area to the rear (west) of the house is to be paved to provide parking and turning space for vehicles. Vehicular access will be via a new access off of Barclay Drive. The application drawings show the formation of a 3 metre wide opening in the stone boundary wall. Black painted timber gates will be installed into this opening. However, referring to the consultation response form Council Roads and Infrastructure Services, a minimum driveway access of at least 4.5 metres will be required for the first 10 metres (requiring a corresponding increase in width of the proposed gap in the boundary wall from 3.0m to 4.5m.)

A pedestrian access gate is proposed to be formed in the stone boundary wall with Campbell Street.

C. Natural Environment/Trees

The application site comprises part of an existing garden area with a significant group of mature trees, large shrubs and smaller ornamental planting and some ground cover (ferns etc.) within the northern part of the garden.

It is considered that the natural landscape planting, including a significant tree group on the northern part of the application site, make a significant and positive contribution to the character and appearance of the conservation area in views from Campbell Street and Barclay Drive. The trees are a mix of deciduous and evergreen species. The impact of development on trees is a material consideration in the assessment of a development proposal. Trees within a conservation area are not technically automatically subject to a Preservation Order (as suggested by one contributor), however the provisions of the Town and Country Planning (Scotland) Act 1997 make it an offence for any person to carry out works to trees within a conservation area. It would be a defence for an individual charged to prove that the individual has served notice on the planning authority of their intention to do so, with full details, and the authority has issued written consent or if six weeks has expired from the date of the notification. It should be noted that if planning permission is approved for development that requires the removal of trees (or works to trees) then the planning permission will take precedence and effectively remove the requirement for prior notification.

The design statement advises that *“the house is to be positioned, for the most part, within the lawn area so that most of the trees and shrubs, particularly along the dominant boundaries of Campbell Street and Barclay Drive will be retained.”*

The application form confirms that there are trees within or adjacent to the application site. This section of the form continues by requiring the position of trees, and their canopy spreads, to be marked on the application drawings noting any protected trees and identifying those trees to be felled or cut back. This information is absent from the application drawings and as such inadequate information has been provided to allow a full and thorough assessment with regard to this important consideration of development impact on trees within a designated conservation area.

The only submitted information relating to trees is the general and relatively vague statement in the Design Statement that has no supporting evidence. The proposed site plan shows notional positions and numbers of trees/shrubs which is diagrammatic in nature and has little value in terms of a proper assessment.

With respect, planning officers do not accept the generalised statement within the Design Statement that “most of the trees and shrubs will be retained” gives an accurate reflection of the potential impact on trees, and the subsequent impact on the visual amenity and character of this prominent site within a conservation area. On the basis of the case officer’s on-site assessment (including measuring the house footprint out), planning officers have strong concerns that the location and scale of the proposed development will have a substantially more significant impact in terms of loss of trees than the tone and general comments in the Design Statement would suggest. A significant number of existing trees lie within the actual footprint area of the proposed house. Additionally, the root protection area for trees outside but adjacent to the development footprint are very likely to be impacted by the proposed development. Furthermore, the formation of a new access and parking/manoeuvring driveway adjacent to the western site boundary will result in the loss of existing mature trees which presently run along the southern side of Barclay Drive, and form an important element of the visual amenity and character of this street. The planning authority

accept that most of the other trees along the site boundaries could be retained, however, the trees and shrubs around the perimeter margin of the site are smaller, ornamental species with spaces between them and the significant removal of the group of large trees within the site will result in a material change in the character of this site to the detriment of visual amenity and the character of the conservation area.

This is a prominent corner site with a boundary onto Campbell Street and Barclay Drive. One of the key features of the Upper Helensburgh Conservation Area generally, and this immediate area in particular, is formed by large residential curtilages with attractive mature landscaped planting. The character of Barclay Drive in this locality is largely created by the boundary to the conservation area along its southern side demarcated by a high stone wall with mature landscape planting to the rear of it.

The planning authority has strong concerns regarding the scale of potential impact on established trees within a prominent corner site within a conservation area arising from a site assessment by the planning case officer. The application submission does not include any robust and accurate survey-based information to support the claim made in the Design Statement that the development can be implemented without a significant loss of trees and shrubs. On the basis of planning officers assessment that this proposal is unacceptable in terms of its impact on the conservation area, it was not considered reasonable to request further information in the form of a full tree report and survey when it would involve additional expense to the applicant without there being a reasonable likelihood that the preparation of this information would result in support of this application which is also considered to be fundamentally unacceptable on grounds other than loss of trees.

On the basis of the information currently available, and the case officer's on-site assessment, it is recommended that, this application be refused on grounds that the proposed development will have a significant impact in terms of loss of trees within a conservation area that will be detrimental to a key characteristic of the of the conservation area contrary to the provisions of policies LDP 3 and SG LDP ENV 6 and SG LDP ENV 17.

It is also noted from investigation of the google street view application that there were two very large trees within the site, immediately adjacent to the northern site boundary, in April 2011 and the central area of the site appeared to be more open than at present. The two large trees adjacent to the northern boundary have been taken down in the intervening period.

D. Historic Built Environment

The provisions of policies LDP 3 and SG LDP ENV 17 serve to operate a general presumption against development that does not preserve or enhance the character or appearance of a conservation area or its setting. SG LDP ENV 17 gives more detail stating that *“new development within these area must be of the highest quality, respect and enhance the architectural and other special qualities that give rise to their designation and conform to Scottish Historic Environment Policy 2011 and accompanying Managing Change Guidance Notes.”*

Policy LDP 9 seeks to require that developers and their agents produce and execute a high standard of appropriate design in accordance with stated criteria including Development Setting; Layout and Density; and Design. Further detailed guidance is given in associated Supplementary Guidance on Sustainable Siting and Design Principles. This reasserts the principles of Sustainable Development established in policy LDP STRAT 1, including that proposed development should integrate into the

existing built form to minimise impact on the environment. Paras. 41-4.2 of the guidance establishes set of general principles relating to “*Design of New Housing in Settlements.*” In summary, new housing should be:

- located to reflect or recreate the traditional building pattern or built form and be sympathetic to views;
- the layout must reflect local character/patterns;
- ideally have a southerly aspect to maximise energy efficiency;
- the design by reason of scale, shape and proportion should respect or compliment adjacent buildings and the plot density and size; and,
- colour, materials and detailing are crucial elements to ‘pick up’ from surrounding properties and integrate the development within its context.

An appraisal of character and appearance of this part of the conservation area, and the important elements that gave rise to its designation are set out in detail in Section B above. The key issues are that the application site comprises the majority part of the original private rear garden to an imposing, stone, detached villa. The existing villa forms an integral part of an established townscape block laid out in the late 19th century as a north-westwards expansion of the planned settlement of Helensburgh. This townscape block comprises five large, detached stone villas set in generous curtilages bounded by Queen Street to the south, Suffolk Street to the west, Campbell Street to the east and the sweeping curve of Barclay Drive to the north. The development pattern and density of development reflects the prevalent pattern in the wider conservation area which ‘surrounds’ this block to west, south and east i.e. large villas set well back in their plots with principal elevations facing southwards to the water over large, formally landscaped front gardens. The classical curve of Barclay Drive, created by this particular block of townscape development forms the limit of the Victorian expansion in this locality. The land north of Barclay Drive, west of Campbell Street, and contained to north and west by the railway line and Duchess Wood has been developed to provide a housing estate. The street layout, development pattern, plot densities, scale of buildings and open space between them, and external material finishes reflects the character of mid-late 20th century housing estate design that is fundamentally distinct from that of the Helensburgh Upper Conservation Area in general. It is acknowledged that some later 20th century development has taken place on appropriate in-fill sites within the conservation area, including a linear row of houses along the eastern side of Campbell Street to the north of no. 26 Campbell Street.

The proposed new house is to be sited approximately centrally within what is currently the private rear curtilage to a large, detached stone villa constructed in the later 19th century. The villa property was planned as the easternmost of a group of five villas which form a distinct townscape block with a frontage onto Queen Street and bound to the rear by the sweeping curve of Barclay Drive. The proposed development falls to be assessed in this immediate context. The rear curtilage to no. 47 Campbell Street is located on the southern corner of Campbell Street and Barclay Drive. As such, this open landscaped space provides a prominent open setting to the original villa, and an important spatial element in the development pattern of this formally planned townscape block. The conservation area boundary runs along the northern side of Barclay Drive. The northern boundaries of these five villas, demarcated by the sweeping curve of a high stone wall with mature trees behind therefore forms a very distinct and strong edge between the historic planned town pattern of development comprising large, south facing villas set in expansive curtilages and the mid to late 20th century housing estate development pattern immediately to the north which has a much finer grain of development comprising much more modest houses in compact plots and with a more regular density pattern.

It is considered that the subdivision of the property at no. 47 Campbell Street, to separate off some 84% of the original rear curtilage, and to site a 4-bedroom dwellinghouse within the centre of the application site would severely compromise the setting of the villa and the historic, planned spatial layout of this townscape block. The central siting within the plot will give the proposed dwelling an inappropriate level of status in relation to the original villas. The site coverage of the proposed house is approximately 176m² in comparison to the original 2-storey form of the stone villa which has a footprint of approximately 160m² (although the original villa has several later additions at ground floor level. The siting of a new house of generally similar footprint area to the original Victorian villa approximately 11 metres from the original villa would result in a cramped relationship with the 'primary' built form on the original plot. Despite being lower than the existing villa, and with the massing broken up, it is considered that the juxtaposition between the original villa and the proposed new house would be wholly inappropriate in protecting the primacy of the historic villa and would severely compromise the setting of the original villa and substantially erode the historic development pattern and spatial quality of the original formal layout of the block. The Design Statement makes reference to the plot size in relation to previous mid to late 20th century in-fill housing within the conservation area on the east side of Campbell Street and in a late 20th century housing estate outside of the designated conservation area to the north. However, unlike the houses on the opposite side of Campbell Street, this site is not part of a large open, undeveloped strip of land: it is part of the curtilage of a villa within a formally planned and considered expansion of the town of Helensburgh at the turn of the 19th Century, and it is in the context of this townscape block that it should be assessed. The relationship between the scale and built form of these five villas in relation to the open spaces between and around them is a key criteria for the designation of the conservation area. This is particularly evident in this instance as the 'block' was laid out to incorporate a crescent to the north (rear) of the buildings. It is considered that the historic integrity of this development pattern would be completely undermined by the proposed development. The proposed house, would in effect, challenge the integrity and primacy of the original villa given its close proximity and scale, particularly when viewed from the north.

The Design Statement does not offer any support for how this design, in terms of siting, scale, massing, form, detailing and material finish was informed by an in depth assessment of the conservation area context other than to refer to examples of later 20th century design in the locality. As such, it is not considered that this design is of high quality in relation to the sensitivity of its historic context as required by local development plan policy and associated guidance.

It is also a material consideration that this particular townscape block has not been previously compromised by insensitive development, and as such the spatial pattern of development remains intact. Furthermore, the open private curtilages to the rear of this group of villas has a role as a transition between this part of the conservation area and the modern estate development immediately adjacent to the north and is very sensitive to change. The development of a house, which in terms of design refers more directly to the 20th century estate development to the north of the conservation area, within the rear curtilage of a Victorian era villa some 11 metres to the rear of the original villa would significantly compromise the integrity of the edge of conservation area location and erode the existing clear distinction between the historic 19th century development pattern and the markedly different development pattern of later 20th century housing estate development pattern to the north.

The design detailing and material finishes for the proposed house do not address the colours, textures and material character of the conservation area. It is appreciated that the design and material qualities of the proposal refer to previous 20th century

development on the opposite side of Campbell Drive, however this is not considered to be a robust design approach for a new house in a very sensitive context within the curtilage of an historic villa that forms part of a comprehensively planned townscape block. A much more site specific design is called for in this situation.

Local residents have expressed concern that the removal of a section of rear boundary wall to give access onto Barclay Drive would compromise the historic integrity and significance of this stone wall, particularly as there are no other vehicular openings in the wall between Campbell Street and Suffolk Street. Were the planning authority minded to accept the principle of subdivision of no. 47 Campbell Street and the development of a new separate dwellinghouse in principle then, having regard to the consultation response from the Area Roads Officer, any new private access would require a new gateway in the wall with a minimum width of 4.5 metres.

E. Impact on Residential Amenity

Policy LDP 9 and SG LDP – Sustainable Siting and Design Principles establish criteria to ensure that the siting, orientation and design of propose development in relation to existing residential properties preserves residential amenity and specifically does not give rise to a loss of privacy by overlooking. SG – Sustainable paragraphs 13.1-13.3 gives more detailed advice in respect of “*Overlooking*” setting out established general standards that no main window of a habitable room within a dwelling shall overlook (directly facing) the main windows of habitable rooms in neighbouring dwellings at a distance of less than 18 metres. This is guidance only and can be assessed further in relation to site-specific circumstances.

It is noted that although the proposed house is sited within 12 metres from the rear elevation of the original two-storey villa, no. 47 Campbell Street, it is acknowledged that there are no windows on the south elevation of the proposed house and that windows on the rear, north-facing elevation of the existing villa are limited to what appears to be a stairway window, a large roof dormer window and a first floor window that may be to a habitable room. On this basis, the planning authority accepts that there will not be a material degree of direct overlooking between windows to habitable rooms of the existing and proposed houses and that an acceptable level of privacy will be retained/provided in relation to the existing and proposed house.

The principal (east) elevation of the proposed house (which includes a 1st floor external balcony) faces onto Campbell Street towards existing residential development on the opposite side of the road. The distance between the front elevation of the proposed house and the front elevation of the houses opposite is in excess of 30 metres. The northern elevation of the proposed house has one large, ground floor glazed opening facing towards the site boundary with Barclay Drive and the housing development on the northern side of that road. The distance between the side (north) elevation of the proposed house and the front elevations of the Barclay drive houses is also in excess of 30 metres. In both cases, the proposed house and the existing houses are separated by a public road. These distances of separation are not uncommon within a residential area and comfortably comply with the standards set out in the Supplementary Guidance with regard to direct overlooking. The rear (west) elevation of the proposed house (including a 1st floor Juliet balcony to a bedroom) faces towards a shared boundary with the rear garden of the adjacent house, no 28 Queen St., at a distance of approximately 8.4 metres. This boundary is formed by a stone wall approximately 1.8 metres high with trees and shrubs to either side. The LDP Guidance relates to direct overlooking of windows of separate houses as opposed to potential loss of privacy by reason of overlooking of private open amenity space. This is still a material

consideration however the assessment is rather more subjective and is based on individual circumstances of each site. It has to be expected that there is some overlooking of rear gardens of houses within residential areas, and the assessment of the planning authority in this instance is that whilst there may be an element of overlooking of private external amenity space of a neighbouring property, it will not result in a material loss of residential amenity to an extent that would warrant refusal.

The distances between the proposed house and nearby properties on the opposite sides of Campbell Street and Barclay Drive are typical of many residential areas and comfortably in excess of the minimum guidelines set out in SG LDP – Sustainable Siting and Design Principles.

In this case, notwithstanding the concerns expressed by objectors, the planning authority concludes that the proposed development will not have a materially adverse impact upon residential amenities by reason of overlooking.

F. Road Network, Parking and Associated Transport Matters.

The provisions of policy LDP 11 set out that the Council will seek to ensure that an appropriate standard of access is delivered to serve new developments. SG LDP TRAN 4 seeks to ensure that development is served by appropriate access arrangements and seeks to ensure that road safety and street design issues are addressed, and SG LDP TRAN 6 establishes parking. In addition, policy 35 (Design of New and Existing, Public Roads and Private Access Regimes); 36 (New Private Accesses) and 39 (Construction Standards for private Access) from LDP2 carry significant weight as they have not been objected to. Policy 35 requires that acceptance of utilising new and existing public roads is subject to road safety and street design issues being addressed to the satisfaction of the Roads Authority and the Planning Authority. This is very similar to the requirements of policy LDP SG TRAN 4. Policy 36 advises that development served by a new private access forming an individual private driveway serving a single-user development will be acceptable where, in the view of the planning authority, it does not generate unacceptable levels of traffic. Policy 39 generally seeks to ensure that private accesses are designed and constructed to function safely and effectively as set out in the Council's Roads Development Guide. The other roads policies which relate to road safety and parking standards have been objected to and carry little weight.

The proposed vehicular access is onto Barclay Drive adjacent to the northern boundary of the site, close to the western boundary of the application site with the rear garden area to no. 28 Queen St. The planning application drawings show the formation of a 3.0 metre wide opening within the existing stone boundary wall. It is proposed to install a pair of black painted timber gates across the gateway. A short section of driveway across the narrow grass verge to the road will be required.

The area to west (rear) of the proposed house, and bounded by the southern, western, and northern site boundaries will be almost exclusively laid out to provide parking and turning including vehicular access to the integral garage.

Notwithstanding that Barclay Drive is a relatively narrow and fairly quiet street, it is not considered that the formation of a new private access to serve a single dwellinghouse will have an adverse effect on road safety or the established character of this area. This is consistent with the consultation response from the Council's Area Roads Engineer which does not raise any objections subject to conditions of a technical design layout nature and the provision of adequate provision for parking and manoeuvring on-site for vehicles to enter and leave in a forward gear. It is noted that

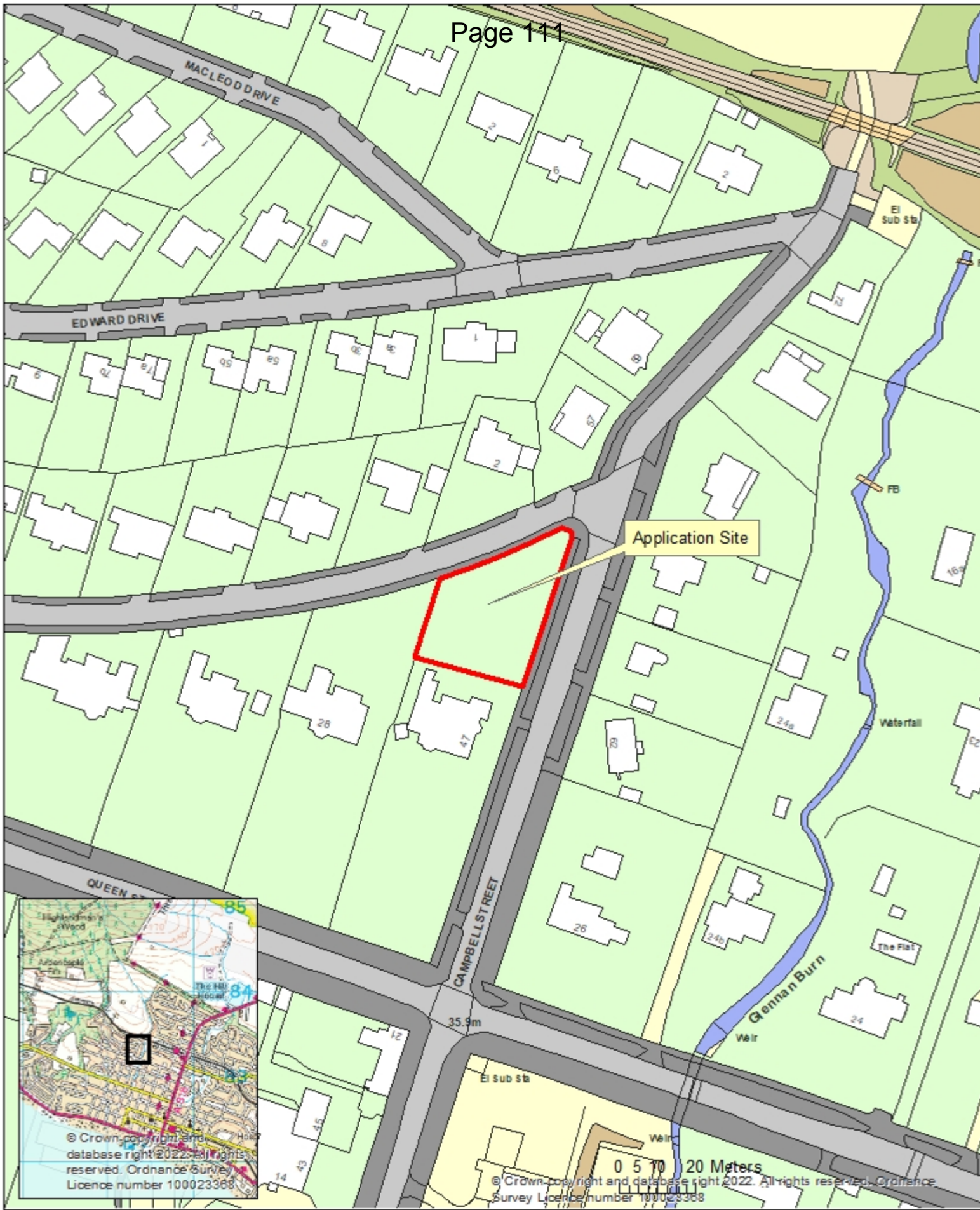
one element of the condition recommended is that the minimum width of the proposed access be 4.5 metres over the first 10 metres back from the public road. Whilst this may be technically achievable, one implication of this is that a significantly longer section of stone boundary wall will have to be removed to achieve this.

G. Infrastructure

The provisions of policies LDP 10 and SG LDP SERV 1 seek to maximise our resources and reduce consumption by requiring that new development proposals in the main settlements shall connect to the public sewer. The consultation response from Scottish Water does not indicate any constraints in principle with regard to Water and Waste Water infrastructure to serve the propose development, subject to possible further investigation when an application is submitted to them. It is therefore considered that there is no evidence to confirm that the proposal is not capable of being supported by public water supply and foul water drainage in accordance with policy LDP 10 and SG LDP SERV 1.

Policies LDP 10 and SG LDP SERV 2 encourage developers to incorporate Sustainable Drainage Systems (SuDS) into their development proposals. This provides benefits in terms of flood avoidance, water quality, habitat creation and amenity. The application forms state that the proposal does not make provision for sustainable drainage of surface water. The Design Statement advises that *“there are no adjacent water features and the site is not liable to flooding”* and that *“the topsoil of the site and surrounding lands are boulder clay with poor drainage qualities.”* No details of surface water drainage are shown on the application drawings. From the information available in the application submission, it is therefore unclear how the proposed development will address surface water drainage related to the house and the creation of a large parking/manoeuvring area. In this context, it is noted from the consultation response that Scottish Water will not accept any surface water connections into their combined sewer system. The response does continue that *“there may be limited exceptional circumstances where we (Scottish Water) would allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical, and technical challenges.”* On the basis of the information currently available, the applicant has failed to demonstrate that the proposal can be adequately served by surface water drainage infrastructure and this could lead to localised flooding contrary to the provisions of policies LDP 10 and SG LDP SERV 2.

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Location Plan Relative to Planning Application:22/00996/PP



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

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

Reference No: 21/02738/LIB
Planning Hierarchy: Local
Applicant: Argyll Community Housing Association
Proposal: Demolition of five tenement blocks comprising 46 flats
Site Address: Block A 19-9E John Street, Block C (1-5 Dalintober and 24-26 High Street), John Street, Prince's Street and High Street, Campbeltown

SUPPLEMENTARY REPORT NO. 1

1.0 INTRODUCTION

At their meeting on 28th September 2022 the PPSL Committee determined that they were minded to grant listed building consent subject to referral of the application to Scottish Ministers in light of formal objections from Historic Environment Scotland.

2.0 UPDATE

Scottish Ministers have advised the Council on 2nd November 2022 that they “consider that this case raises issues related to the interpretation and application of national policy and guidance on listed buildings that would benefit from further scrutiny by an appointed reporter and Scottish Ministers”.

Scottish Ministers have accordingly issued a Direction under s.11 of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997 requiring Argyll and Bute Council to refer the above mentioned application for listed building consent to Scottish Ministers for their determination. The determination of the application now lies outwith the control of the Council as Planning Authority and the decision of Scottish Ministers will be final.

This Direction may be cited as The Planning (Listed Building Consent and Conservation Area Consent) (Reference of Application) (Argyll and Bute Council) (Application for listed building consent for demolition of 5 tenement blocks, Dalintober Housing Estate, Campbeltown, Argyll and Bute) Direction 2022.

3.0 RECOMMENDATION

It is recommended that Members note the points made above. An update confirming the decision of Scottish Ministers on this matter will be provided to PPSL in due course.

Author of Report: Peter Bain

Date: 4th November 2022

Reviewing Officer: Sandra Davies

Date: 4th November 2022

Fergus Murray
Head of Development and Economic Growth

Appendix A – The Planning (Listed Building Consent and Conservation Area Consent) (Reference of Application) (Argyll and Bute Council) (Application for listed building consent for demolition of 5 tenement blocks, Dalintober Housing Estate, Campbeltown, Argyll and Bute) Direction 2022.



Telephone: 0131 244 7538

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Mr P Bain
Argyll and Bute Council
Sent By E-mail

Our ref: NA-130-005
Planning Authority Ref: 21/02738/LIB

2 November 2022

Dear Peter Bain

PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) (SCOTLAND) ACT 1997. THE PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) (NOTIFICATION OF APPLICATIONS) DIRECTION 2015

DEMOLITION OF FIVE TENEMENT BLOCKS COMPROMISING BLOCK A (19-9E JOHN STREET), BLOCK B (21-33 JOHN STREET), BLOCK C (1-5 DALINTOBER), BLOCK D (7-15 DALINTOBER) BLOCK E (17 -21 DALINTOBER AND 24-26 HIGH STREET); JOHN STREET, PRINCE'S STREET AND HIGH STREET, CAMPBELTOWN, ARGYLL AND BUTE

I refer to your Council's letter and enclosures of 5 October 2022, notifying the above application to Scottish Ministers, following consideration by the Council which was minded to grant listed building consent against the advice of Historic Environment Scotland.

Having considered the proposal, Ministers have decided, in terms of Section 11 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, to require the application to be referred to them for determination. Accordingly, a Direction, given in terms of Section 11 is enclosed at Annex A.

Ministers have given this Direction as they consider that this case raises issues related to the interpretation and application of national policy and guidance on listed buildings that would benefit from further scrutiny by an appointed reporter and Scottish Ministers.

The planning authority are requested to serve notice on the applicant for listed building consent of the terms of this Direction, the reasons for issuing it, that the application has been referred to Ministers and that the decision of Ministers will be final. The application should now be submitted to Planning and Environmental Appeals Division (DPEA) in Falkirk for examination by a reporter of all the evidence submitted.

I would be grateful if you prepare all of the application documentation and send it to dpea@gov.scot for the attention of David Henderson, Head of Performance and Administration.

Please note a hyperlink to documentation held on the planning authority website is not sufficient for DPEA purposes. DPEA will thereafter make arrangements for processing the case and put in place an appointed reporter who will submit a report, with recommendation, to Scottish Ministers for their consideration and determination.

Any queries relating to the future handling of the case should be directed to DPEA.

Yours sincerely

Elaine Ramsay

ELAINE RAMSAY

Annex A

PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) (SCOTLAND) ACT 1997

THE PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) (NOTIFICATION OF APPLICATIONS) DIRECTION 2015

DEMOLITION OF FIVE TENEMENT BLOCKS COMPROMISING BLOCK A (19-9E JOHN STREET), BLOCK B (21-33 JOHN STREET), BLOCK C (1-5 DALINTOBER), BLOCK D (7-15 DALINTOBER) BLOCK E (17 -21 DALINTOBER AND 24-26 HIGH STREET); JOHN STREET, PRINCE'S STREET AND HIGH STREET, CAMPBELTOWN, ARGYLL AND BUTE

The Scottish Ministers, in exercise of the powers conferred on them by Section 11 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, and of all other powers enabling them in that behalf, hereby direct that Argyll and Bute Council refer to them for determination an application for listed building consent under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, received by them from Argyll Community Housing Association for the demolition of five Category B listed tenement blocks collectively known as Dalintober Housing Estate (council reference 21/02738/LIB).

This Direction is given as Scottish Ministers consider that this case raises issues related to the interpretation and application of national policy and guidance on listed buildings that would benefit from further scrutiny by an appointed reporter and Scottish Ministers.

This Direction may be cited as The Planning (Listed Building Consent and Conservation Area Consent) (Reference of Application) (Argyll and Bute Council) (Application for listed building consent for demolition of 5 tenement blocks, Dalintober Housing Estate, Campbeltown, Argyll and Bute) Direction 2022.

ELAINE RAMSAY

Elaine Ramsay

Assistant Planning Decisions Manager

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Directorate for Local Government and Housing
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02 November 2022

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