

Public Document Pack

Argyll and Bute Council

Comhairle Earra-Ghàidheal Agus Bhòid

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11 January 2023

NOTICE OF MEETING

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held **BY MICROSOFT TEAMS** on **WEDNESDAY, 18 JANUARY 2023** at **11:00 AM**, which you are requested to attend.

Douglas Hendry
Executive Director

BUSINESS

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST**
3. **MINUTES**
 - (a) Planning, Protective Services and Licensing Committee held on 15 November 2022 (Pages 3 - 32)
 - (b) Planning, Protective Services and Licensing Committee held on 23 November 2022 (Pages 33 - 48)
 - (c) Planning, Protective Services and Licensing Committee held on 9 December 2022 (Pages 49 - 80)
 - (d) Planning, Protective Services and Licensing Committee held on 21 December 2022 at 2.00 pm (Pages 81 - 82)
 - (e) Planning, Protective Services and Licensing Committee held on 21 December 2022 at 2.30 pm (Pages 83 - 84)
 - (f) Planning, Protective Services and Licensing Committee held on 21 December 2022 at 3.00 pm (Pages 85 - 86)
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 87 - 124)

Report by Head of Development and Economic Growth

5. **THE SCOTTISH GOVERNMENT ON BEHALF OF AECOM LIMITED (ON BEHALF OF RWE RENEWABLES UK ONSHORE WIND LTD): ELECTRICITY ACT SECTION 36 CONSULTATION RELEVANT TO CLACHAIG GLEN WIND FARM AND BATTERY STORAGE: APPROXIMATELY 20KM NORTH OF CAMPBELTOWN AND 1.8KM NORTH-EAST OF MUASDALE ON THE WEST COAST OF KINTYRE (REF: 22/00613/S36)** (Pages 125 - 168)

Report by Head of Development and Economic Growth

REPORT FOR NOTING

6. **UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING APPEAL DECISION** (Pages 169 - 208)

Planning, Protective Services and Licensing Committee

Councillor John Armour	Councillor Jan Brown
Councillor Audrey Forrest	Councillor Kieron Green (Chair)
Councillor Amanda Hampsey (Vice-Chair)	
Councillor Daniel Hampsey	Councillor Graham Hardie
Councillor Fiona Howard	Councillor Willie Hume
Councillor Mark Irvine	Councillor Andrew Kain
Councillor Paul Donald Kennedy	Councillor Liz McCabe
Councillor Luna Martin	Councillor Peter Wallace

Contact: Fiona McCallum, Committee Services Officer

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the JURA VILLAGE HALL, CRAIGHOUSE, ISLE OF JURA
on TUESDAY, 15 NOVEMBER 2022**

Present: Councillor Kieron Green (Chair)

Councillor John Armour	Councillor Mark Irvine
Councillor Jan Brown	Councillor Luna Martin
Councillor Amanda Hampsey	

Attending: Iain Jackson, Governance, Risk and Safety Manager
Peter Bain, Development Manager – Planning
Derek Wilson, Planning Officer – Mid Argyll, Kintyre and the Islands
Graeme Cook, GCA Design – Applicant’s Agent
William MacDonald, General Manager, Ardfin Estate – Applicant
Deborah Bryce, Jura Community Council – Consultee
Yvonne MacDonald – Objector
Louise Muir – Objector
Sheena Gow – Objector
Councillor Dougie McFadzean, Local Member

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Audrey Forrest, Daniel Hampsey, Graham Hardie, Fiona Howard, Willie Hume, Andrew Kain, Paul Kennedy, Liz McCabe and Peter Wallace.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. ARDFIN ESTATE LTD: ERECTION OF BUILDINGS TO FACILITATE RESIDENTIAL STAFF ACCOMMODATION WITH ASSOCIATED ACCESS AND PARKING ARRANGEMENTS: LAND NORTH EAST OF COASTGUARD STATION, CRAIGHOUSE, ISLE OF JURA (REF: 21/02141/PP)

The Chair welcomed everyone to the meeting and introductions were made. He then outlined the procedure that would be followed and invited the Governance, Risk and Safety Manager to identify all those present who wished to speak.

PLANNING

Derek Wilson gave the following presentation on behalf of the Head of Development and Economic Growth:

A supplementary report has been produced due to late submissions before the original committee presentation and before this Hearing. The points made in the submissions and copied to the supplementary report are generally already covered under previous comments or within the Report of Handling and its appendices. The officer is not minded to alter the recommendation on this basis.

The application is being presented to PPSL as a result of the initial 24 negative representations which is above the threshold for a delegated decision. The degree of local interest and sufficient points arising from the responses deemed it necessary to present the application to PPSL for determination. The names and addresses of the respondents and a summary of the reasons for objecting are contained within the report of handling.

The application has now attracted 32 representations which raise objections to the proposal and a generally negative representation from the community council which is regarded as a consultation. The additional representations included a petition, two councillor representations and another representations received before both the committee meeting and this hearing.

Slide 1: Location and site

The main **purpose** of this report is to provide an overview of the detailed Report of Handling and to offer background commentary and visuals to aid members in their considerations and recommendations.

The RoH examines the spatial strategy of four staff accommodation blocks proposed for hotel and leisure sports workers with additional roads and services infrastructure. The principle concerns are an examination of non-domestic housing to large scale (as defined by policy) within the settlement of Craighouse and as a tourism related use which by its scale is a departure from the terms of standard Class 7 business use within a settlement.

Many consultees highlighted the lack of public pre engagement especially the yet to be completed neighbouring development where potential occupiers were not in their homes and therefore not notified or otherwise engaged by the applicant. Officers have identified that it would be appropriate for Members to consider whether or not to hold a discretionary hearing prior to determining the application. Councillor Currie made a representation that he supports a hearing and if that is agreed he would prefer it not to be held virtually. I would ask the Chair whether the Committee wish to reach a view on that issue before proceeding with the presentation.

Introduction

Slide 2 existing topology

Application 21/02141/PP is an express permission submission by Ardfin Estate Ltd and GCA and D Ltd to build four accommodation blocks to house workers at the applicants' leisure and hospitality businesses. The approx. 1.87 hectare south and easterly sloping site is bounded by the main road, countryside woodland, a new housing development and an existing row of houses. The site is wholly within the defined settlement area of Craighouse and will utilise some of the infrastructure being developed for the new housing development. Ground levelling will be required for the site but only around half of the site area will be required for the proposal with the more difficult ground to the north and east (roadside) remaining generally undeveloped.

This is a change of use of the ground to class 7 of the 1997 use classes order as housing to be used for the business needs in other sites in south Jura. A design statement outlining roads and infrastructure, design and landscape, recycling and sustainability was supplied, and the applicant provided additional business information required to assess the proposal as part of the businesses and their consolidation and growth in an area

designated as economically fragile in the LDP. This designation allowed the larger scale of the site to be examined under policy and not as a departure.

The visualisation shows the undeveloped nature of the present site. There was a pre application consultation which informed the applicant of the constraints of the site and its limitations regarding potential uses.

We will now move onto the context and detail of the proposal.

Slide 3: LDP

This is an extract from the local development plan. The whole of the site is within the key rural settlement of Craighouse/Keills and the National Scenic Area (NSA). Development is encouraged in the settlement area although the scale of this proposal is larger than expected. The design is also required to be sympathetic to the NSA and to views across and within it. That the site is in the void between existing and developing housing and is set back from the road within a rising landscape towards surrounding woodland is deemed acceptable in this regard. There are no plans to extend the settlement boundary in the emerging LDP 2 and therefore due to spatial and topographical boundaries it is expected that this will be the final development in this area.

Slide 4 and 5: Proposal

The proposal is for four housing block of varying sizes to accommodate up to forty staff in varied accommodation types although 26 will be single units with private facilities and access to communal and assembly areas. The blocks are to be arranged around a central area with the main access leading to cul de sac and generally rear parking. A biomass plant and air source heat pump will also be on site in the block containing the main amenity areas. The orientation and arrangement of the blocks will reduce the visual impact within the site from the few available vantage points in the surrounding area.

Recommendation based on policy

Policy LDP DM 1 sets out the requirement for development up to medium scale on appropriate sites. On the site visit the officer assessed the suitability of the overall site in its context and setting while also appraising opportunity sites within the neighbouring settlement. Other suitably sized sited areas have not been deemed appropriate due to ownership and availability.

Jura is designated tourism development and economically fragile areas in the LDP and therefore policy allows a large scale development in this settlement which does not overwhelm the site or its surroundings. The use as a staff village for Ardfin Estate would operate in a manner similar to hostel accommodation and is deemed use class 7. The proposal accordingly requires to be assessed against the provisions of policies LDP 5, SG LDP BUS 1 and SG LDP BUS 5. It was agreed by officers that the provisions of policies TOUR 1 and HOU 1 were not appropriate in this case.

It was found that the proposed large development in a settlement although contrary in fact to BUS 1 was consistent with the economic and social aims of BUS 5 and is considered to **be consistent to the relevant provisions of policies** LDP DM 1, LDP 5, and SG LDP BUS 5 and the uncontested Policy of the proposed Local Development Plan 2.

Regarding residential amenity in planning terms, 'amenity' is often used to refer to the quality or character of an area and elements that contribute to the overall enjoyment of an area. Residential amenity considers elements that are particularly relevant to the living conditions of a dwelling. The provision of communal spaces within the main blocks and an assembly area in block 1. The arrangement of the buildings adds screening to movements within the site and will screen neighbouring houses from the main light and noise sources. The scale of the buildings are not deemed to introduce shadowing or overlooking resulting in amenity loss to the neighbours.

Slides 6, 7, 8, 9 Blocks details

General description

Block 1 17 bedrooms on 2 floors 3 double

Block 2 6 bedrooms on 1 floor all single

Block 3 8 bedrooms on 1 floor 2 double

Block 4 2 bedrooms on 2 floors 2 double

The aspects regarding archaeology, natural environment, landscape/setting, roads, waste management and water and drainage will now be examined individually.

Historical sites

No archaeological sites have been identified on or near the proposal and it is not deemed to affect the listed buildings within Craighouse.

Slides 10, 11, 12, 13

Natural Environment

The importance of this site to its immediate surroundings and the wider landscape and landscape cover which maintain the natural habitat for populations of species of wildlife has been outlined and detailed by Nature Scot in their report and in Appendix A section C of the RoH.

The site itself is of no designated importance but it has been recognised as close to the Craighouse Ravine Site of Special Scientific Interest (SSSI) across the main road. The area on the other side of the road to the ravine is to remain generally undeveloped and therefore there is deemed to be no detriment to the integrity of the SSSI.

Landscaping

The development site is located within a landscape that is designated for its scenic quality NSA. The site is naturally landscaped and much of that will be retained and will aid screening. Further planting will be made around the housing blocks though this will mainly be turf. Tree planting is designed to break up the hardstanding areas for parking and general movement within the site as well as having a limited screening effect (once trees are mature). A path through the existing landscape to the north is planned to connect the development to the new footway as an addition to the main access.

Waste Management

IF AGREED a plan requires to be approved by the council that provides details of the arrangements for the storage, segregation, collection and recycling of waste arising within

the site, including the location, access and maintenance for on-site storage and roadside collection facilities. Additionally, during the construction phase materials must be stored within the construction site to minimise disruption to the neighbouring sites and the main road and the protected land nearby.

Drainage and Water Supply

Mains water may be available on site with further consultation with Scottish Water and the proposal intends to utilise the foul water system being constructed as part of the new housing to the south. Scottish Water require requests for connections to assess service availability with regard to usage volumes. The drainage from the site slopes within the site and towards the road will require mitigation to ensure the main road remains free of run off.

Slides 14, 15, 16, 17

Roads

The proposal is to extend the access being constructed for the houses northwards into the site and create the circulatory system and parking for 40 vehicles, four of which are to be accessible. The access currently being built is deemed adequate to share with this proposal without compromising safety and/or amenity by an intensification of its use.

The cul de sac roads include pend access through the main building to the largest car park. The internal roads serving the staff accommodation shall remain private. It is proposed that all new car parking spaces are formed from porous paving to allow natural discharge back to the existing soil.

Run off to the main road will be controlled by a surface water management plan. Additionally a new section of footway from the entrance at the coastguard station to number one Woodside will be constructed and will include new street lighting. This will be of benefit to the new housing development to the south and connections to the village centre.

Carriageway widening between the dwelling known as 1 Woodside and the new development road is to be 3.30 metres to accommodate the footway and the lamp poles and encourage active travel within the settlement and reduce motor vehicle travel with the exception of the shared travel intended to move staff between the housing and the hotel/leisure site. Step downs to ease movement on/off to the footway will also be provided.

Conclusion

In summary, the proposal is considered to be consistent with the relevant provisions of the Development Plan. It is submitted that the proposal is not a departure from LDP policy and material considerations of sufficient significance indicate that it would be appropriate to grant planning permission having regard to s25 of the Act.

APPLICANT

Graeme Cook

The Applicant's Agent, Graham Cook gave the following presentation:

The proposed development is critical to the successful operation of the existing Hotels and Golf Course business which provides significant employment opportunities for the local community. The successful delivery of the new staff accommodation facility, which will service both hotels, will therefore help to strengthen the local community as a key element of the Ardfin Estate which is a significant local business of some considerable importance to the Island's tourism offer, its economy and its sense of community.

Currently, the existing staff are housed in temporary accommodation or 'pods' located throughout the Estate, but this is neither a long - or medium - term sustainable option. The proposed new arrangement for the staff accommodation has been specifically located within the existing settlement boundary to ensure that staff can access the essential local amenity services at Craighouse which will in turn help to support, sustain, and potentially grow these important local services and facilities.

The approach to locate the staff within the existing settlement will allow them to take a more active and integral part in the local community. It will also provide staff with the opportunity to enjoy the existing amenities and services within a residential environment that is separate and distinct from their working environment.

The proposed development will also provide accommodation for staff working at the Jura Hotel which is in Craighouse and is an important part of the Island's tourism offer, as well as a focal point for the local community, providing visitor accommodation, a restaurant and the Island's only pub.

The delivery of the proposed new staff accommodation facility, which is located within the existing settlement and accessible to local services and facilities, will therefore help to support and strengthen the local community.

The design of the new staff accommodation will also ensure that all users of the development will have the same access to modern, high-quality, purpose-built facilities and resources.

By developing a site which is located within the existing settlement boundary, the project makes sustainable use of the existing land resource and avoids developing a greenfield site in a countryside location.

The proposals have been designed to provide a high-quality residential development in an accessible and sustainable location. The proposals take advantage of the many benefits of locating this type of development within an existing settlement – it makes efficient and sustainable use of land and will help maintain the vitality and viability of existing local services and facilities. However, particular care has also been taken to ensure an appropriate design approach which respects the character and amenity of the local and wider area.

The proposed development should be considered as an ancillary but entirely complementary and integral part of the Ardfin Estate, including the Hotels and Golf Course. As such, the new staff accommodation development is critical to the successful operation of the existing business which provides significant employment opportunities for the local community.

The proposed development will therefore help to retain existing jobs and potentially create new employment opportunities as part of this existing business. In doing so it will provide both short and long-term employment opportunities.

In addition to the direct employment opportunities for the Ardfin Estate, there will also be short term job opportunities during the construction phase of the development and where possible these will be sourced from existing businesses.

The management, operation and maintenance of the staff accommodation will also provide further local job opportunities and the increased activity resulting from this new development will provide benefits to the local shop and businesses both in the short and long term.

The long-term employment opportunities for local people includes developing skills and knowledge through training and apprenticeship schemes in the hospitality; tourism; leisure and estate management sectors.

There will also be opportunities for further local skills training through the construction phase of the development and as part of the long-term management, operation, and maintenance of the staff accommodation.

During the construction phase, opportunities to source and use local goods and services will be included wherever possible and feasible. There will also be further opportunities to source local goods and services as part of the on-going operation and maintenance of the staff accommodation.

By centralising the staff accommodation within a purpose-built development there will be significant opportunities to reduce waste and pollution compared to the existing arrangement which sees the hotel's staff housed in temporary accommodation located throughout the Estate.

Specific waste management and recycling arrangements will be provided as part of the new development, and through its location within the existing settlement this allows also a more focused and centralised approach which in turn helps to reduce waste and pollution.

In relation to landscape impact matters, given the surrounding development and the site's situation and position, including the existing woodland planting and topography, the site provides a natural well screened development, minimising visibility of the site from both close and distant vantage points. The site therefore has the capacity to absorb this scale of sensitively designed development; and by careful siting and orientation of the new buildings it responds positively to the existing character of the local area. The siting, massing, shape, design and finishes of the new development in tandem with a high-quality external works package have been detailed to ensure that development of the site will be seen to fully integrate with the established landscape character of the settlement without any long term, adverse impacts upon the landscape, views, or visual amenity.

The proposed development will also meet the needs of users and occupiers, with consideration given to impacts on neighbouring properties to ensure no unreasonable noise impact or loss of daylight, sunlight, or privacy. The proposed development will provide a high-quality development in a sustainable and accessible location within the Craighouse settlement boundary. It is compatible with adjacent uses and would be of a scale, density, and character in keeping with the character and amenity of the local area.

A co-ordinated and integrated approach has been taken to the planning and design of the proposals to ensure that the new development can be accommodated without any adverse impact on the existing built or natural environment.

Nature Scot has confirmed that it has no objections to the proposed development and advised in its consultation response that: “in our view, this proposal is not likely to have a significant effect on these sites of national importance...the proposed development lies within the settlement zone of the village of Craighouse in the Argyll & Bute Council Local Development Plan. In addition, the proposal is close to existing developments, both residential and commercial in nature, some of which are large scale distillery buildings. In our view, this proposal is not likely to have a significant effect on any of the special qualities of Jura NSA.”

Nature Scot has also advised that during construction works mitigation measures should be considered including ensuring that no machinery or materials should enter or be stored within the SSSI and that any trees that are proposed as part of the landscaping around the development should be native species of local provenance in order to avoid the spread of non-native species to the SSSI woodland. Nature Scot has therefore concluded that: “In our view, if the above mitigation measures are in place there will be no likely significant effect on the qualifying interests of Craighouse Ravine, Jura SSSI.”

We can confirm that the applicant is happy to agree to suitable conditions requiring these suggested mitigation measures to be provided. This includes conditions on the planning permission to require the preparation of a Construction Management Plan to ensure no impact on the SSSI and the inclusion of native tree species as part of the landscaping scheme.

By centralising the staff accommodation there will be significant opportunities to minimise energy use including travel by car, particularly compared to the existing arrangement which sees the hotel’s staff housed in temporary accommodation located throughout the Estate.

The new facility has been specifically designed to minimise energy use, including the use of renewable energy opportunities. This is confirmed in the accompanying Design & Access Statement and Sustainability Statement.

By locating the new facility within the settlement, staff will be able access facilities and services at Craighouse on foot or by bicycle which will reduce reliance on travel by car.

Improvements to the existing footpath connections to the village centre are also proposed which will provide wider community benefits. The improved footpath will also ensure that the new West Highland Housing Association development located to the south of the application site will be linked to the settlement.

In terms of transport of the staff to Jura House, the Estate will provide a shuttle bus to minimise private car journeys. The central location of the new staff facility makes this possible and feasible which has the added benefit of reducing travel by car.

By locating the new facility on a site located within the existing settlement, the project avoids developing a greenfield site in a countryside location. It therefore avoids the development of wild countryside and open space areas thereby helping to safeguard these areas from development.

As an integral part of the new development, it is also proposed that the areas out with the accommodation building, and hard landscaped footprint will be allowed to regenerate/re-wild following completion of construction. In addition, a new woodland path from the north

end of the development site to connect to Craighouse is proposed as part of the project. This will allow a more direct access to the village centre, but also has the added benefit of allowing an enhanced access to this existing woodland area.

For these same reasons, the choice of site location and the inclusion of new landscaping and improved footpath links allows the project to safeguard, protect and enhance access to the natural environment.

As confirmed in the Design & Access Statement, a site selection process has been undertaken to determine the most appropriate location for the new development. As a result of this site search exercise, the application site has been chosen as it will allow staff to be housed in a sustainable location which has easy access to the local amenities, services, and facilities at Craighouse that is separate and distinct from their working environment.

Whilst the application site is not a brownfield site, it is located within the existing settlement boundary, adjacent to existing utility services and offers minimal visual impact when compared with alternative sites on the Estate, closer to Jura House.

As part of the site selection process, no available brownfield sites or existing buildings of a suitable size and scale to accommodate the proposed development boundary were identified within the settlement boundary.

A Potential Development Area (PDA) located above the Isle of Jura Distillery at Craighouse was identified and considered by the applicant. However, this site was ruled out as it is not considered suitable for the proposed staff accommodation development on the basis that the PDA site is not owned by the applicant and is not available for purchase.

The application site is therefore considered to be the most suitable, available, and appropriate site for this scale and type of development.

There will be a number of beneficial long term environmental impacts arising from the proposals. This includes enhanced access to the natural environment; improvements to local biodiversity through the inclusion of native species; improved waste management and pollution reduction measures; inclusion of renewable energy opportunities; improved footpath connections for use by the wider community as well as users of the new facility; and reduction in travel by car.

In addition to these environmental benefits, the proposed development is crucial to the successful, long-term operation of the Estate's hotels and golf course business. As such, it will also provide further benefits by supporting, strengthening, and enhancing the local community; providing local job opportunities including further skills training; and significant economic benefits as part of the Ardfin Estate.

The proposed development therefore accords with one of the overarching aims of the Council's Local Development Plan which supports and encourages the continued diversification and sustainable growth of Argyll and Bute's economy with a particular focus on the growth of the key tourism sector.

William MacDonald

The General Manager of Ardfin Estate, William MacDonald advised of the background to this application and the reason it had been put forward. He said that over the last 10

years, since the Estate changed hands, it had been developed dramatically from what it was before. He referred to the new golf course and hotel and said that with all the developments and lots of planning applications, it had allowed the island to develop and had allowed an increase in the population and employment. He said that one of the biggest challenges was not just bringing people here but keeping them here. He said that accommodation for staff, particularly seasonal staff was an issue. He said that if you can look after your staff and provide them with better accommodation you stood a better chance of keeping them. He advised that the Estate had 29 full time staff throughout the year and that this rose to 57 during the season which ran from March to October. He said that if the development they were applying for had been here now, they could have used 30 of the 33 rooms, with some of these used all year round and some just during the seasonal period. He said that it was critical going forward that they had good quality accommodation and advised that they could not function without it. He said that what the Estate had created was huge and that the level of employment was unprecedented. He said it was not just the level of employment, it was the quality of jobs and opportunities for training. He advised that he had noticed that a lot of the objections were about concerns from the community of an increase of 40 people coming into the community. He said that they were not bringing anyone in. He advised that at present their staff numbers would accommodate that development. He said that at the moment there were 29 staff out of season and 57 in season and this level of staff has been operational since April 2020. He said there would be no impact on the community as this level of staff was already there. He said that he could not see any substance to the objections and he could not see any reason why they should object. He said that the recommendation was to approve and all that was left were community concerns which, he advised, were not relevant and did not have any substance. He advised that this was something that had to happen to allow the biggest employer on the island to sustain what it had. He said they did not have an alternative site that was suitable and that this development was needed.

CONSULTEES

Jura Community Council

Deborah Bryce spoke on behalf of Jura Community Council and thanked everyone that had attended today. She advised that the Jura Community Council objection was in relation to the accommodation Class and infrastructure and that they were acting on behalf of the community of Jura. She said that in order to future proof and be sustainable they would prefer to see residential Class 9 dwellings and not hostel Class 7. Class 9 supports the islands need for long term residential accommodation. She said that they believed that the size of this development and the density of the multiple accommodation, did not confirm with other developments on the island and would set a precedent. She advised that the proximity of the new residential houses would have a negative impact on the surrounding residential area. She also advised that the proposed access road ran through the residential development and that they believed this development should have a separate road access and paths to the new residential development. She said there was a lack of pavement access and appropriate street lighting into the village to protect the residents of this development and the 10 new houses which were being built. She said this development would compound these issues further. She advised that current services and infrastructure on the island such as road capacity, road safety, ferry service, shop storage, water and sewage, utilities and emergency and healthcare may be negatively impacted due to the scale of this development. She said that most of these services were already stretched beyond capacity. She commented that Argyll and Bute Council's LDP had designated this location (H3001) as one of the last areas for housing development in Craighouse. She said that any development should therefore be suitable

for permanent residential purposes. She advised that Jura Community Council would welcome a community consultation and extension due to the scale of the development and the potential impact it would have on the island. She said that Jura Community Council welcomed development on the island and understood the need for staff residential accommodation which supported the tourism industry but advised that it needed to be sustainable and in line with the island's needs. She advised that for all these reasons, Jura Community Council objected to this planning application.

OBJECTORS

Three objectors, representing the objections raised by 30 members of the community, gave the following presentation:

Yvonne MacDonald

Thank you for coming to Jura today – we really appreciate you taking the time to travel here and see our island for yourselves. We love our island – the beauty of the hills and beaches, the huge variety of wildlife, the wilderness – we feel privileged to live here! But what makes it special is the sense of community – this is a place where people, whether young, old or in between, look out for each other, help and support each other, work and play together – and community events are always well supported. But it's not all sunshine and rainbows – we do have our challenges, including ferries and roads! As an island off an island, we suffer from double insularity – this means we have to be resourceful and resilient in order for our community to thrive. We are a growing community and the infrastructure has not kept pace with our growth. Community sustainability requires people who have a commitment to, and a stake in the community and will contribute to its development – without these people the locally run and managed services (fire brigade, coastguard, Community Council, Development Trust, Community Business, Parent Council, Care Centre etc) will either fail or default to the responsibility of the council. We have a growing number of thriving small, locally owned and run businesses, some examples on slide, who have made no representations the development but contribute to supporting our island community by creating jobs, supporting the economy and local projects and paying a living wage. We even have a Community Action Plan (of which you should have a copy). This is the sort of sustainable development we want to see on Jura - development where plans are made for the community, by the community.

Louise Muir

We are briefly going to consider the planning history on Ardfin Estate. We understand some of these issues can't be taken forward as material planning considerations but this outlines the context and back story to how we have arrived here today. Mr Coffey bought Ardfin Estate in 2010 and disappointingly, to locals and visitors, closed garden & fenced off well walked routes to the coast, while the estate went under a transformation. Scale and impact of development at Ardfin is unprecedented on Jura. It also highlights a missed opportunity to engage with the community to deliver joint aspirations. The approach to planning has been piecemeal. Over 20 applications in 9 years. There have only been two consultation events, these were regarding the golf courses and both were statutory requirements due to the scale of the development. No cumulative assessment has been made on the impacts to the environment, the local infrastructure, the local economy or the community these developments have had.

The following is not an attempt to go back in time and reassess the decisions made

but rather to illustrate how the developments have been presented. Ardfin's planning history demonstrates an incremental transformation of the original estate into a commercial, luxury hospitality and leisure business. This transition has been managed while maintaining a portrayal of the development as a private concern, for guests of the estate only. This clear direction has not been detected. Many applications have seen subsequent changes, reversals or augmentations of the original proposal. The transition has eventually required an increase in staff that had not been anticipated or signalled in any applications prior to 2021. And so we find ourselves here. Not quite the integrated and coordinated approach cited by the developers.

We are now going to assess the application against a number of planning policies and their supplementary guidance. Full details are in your packs. First must make the committee aware of some anomalies between information found in the public pack and Report of Handling. We could not find information detailing:

- Sustainability checklist
- Information on the staffing needs at Ardfin

We did not include Jura Hotel and its staffing needs within these considerations – which at the time of application was a new and separate enterprise of Ardfin Estates. It is also unfortunate that there were no residents at Otterbrae when the neighbour notifications were made. We believe there are at least 13 planning policy the proposed development in contrary to. This is a summary and full details can be found in your pack.

Policy LDP STRAT 1 – Sustainable Development

1st is policy LDP Strat 1 – this is an introduction to sustainable development within Argyll and Bute

It's an overriding policy which provides the foundation to any others. In preparing new development proposals, developers should seek to demonstrate a number of sustainable development principles

The development DOES NOT

- Maximise the opportunity for local community benefit
- Make efficient use of vacant and/or derelict land including appropriate buildings
- Support existing communities and maximise the use of existing infrastructure and services

Policy LDP DM1 – Development within the Development Management Zones

2nd policy refers to development zones and acceptable scales. There is general support for up to and including 'medium' scale development in key rural settlements, Craighouse is a key rural settlement. Medium' scale development is defined as 'buildings between 200sqm and 600sqm footprint and between 6 and 30 dwelling units inclusive. This is a 'Large Development'. It's over 30 units and has a GFA of 1111sqm

SG LDP BUS1 – Business and Industry Proposals in Existing Settlements and Identified Business and Industry Areas

SG LDP BUS 1 - Establishes the acceptable scales of business and industry development within preferred locations. It permits development if the location and scale, consistent with Policy LDP DM 1 – back to scale of development. Although site is just under the 2ha threshold for a 'large development' its foot print exceeds the 600m² and therefore the development would fall into 'large scale'. Policy would then attempt to locate the development in a Strategic Industrial and Business Locations. Not available on Jura – but locations are available near the area of business – Jura House

SG LDP HOU1 – General Housing Development Including Affordable Housing Provision

Supplementary guidance details general housing development. There is a general presumption against large-scale housing development in Key Rural Settlements and Villages. Over the medium scale threshold.

Supported if:

- Help reduce population decline - since the development of the golf course there has only been a marginal net gain of long term residents on the island
- Delivers affordable housing
- Meet a particular local housing need. Which this development does not

Also supported if:

- Exceptional case has been demonstrated. We would argue that no exceptional case has been demonstrated:

The proposal states

- it will be built in in two stages.
- It will take a while for full occupancy
- Only 5/10 permanent units are needed
- Only occupied in summer

We would suggest the need and demand has not been properly justified and therefore no exceptional case has been made

We can illustrate this very clearly in this slide.

- It shows all the empty houses the estate owns
- 7 houses available plus two units within Jura House & The Stables developments at Ardfin.
- Properly renovated and restored these could provide up to 26 bedrooms and if not 26 members of staff, 7 permanent staff members with their partners and/or families
- As well as being a far more environmentally friendly solution (See Policy LPD 10 Maximising our Resources and Minimising our Consumption)
- It would encourage staff to stay and become permanent members within our community.
- It is clear a balance between accommodation for temporary staff and longer-term staff has not yet been properly struck.

Policy SG LDP BUS 5 – Economically Fragile Areas

This supplementary guidance refers to Economically Fragile Areas. Economically Fragile Areas were classified by HIE are characterised by a declining population, a under-representation of young people within the population, a lack of economic opportunities, below average income levels, problems with transport and other issues reflecting their geographic location. Jura definitely ticks some of these boxes. Interesting policy which allows flexibility within other policies (such as those relating to scale). However a number of criteria need to be satisfied.

Criteria i) states that "it has been demonstrated that no suitable preferred location is available"

Only one other location explored

- Crofting ground
- Not under estates ownership
- Not really a legitimate

An inappropriate sequential assessment has been made. This means no other options have been explored – such as a number of smaller sites – spread across different areas.

Only locations within the 'Settlement Zone have been explored. We would argue that the 'settlement zone' is inappropriate for this type of development as it would be for temporary accommodation for seasonal staff.

To highlight this further this slide shows maps of Ardfin before and after the golf course and resort construction. The planning system along with its zoning and scales of permitted development has allowed substantial growth within this area – private and commercial. We would argue there is potential for the development of temporary accommodation for seasonal staff within this area.

Zooming in, this map highlights Rural Development Zone in the 2014 LDP. Staff would be within a short distance of where they work. Space here to create indoor and outdoor amenity features. Nearby estate houses could accommodate warden type staff available for support and mentoring. Create a self-contained locality for a professional community

Criteria ii) would be to ensure development proposal is linked to the growth sector which is tourism within this area. While the proposal is supporting tourism we would suggest businesses need to demonstrate their sustainability.

Ardfin Estates Ltd has shown considerable losses in its published 2020 accounts. We would also suggest the socio economic benefits will be limited for Jura. Guests stay within the resort spending little within the community and historically hospitality staff have been catered for, meaning the use of businesses like the community shop will be minimal. Low pay and low rights are endemic in the hospitality sector and staff turnover at Ardfin has been generally high. Current and previous planning applications do not detail staff welfare, training and development practices - elements essential to delivering high quality tourism. The detrimental impacts of enclave tourism are well documented and is not a solution for a fragile economy.

Criteria iii) states "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".

We have seen a Sustainability Statement which covers Energy and CO2 Emissions, Water, Pollution, Health and Wellbeing and Drainage, but we have not been able to find a sustainability checklist which is referred to in the RoH. NO sustainability checklist. Quick look at the checklist highlights that a number of issues have not been addressed.

- Community Support is not wide spread
- Does not strengthen community
- Does not make sustainable use of existing resources
- Does not help to develop skills/knowledge of local people
- Does not link with existing services or organisations

Criteria 5 states that the proposed development would not erode the residential character of the area.

- Otterbrae is the first social housing to be built on Jura in over 10 years.
- 40 additional residents WILL increase traffic levels, noise, fumes
- Working patterns of hospitality industry are often erratic and unsociable
- The design and scale of accommodation proposed creates a juxtaposition between settled and seasonal residents
- The proposal will detract from the amenity of the nearby new homes

Criteria 7 relates to access and ensure current safety standards are met – much of these issues also come under Policy LPD 11 - Improving our Connectivity & Infrastructure.

- No footpath to village centre - Current access to the village is a 'step off' and a narrow single tracked road (with no speed limit) with cars parked either side.
- Dangerous and environmentally irresponsible not to address this within the application.
- Provision of 41 parking bays for 40 residents indicates a vast increase in through traffic

Policy LDP 9 – Development Setting, Layout and Design

This Policy refers to setting, layout and design – it refers to good design principles. We would suggest that only the minimum standards have been met and the needs of the actual users have not been taken into account. Most of the units are single aspect and very small. The internal amenity space for 40 people is minimal. There is no formal outdoor amenity space. This poor design does not provide for the wellbeing of staff. The 41 car parking spaces indicate a high car usage – along with associated noise and environmental impacts. No warden accommodation has been incorporated – which would ensure proper management of the accommodation and mentoring support for staff who will have to adapt to living on a remote island. The design of the building will be detrimental to its users and will not encourage connections with the local community. Finally there is no future proofing and flexibility of buildings - The applicants have not demonstrated how the buildings could be converted for other residential use should Ardfin be forced to close or be sold.

Policy LDP BAD1 – Bad Neighbourhood Development

The development will result in a sudden increase in Jura's population.

Scaling up to illustrate the impact within a town/city. Means that

- Lochgilphead would gain 460
- Oban and extra 1700 people
- Helensburgh: over 3000
- Glasgow: over 300,000

This increase is not inconsequential. Changing a population rapidly will destabilise an already fragile community. Referring to the research note on population balance on island communities "social capital, local knowledge and people-place connections all take time to develop and, when considering the balance and sustainability of a population it is therefore important to consider not only indicators such as age, gender and skills profiles, but also the permanence of a population". The design of this development fundamentally influences its impact on local amenity and it needs to be needs to be considered properly.

Policy LDP 5 – Supporting the Sustainable Growth of Our Economy
Policy LDP 8 - Supporting the Strength of our Communities
National Planning Framework 4

Moving forward we should perhaps consider Policy LDP5 and Policy LPD 8 as well as the new National Planning Framework 4. These policies should

- Take full account of the economic benefits of any proposed development
- Help to retain populations and attract new permanent residents to the area
- Deliver affordable housing and crofting opportunities
- Deliver development in the right place
- And Local Place Plans will offer the opportunity for a community-led, collaborative approach to creating great local places

Sheena Gow

We are asking you to reject this planning application – not because we are opposed to development on Jura, but because we believe that any development should to be tailored to the needs of the community it impacts – what is relevant for Helensburgh is not the same as what is relevant for Jura – one size does not fit all. We do not believe this application meets the criteria set out in planning policy documents. We were asked the question “what does success look like?” For us, this would be:

- the development and improvement of existing houses owned by the estate, using them
- to provide secure homes and jobs, encouraging people to stay long term
- the provision of good quality accommodation for seasonal short term staff located closer to their workplace at Ardfin
- the land proposed for this development to be allocated for community led affordable housing, thereby contributing to the sustainability of the island
- the commitment from landowners to invest in the local community and work with us to ensure that developments contribute positively to island life - to always ask the question

“What is the community benefit of this plan?”

- that any future large scale proposals must contribute to improvements to the infrastructure of the island

Thank you for your time today.

LOCAL MEMBER

Councillor Dougie McFadzean

Councillor McFadzean thanked the Committee for coming to Jura and said it was important to see the island and visit the site and that it would be invaluable to the Committee's future decision. He advised that he was a newly elected Councillor, living on Islay. He said that folks had fed back to him and he had submitted a representation outlining the thoughts of the people. He said that since then he had received a couple of emails with one person very much wanting to remain anonymous. He pointed out that a lot of people worked for Ardfin Estate and a lot lived in Ardfin Estate houses. He said that this person's view was as described by the Objectors and that they were against the development for the same reasons. The other email received was also from someone who wished to remain anonymous. They were upset about the community impact this development would cause. They were also upset about an article in the Sunday Herald. Councillor McFadzean said there were two side to this for him. Apart from a person upset about division of the community, all the representations have been against this development. He said that the overwhelming feeling from emails and calls have been against this development. He said no representations were in favour of this development. He said that he knew it tended to be people that protested about things, or felt very strongly, that raised their head above the parapet, and those that want to go with the flow lay low. He advised that he would actively encourage everyone to participate in this. He said this development would have an impact on the island and of all the people that had contacted him, all, bar one, have been against these proposals.

MEMBERS' QUESTIONS

Councillor Irvine sought and received confirmation from the Applicant that there would be 29 full time staff on the island all year round and during the season, from March – October each year, this rose to 57. He advised that this has always been the case. He commented that a lot of reference has been made to the impact on the community with an influx of 40 new residents. Mr MacDonald advised that there would be no new residents and that the business would continue to operate as it currently did with 29 workers throughout the year and 57 during the season. He said he did not believe there would be an impact on the local community. He advised that next year there would be the same number of staff and that there would be no impact in relation to employment aspects and on local facilities. He indicated that if the proposed development had already been there this year they would have used 30 rooms as the business would prefer not to use other properties. He referred to other properties they were using during the season. He advised that if this development went ahead they would release these other proprieties back into the system. He said they would be taking people and putting them into a higher class of accommodation than the houses used at the moment. He said these houses would be sold off.

Councillor Brown sought and received confirmation from Mr MacDonald that they would not be increasing the number of staff. He said it would remain the same as previous years with 29 full time staff already here and an increase to a total of 57 during season.

Councillor Brown sought and received confirmation from Mr MacDonald that there was a mix of full time and part time staff employed at the Jura Hotel and that some of the staff would be able to use part of the new facility.

Councillor Brown referred to the creation of 41 spaces for cars and to Mr MacDonald advising that staff would be transported to their place of work by shuttle bus and asked why that number of car parking spaces was required. Mr Cook advised that this was a requirement by the Council to have these parking spaces.

Councillor Armour asked where the additional staff that worked during the season came from. Mr MacDonald advised that the majority of local staff were fully employed and that not many were seasonal. He said that most of the season staff came from off the island.

Councillor Armour referred to the empty properties on the Estate. Mr MacDonald advised that these properties fluctuated from being empty to being used depending on staff movements. He said they had to be used during the season.

Councillor Armour asked if no thought had been given to improving these properties. Mr MacDonald advised that improving these properties would not increase the number of bedrooms and the facilities would still have to be shared. He said that a house with 4 bedrooms and 1 bathroom was not ideal for staff coming in for 8 months to share and that a lot of staff did not want to do that.

Councillor Armour asked if the new development would be used for seasonal workers. Mr MacDonald indicated that they also had permanent staff.

Councillor Armour said it was his understanding that the development was not for permanent housing. Mr MacDonald explained that the double housing could be used as there was staff that shared housing at the moment and had nowhere else to go.

Councillor Armour said he was under the impression that this was temporary housing for seasonal workers and that he was not under the impression that there would be permanent housing. Mr MacDonald said that the vast majority would be seasonal but they did have full time staff at the moment living in shared accommodation.

The Chair ruled, and the Committee agreed, to adjourn the meeting at 12.55 pm for lunch.

The Committee reconvened at 1.55 pm.

MEMBERS' QUESTIONS (CONTINUED)

Councillor Martin referred to there being some confusion during the last question. She said that Councillor Armour had asked if the housing would be temporary or permanent. She asked the Applicant to confirm. Mr MacDonald said that as the plan went through the intention was to accommodate temporary staff during the season from March to October. He advised that he had said they also had staff that could possibly go in there permanently.

Councillor Martin referred to the homes being designed for temporary living. She also referred to the 7 Estate houses that appeared to be in disrepair and uninhabitable. She asked for assurance that if the Estate became unviable, that these new houses would not fall into that same state of disrepair. Mr MacDonald said that all the properties would be used for seasonal workers and that they would be occupied from March to October. He

said that was how they occupied staff at the moment and that they were finding it unacceptable to have them in houses with 4 or 5 bedrooms. He said they were trying to change that.

Councillor Martin sought and received confirmation from Mr MacDonald that the new properties would be maintained and heated during the winter months.

Councillor Brown asked what the percentage of staff turnover was. Mr MacDonald said that the permanent staff remained static at 29. He said they were full time and that the vast majority had been with the Estate for years. He advised that most of the permanent, long term staff lived in Estate houses and some had their own houses.

Councillor Hampsey sought and received confirmation from Mr MacDonald that 6 Estate houses were being used for staff during the season.

Councillor Hampsey asked if this accommodation was approved, would these Estate houses go back into the market for sale or rent. Mr MacDonald advised that this had not been thought about yet. He said that they would not want to keep houses they did not need. He said they would want to offload them but how that could be done had not been discussed.

Councillor Hampsey asked what the condition was of these Estate houses. Mr MacDonald advised that it varied. He advised that all but one were used at the moment, with only one being uninhabitable and needing attention. He said that upgrades were done during the winter for staff coming back in April.

Councillor Irvine referred to page 13 of the report of handling which advised of a further site within the settlement boundary being brought forward for consideration for affordable housing and sought comment from Planning on that. Mr Bain explained that there was currently a planning application in for another site for 16 houses initially which had since been reduced to 10 at the other end of the village within the settlement of Craighouse.

Councillor Brown referred to comment made that the Applicant would need to contact Scottish Water to have mains water. She asked Planning if that was the case and how they would go about that. Mr Bain explained that there had been no objection from Scottish Water to the proposed arrangements. He advised that a response will come with a number of caveats that the Applicant would have to secure by condition. Mr Cook advised that an initial enquiry was made to Scottish Water and to SEPA but this only went so far as they will not engage in further discussion until planning was in place. He said that the water supply would have to be checked to ensure there was adequate flow and pressure and, if not, some sort of pump would be required to address that. He advised that Scottish Water were happy with the surface water drainage. He said that percolation tests would be required and foul drainage would have to be considered as there was reduced capacity at the moment. This would either have to be increased or some sort of private system put in place. This is something that would be discussed with Scottish Water but not until planning was in place.

Councillor Irvine referred to the SHIP (Strategic Housing Improvement Fund) and the current Local Development Plan and the new LDP2. He asked if the Applicant's site was developed, would this impinge on the availability of land for any potential affordable housing in the future. Mr Bain advised that that this development site was in the settlement area and not zoned specifically for housing. He said that if the site was not used for this development it could be used for another development. He said that this was

not the last piece of available land. He referred to a PDA (Potential Development Area) for housing up the hill. He said there were also other parts of settlement area which would allow for development.

Councillor Green referred to the site visit and said that from his recollection there was talk about the speed of traffic in terms of where footways would be provided. He noted that there were conditions recommended to provide a footpath and lighting but no mention about the speed limit and asked if that was correct. Mr Bain confirmed that the Roads Officer had not asked for the speed limit to be changed. He advised that speed calming measures in the form of a speed table would be within the site to mitigate against traffic entering and leaving the housing development too fast.

Councillor Green sought and received confirmation from Mr Bain that the street lighting would be extended up to the new development. The footpath and lighting would be developed from the junction of the new development and stop at Woodside. The more built up area of the village would have no street lighting.

Councillor Green referred to discussion around Class 7 that was associated with guest houses, hotels etc and the suggestion that some of these accommodations might be used on a more permanent basis. He asked if that would more appropriately fall under Class 9 than Class 7 and if that was the case, would the current application be okay if purely for Class 7. He asked if it should be a mix of Class 7 and Class 9. Mr Bain explained in planning terms a property used as a dwelling was a Class 9 which related to individual houses which were self-contained apartments with separate cooking, water facilities etc and that were not relying on shared facilities. He said that the majority of accommodations in this proposal would not be suitable for Class 9 as they relied on shared elements. He pointed out that block 4 at the far end of the site was more akin to semi-detached dwellings house and could potential offer scope for residential accommodation akin to a dwelling. He said that this was not what the houses have been assessed as. He said that a change of use would need to be applied for. He said that a condition was recommended to restrict the use of the accommodations to employees of the Estate with flexibility to allow family members to reside with them at times.

Councillor Green referred to the Applicant advising that the vacant or unused properties may be sold off if this development was granted and went ahead. He asked if there has been any consideration of a wider plan for the Estate such as a Masterplan. Mr MacDonald said that in relation to what they would do with the houses they were where they were at the moment. He said these houses were utilised by staff and that they were not ideal. He advised that if they had alternative arrangements that were better for the staff the plan would be to offload these houses back into the system as they would not need them.

Councillor Green sought and received confirmation from Mr MacDonald that there had been no discussion yet about how these houses would be disposed of.

Councillor Irvine asked if the new development met demand or did it future proof as well. Mr MacDonald advised that at the present moment their operations would not require more staff. He said they had no plans for any further building or development.

Councillor Irvine asked Officers if the Objectors' final summary could be seen as a competent motion. Mr Jackson advised that Members would need to consider fully the terms of a competent motion and come forward with their own views.

Councillor Martin sought clarification from the Community Council on what they meant when they said the development would negatively impact on emergency services. Ms Bryce explained that the emergency services on the island were made up of volunteers and that there were a number of volunteer groups made up of permanent residents on the island. She said that those services would be impacted as they were already stretched at the moment.

Councillor Martin sought and received confirmation from Ms Bryce that the shop was community owed. Ms Bryce agreed that the shop heavily benefited from tourists coming to the island. She said that everything was at capacity based on the island's volunteers and scale.

Councillor Green referred to seasonal workers coming and going and commented on the possibility of them helping with voluntary work for the emergency services. He asked Mr MacDonald if he supported permanent staff to help out in the community by being first responders etc. Mr MacDonald said that there was the potential for local people to interact wherever they needed to interact. He referred to himself being on the Community Council for 3 decades and volunteering for the coastguard for 46 years.

Councillor Hampsey sought and received confirmation from Mr MacDonald that the Estate had 29 permanent staff and 57 in total at any one time with 3 of the 29 staff living on Islay. Mr MacDonald said that of the 26 staff on Jura, 2 of these could move into the accommodation.

Councillor Armour referred to what was considered residential and what was considered temporary accommodation. He commented that he had heard today that the more cottage type development could be for permanent residents. He asked if this fell out with what the Committee were being asked to agree to. Mr Bain confirmed that what was being applied for was Class 7 and that any concerns about the suitability of the housing for permanent use was something that should be set aside. He advised that if the Applicant wanted to use some of the accommodation for permanent housing in the longer term that would trigger the requirement for a change of use application. He advised that the application had been assessed and deemed suitable for Class 7 use.

Councillor Armour said that he got the impression that part of the development could be used as permanent housing. Mr Bain explained that whether that happened or not was for the Applicant to decide. He advised that if the housing was allocated to someone for permanent use the Applicant would need to come back with an application for change of use.

Councillor Armour asked Mr MacDonald if this development was approved today as Class 7 use, would he come back next week with an application for change of use. Mr MacDonald confirmed that they were applying for temporary accommodation. He said they could possibly have 2 people looking for permanent accommodation and that this was something they would have to discuss with Planning.

Councillor Armour sought and received confirmation from Mr Bain that if this development was approved today as a Class 7, a separate application would need to be made to change the use if the intention was to have some permanent dwellings.

Councillor Armour referred to comment by the Objectors that the size of the development exceeded 600msq. Mr Bain explained that in terms of policy LDP DM1 and SG BUS1 Craighouse was defined firstly as a key rural settlement. BUS1 looked at the setting and

appropriate scales of development. BUS1 supported up to medium scale development. In terms of floor space this was between 200 and 600 sqm. Once you go beyond 600 sqm as the current proposal did at 1100 sqm this was large scale development.

Councillor Martin commented that there were 29 staff at the moment out with the season and 3 lived off the island. She added that 26 staff on Jura used the shop and other resources on the island. She asked the Applicant if he was confident that up to 57 staff would not be stretching the resources on the island at all. Mr MacDonald said these were not new staff. He said the business has been operating since 2020 and that they had 57 all through this summer. He said they used the houses with bedrooms and had to this year use hotel rooms in emergencies. He commented that they had also used Pods for staff in the past.

Councillor Martin asked if the 18 or 19 staff at peak times had nowhere to stay in the past. Mr MacDonald said they had 29 permanent staff and the balance during the season brought that up to 57. He said the staff were accommodated within the hotel and within the houses they had. He said that they were utilising rooms in hotels they would rather use for clients. He said that this year they had 57 staff accommodated with some difficulty.

Councillor Irvine asked how much consultation with the community was undertaken. Mr MacDonald advised that as this was not a major application there was no requirement for community consultation. He said that as far as the community were concerned, he would have expected the Community Council to have done more research. He said they did not consult with the Applicant at all. He said that would have created more of a general view.

Councillor Brown commented that surely as a good neighbour the Applicant should have consulted with the community. Mr MacDonald said there was no requirement to have a community consultation. It was not part of the process so it never happened.

Councillor Armour commented that he appreciated that the Applicant did not have to consult with the community. He referred to hearing from the Community Council that the site should have been for housing instead. He commented that it looked that this application had divided the community and asked Mr MacDonald if he ever considered that consultation with the community would have helped get everyone onside. Mr MacDonald said that whether it should or should not have happened, it never happened.

SUMMING UP

Planning

Mr Bain advised that during the course of the day Members had heard a range of arguments from the Applicant in support and from the wider community in opposition. In reaching a decision today, there is a require for decision makers to take account of Section 25 of the Town and Country Planning (Scotland) Act 1997 and there is a requirement to determine the application in accordance with the provisions of the adopted Local Development Plan unless material considerations dictate otherwise. The proposal is considered to be a 'large' scale commercial development and exceeds the scale of development normally supported by policies LDP DM 1, LDP 5SG LDP BUS within the key settlement of Craighouse. It has however been identified that the proposal is intended to support tourism employment which is key to the island and identified as a key employment area for Argyll and Bute in the Council's Economic Development Action Plan. The proposal accordingly may be supported under the provisions of SG LDP BUS 5 which

affords flexibility to scales of development within areas identified as being 'economically fragile' in the LDP. The settlement strategy within the LDP seeks to guide large developments to key settlements to maximise use of existing infrastructure. Within the context of Jura opportunities for new development are constrained by designations both national and international. The whole site is within the key rural settlement of Craighouse/Keills and the Jura National Scenic Area (NSA). There is no other area of land allocated for business and industry use in the Ardfin Estate and no brownfield sites that would be suitable for a development of this scale. There is also opportunity to augment existing infrastructure in Craighouse. Buildings within the site are considered to have been designed in a manner not out of place with the landscape. Nature Scot have confirmed it will not have a significant adverse effect on the special qualities of the NSA. While the footprint is 1100 sqm the development has been broken down with the use of a court yard, ground levelling, and single and one and half storey dwellings. The location is already subjected to human activity and avoids direct impact on nature designations. The Craighouse Ravine, Jura SSSI still requires detailed consideration and Nature Scot has not raised an objection but have asked for mitigation measures for the SSSI.

Concerns raised about the suitability of existing infrastructure have also been considered by Officers. Scottish Water have not raised a formal objection. The Roads Officer has recommended improvements with onsite traffic calming and improvements to the public road network with road widening, a footpath and street lighting between the development and termination of existing street lighting. The Roads Officer has no objections. Third party representations raise concerns of the potential for the proposed development to have an adverse impact on the amenity of the adjacent housing development. The proposal has been assessed against Policy SG LDP BAD1 which seeks to avoid adverse impact. It has been confirmed that the proposed development will be sufficiently separate from the adjacent properties. There will be no loss of privacy or daylight. The proposed development falls within the definition of hostel Class 7 commercial activity under SG LDP BUS1. The primary activity was intended to accommodate workers on the Estate and it was not expected there would be any impact in terms of noise and odour which might be experienced from other industries. Environmental Health Officers have not raised objection. A condition will limit the hours of operation during construction to minimise the impact of noise on occupiers of residential properties and there was also a condition to limit the noise of the air source heat pump. Planning Officers propose a condition limiting the occupation to employees of Ardfin Estate and immediate family members.

The case before Members has been assessed by Officers and it is considered that the siting, scale and massing, design and finishes, amenity and service arrangements align with the provisions of the LDP 2015 and it is recommended that planning permission be granted subject to the conditions set out in the report.

Applicant

Mr Cook advised that a pre application submission was lodged to determine the Class use and location. He advised that Class 7 was the appropriate use. He added that the footpath and lighting formed part of the application. He also advised that a sustainability checklist was submitted as part of the application should be a document shared.

Consultees

Jura Community Council

Ms Bryce explained why the Community Council did not do a consultation. She advised that at the time the application was lodged the Community Council had 4 weeks to respond. When the Community Council met to discuss the application they had a 2 week window before the closing date for responses. She advised that the Community Council would welcome a community consultation and extension to this application. She said that the Community Council used the community action plan and local development plan in order to put their response together.

Objectors

Ms MacDonald said that it was interesting to hear that a sustainability checklist had been completed as they had not had sight of it. She said it may be irrelevant, but by their reckoning over 50% of the objectors lived in Craighouse. She advised that in terms of the empty houses on the Estate, the Estate owned a number of houses and 6 were lived in permanently. She said that there were still 7 houses empty with 2 of those not lived in for a number of years. She said that one of those 7 was never used for staff accommodation. She also referred to 4 vacant crofts applied for and not allocated on the Estate. She said the net gain of long term residents was marginal as a large number who worked on the Estate resided on the island. She said that the local school had gained 2 additional pupils over recent times and this increase in numbers was not as a result of the Estate. She expressed concern about discussion around Class 7 and Class 9. She referred to the planning history of the Estate and said that showed that very often applications put in were later amended. She advised of concern if this was granted based on Class 7 that this could change.

The Chair established that all those present had received a fair hearing. In terms of the Councillor's National Code of Conduct, Councillor Dougie McFadzean left the meeting at this point.

DEBATE

Councillor Irvine advised of the Committee's role. He referred to the number arguments presented during the course of the hearing and said that while the Committee will have opinions on these, they would be deemed personal opinions. He said the role of the Committee was to determine the application based upon the proposal put forward. He advised that this was not to say they would not be mindful of what everyone had said, which, he advised, they were. He referred to this being a difficult situation and said that the Committee appreciated and understood all the arguments from both sides, but they had to work within the framework based on the planning recommendation before them. He referred to the issue raised about consultation and suggested that a community consultation may have led to less objections and less friction in the community. He advised that if the application was approved, or not, he would encourage all parties to get their heads together on an ongoing basis to avoid any potential future issues in this small close knit community. He said it seemed to him a bit of a shame there was no close knit feeling in the engagement process. He advised that at the end of the day the Committee decision had to be based on the rules and statutes they had to abide by.

Councillor Brown said the process had been good and had answered a lot of questions. She acknowledged that the Committee needed to be mindful of the planning regulations. She said there was more to this application and the number of questions was huge. She said that she thought the site visit had been very helpful but it was still difficult to imagine how the development would fit it.

Councillor Armour thanked everyone for their presentations and said that they had been very full and really helpful. He said that he found this difficult and thought that his concerns have been highlighted on the danger of cross over between Class 7 and Class 9. He said he felt a community consultation would have helped and it was regretful that had not happened.

Councillor Martin said she had a couple of concerns and the main one was she was not confident that there would not be a new influx of people coming to the island. She advised she was concerned that amenities on the island may not be enough to sustain a new influx to the school. She said she could understand the 30 objections and commented that this was a huge population of the island.

Councillor Hampsey said she was aware of the Jura community and how close they were. She thought that if bridges had been built with the community the Committee might not be sat here at a hearing today. She said there was a framework to follow but at the same time the Applicant could have done more and that such a large employer should be working together with the community.

Councillor Green referred to comments about the process and sought wider thoughts on how the Committee wished to determine this application.

Councillor Irvine said that given the fact that it seemed apparent that a number of colleagues still had questions and that a number of regulations and planning issues were less clear he would be minded to seek a continuation. Mr Jackson advised that the question session had finished and that part of the hearing was over. He explained that the Committee should now debate and determine whether they would wish to approve or reject this application. He advised that if a Member wished to move the recommendation in the report to approve this application subject to conditions and there was a seconder, another Member, if so minded, could move an amendment to refuse the application but they would only be able to do so with a competent motion. He advised that a Member could move to continue consideration of this application in order to give them time to seek advice on a competent motion to refuse.

Councillor Green referred to what others said and he agreed that it was quite difficult in terms of the concerns put forward. He agreed that it would have been helpful if work had been done to come to a resolution, however, he said he had to come to a decision based on the information before him. He advised that having been at the site visit he could see no material consideration to not grant this planning application at the current time.

Councillor Martin said she had concerns about how the islands resources could cope within an increase in staff. She said the size of the development led her to think there would be an influx and she commented that she did not know if an assessment had been done to ensure the current resources would cope.

Motion

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

Moved by Councillor Kieron Green, seconded by Councillor Amanda Hampsey.

Amendment

To agree to continue consideration of this application to give time to seek advice on a competent motion to refuse the application.

Moved by Councillor Jan Brown, seconded by Councillor Luna Martin.

A vote was taken by a show of hands.

The Motion was carried by 4 votes to 2 and the Committee resolved accordingly.

DECISION

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

1. The development shall be implemented in accordance with the details specified on the application form dated 18.10.2021, supporting information and, the approved drawings listed in the table below unless the prior written approval of the planning authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Plan Title.	Plan Ref. No.	Version	Date Received
Location Plan	DS148:(LP) 001 Rev D		15.06.2022
Proposed Site Plan	DS148:(SP) 002 Rev D		15.06.2022
Supplementary Location Plan (1:10,000)	DS148:(LP) 002 Rev A		16.12.2021
Site Section as Proposed	DS148:(PA) 004		11.10.2021
Elevations and Sections as Proposed - Block 1	DS148 (PA)005		11.10.2021
Elevations and Sections as Proposed - Block 3	DS148 (PA)007		11.10.2021
Elevations and Sections as Proposed - Block 4	DS148 (PA)008		11.10.2021
Elevations as Proposed - Block 2	DS148 (PA)006		11.10.2021
Proposed Roof Plan	DS148 (PA)003 Rev B		15.06.2022
Proposed Ground Floor Plan	DS148 (PA)001 Rev B		15.06.2022
Room Type Layout Plans as Proposed	DS148 (RL)001		11.10.2021
Proposed Floor and Elevation Plans - Bin Store	DS148 (PA)012		15.11.2021
Proposed First Floor Plan	DS148 (PA)002 Rev B		15.06.2022

Swept path 1	7096 41 Rev B		15.06.2022
A864 upgrading 1 of 2	7096 51C A1		10.08.2022
A864 upgrading 2 of 2	7096 52C A1.		10.08.2022
Adoptable street lighting	22035 LTG 001		23.05.2022

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

- The land and premises to which this permission relates shall only be used solely for accommodation of persons employed by Ardfin Estate and their immediate family members and for no other use including any other purpose in Class 7 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 and the General Permitted Development Order 1992 (as amended).

Reason: To enable the Planning Authority to control any subsequent change of use which might otherwise benefit from deemed permission in order to protect the amenity of the locale.

- Notwithstanding the provisions of Condition 1, the development hereby approved shall not be first occupied prior to completion of works to widen the carriageway of the A846 to accommodate a new 2.00m wide footway and associated drainage between the dwelling known as 1 Woodside and the new development road, as per the applicant's updated plans reference 7096-51 Rev C and 7096-52 Rev C.

Reason: In the interests of road safety

- Notwithstanding the provisions of Condition 1, no development shall commence until details for the provision of adoptable standard street lighting between the dwelling known as 1 Woodside and the development site have been submitted to and approved in writing by the Planning Authority in consultation with the Roads Authority. Thereafter the adoptable standard street lighting shall be installed in accordance with the duly approved details prior to the first occupation of the

Reason: In the interests of road safety

- Notwithstanding the provisions of Condition 1, no development shall commence until details for the provision of traffic calming measures at the junction of the private estate road and the prospectively adoptable residential service road connecting the development to the A846 have been submitted to and approved in writing by the Planning Authority in consultation with the Roads Authority. Thereafter the traffic calming measures shall be installed in accordance with the duly approved details prior to the development being first occupied, and shall be retained thereafter.

Reason: In the interest of road safety.

- Notwithstanding the provisions of Condition 1, no development shall commence until details of the intended means of surface water drainage to serve the development and its access have been submitted to and approved in writing by the Planning Authority in consultation with the Roads Authority.

All surface water drainage systems to be designed according to CIRA C753 and Sewers for Scotland 4th Edition and discharge of surface water from the site should be attenuated to the greenfield run-off rate.

The duly approved scheme shall be implemented in full concurrently with the development that it is intended to serve and shall be operational prior to the occupation of the development and maintained as such thereafter.

Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding.

7. The parking and turning area, including a turning head for a commercial vehicle, shall be laid out and surfaced in accordance with the details shown on the approved plans prior to the development first being occupied and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

Reason: In the interest of road safety.

8. No development shall commence until, a Traffic Management Plan has been submitted for the written approval of the Planning Authority in consultation with the Roads Authority. The Plan shall detail approved access routes, agreed operational practices (including avoidance of convoy movements, specifying conduct in use of passing places, identification of turning areas, reporting of verge damage, safety measures to protect users of residential service roads) and shall provide for the provision of an appropriate Code of Practice to drivers of construction and delivery vehicles. The development shall be implemented in accordance with the duly approved Traffic Management Plan.

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

9. No development shall commence until, a Traffic Management Plan has been submitted for the written approval of the Planning Authority in consultation with the Roads Authority. The Plan shall detail approved access routes, agreed operational practices (including avoidance of convoy movements, specifying conduct in use of passing places, identification of turning areas, reporting of verge damage, safety measures to protect users of residential service roads) and shall provide for the provision of an appropriate Code of Practice to drivers of construction and delivery vehicles. The development shall be implemented in accordance with the duly approved Traffic Management Plan.

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

10. No development shall commence until a scheme for the retention and safeguarding of trees during construction has been submitted to and approved by the Planning Authority. The scheme shall comprise:

- i) Details of all trees to be removed and the location and canopy spread of trees to be retained as part of the development;

- ii) A programme of measures for the protection of trees during construction works which shall include fencing at least one metre beyond the canopy spread of each tree in accordance with BS 5837:2005 "Trees in Relation to Construction".

Tree protection measures shall be implemented for the full duration of construction works in accordance with the duly approved scheme. No trees shall be lopped, topped or felled other than in accordance with the details of the approved scheme unless otherwise approved in writing by the Planning Authority.

Reason: In order to retain trees as part of the development in the interests of amenity and nature conservation.

11. 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, in consultation with Nature Scotland. The scheme shall comprise a planting plan and schedule which shall include details of:

- i) Existing and proposed ground levels in relation to an identified fixed datum;
- ii) Existing landscaping features and vegetation to be retained;
- iii) Location design and materials of proposed walls, fences and gates;
- iv) Proposed soft and hard landscaping works including the location, species and size of every tree/shrub to be planted, new planting should be of appropriate native species.;
- v) A programme for the timing, method of implementation, completion and subsequent 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, and to protect the special qualities of the adjacent Craighouse Ravines SSSI from non-native species.

12. Notwithstanding Article 3 Class 14 of the of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended, no storage of building materials, vehicles, plant, equipment or site accommodation shall be undertaken outwith the boundary of the application site, unless otherwise agreed in writing by the Planning Authority in consultation with Nature Scotland.

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

13. Given the proximity of the neighbouring residential properties to the site address, the hours of these proposed works should be restricted to 0800 – 1800 hours Monday to Friday, 0800 – 1300 hours Saturday and not at all on Sunday, Bank or Scottish Public Holidays.

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

14. The noise level from the operation of the air source heat pump must not exceed 42dB LAeq(5 min) at one metre from the window of a habitable room on the façade of any neighbouring residential property. If, in the opinion of the local planning authority, the proposed air source heat pump results in any noise nuisance to an occupant of any neighbouring residential property, the applicant shall install noise mitigation measures agreed and approved in writing by the planning authority.

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

15. The development hereby approved shall not be brought into use until a Waste Management Plan for the development has been submitted to and approved in writing by the Planning Authority. This shall provide details of the proposed arrangements for the storage, segregation, collection and recycling of waste arising within the site including the location, access and maintenance for on-site storage facilities. The requirements of the plan shall be implemented during the life of the development other than in the event of any revision thereof being approved in writing by the Planning Authority.

Reason: In order to accord with the principles of sustainable waste management.

16. Notwithstanding the effect of Condition 1, no development shall commence until samples of materials to be used in the construction of external walls and roofs 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.

(Reference: Report by Head of Development and Economic Growth dated 14 September 2022 and supplementary report number 1 dated 27 September 2022 and supplementary 2 dated 10 November 2022, submitted)

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held BY MICROSOFT TEAMS on WEDNESDAY, 23 NOVEMBER 2022**

Present: Councillor Amanda Hampsey (Chair)

Councillor John Armour	Councillor Andrew Kain
Councillor Jan Brown	Councillor Liz McCabe
Councillor Graham Hardie	Councillor Luna Martin
Councillor Fiona Howard	Councillor Peter Wallace
Councillor Mark Irvine	

Attending: Fergus Murray, Head of Development and Economic Growth
Shona Barton, Governance Manager
Peter Bain, Development Manager
Howard Young, Area Team Leader – Helensburgh & Lomond/Bute & Cowal
Sandra Davies, Major Applications Team Leader
Derek Wilson, Planning Officer – Mid Argyll, Kintyre and the Islands
Norman Shewan, Planning Officer - Helensburgh & Lomond
Donna Lawson, Traffic & Development Officer – Helensburgh & Lomond

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Audrey Forrest, Kieron Green, Daniel Hampsey, Willie Hume and Paul Kennedy.

2. DECLARATIONS OF INTEREST

Councillor Jan Brown advised that in relation to item 7 on the Agenda – 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, she had been appointed to the Board of ACHA by the Council. Having taken note of the updated Standards Commission Guidance in relation to declarations (issued on 7 December 2021) with specific reference to section 5.4(c) she did not consider that she had a relevant connection and as such would remain the meeting.

3. MINUTES

- a) The Minute of the Planning, Protective Services and Licensing Committee held on 19 October 2022 was approved as a correct record.
- b) The Minute of the Planning, Protective Services and Licensing Committee held on 2 November 2022 at 10.00 am was approved as a correct record.
- c) The Minute of the Planning, Protective Services and Licensing Committee held on 2 November 2022 at 10.30 am was approved as a correct record.

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)

The Area Team Leader spoke to the terms of the report and to supplementary report number 1 which referred to an email circulated to all Members of the Committee by the Applicant in response to comments in the original report. Reference was also made to a further email circulated by the Applicant to all Members of the Committee this morning. This application was before the Committee for consideration due to the large volume of representations received, 108 in support and 4 objections. It was drawn to Members' attention that in terms of the original list of representations received, Officers had been contacted by Clive Burns, Josephine Brown and John Crossan who were listed as supporters and now wished their representations to be removed bringing the new total down to 105 in support. Officers had also received contact from other parties who could not recall submitting a representation. It was noted that Officers accepted submissions on face value and any issue of misrepresentation was a civil matter.

The site is located within the minor settlement area boundary of Rhu and the Rhu Conservation Area. The principal of the development has been established under the previous consent reference 20/01150/PP. This application solely relates to the variation of roads conditions relative to planning permission 20/01150/PP. During determination of this application a revised package of information was submitted by the Applicant which included a set of revised drawings, a report by ECS Transport Planning Ltd and a covering letter from the Agent detailing the basis of their reasoning behind the proposal to vary/remove the roads conditions relative to planning permission 20/01150/PP. The Roads Officer was re-consulted on the basis of this revised package of information and in turn the Applicant has passed comment on this consultation, to which the Roads Officer has provided a further response. The Roads Officer has concluded that conditions 3a, 3b and 5 should remain unchanged for the reasons stated in Appendix A of the report and that conditions 4, 6, 7 and 8 can be amended as detailed in Appendix A of the report.

It is recommended that planning permission be approved subject to the conditions and reasons detailed in the report.

Motion

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

Moved by Councillor Liz McCabe, seconded by Councillor Andrew Kain.

Amendment

To agree to continue consideration of this application and instruct Officers to make arrangements for the PPSL Committee to accompany Planning and Roads Officers on a site visit, with the application being brought back to a future meeting of the Committee for determination following this site visit.

Moved by Councillor Mark Irvine, seconded by Councillor Jan Brown.

A vote was taken by calling the roll.

<u>Motion</u>	<u>Amendment</u>
Councillor A Hampsey	Councillor Armour
Councillor Kain	Councillor Brown
Councillor McCabe	Councillor Hardie
Councillor Wallace	Councillor Howard
	Councillor Irvine
	Councillor Martin

The Amendment was carried by 6 votes to 4 and the Committee resolved accordingly.

Decision

The Committee agreed to continue consideration of this application and instruct Officers to make arrangements for the PPSL Committee to accompany Planning and Roads Officers on a site visit, with the application being brought back to a future meeting of the Committee for determination following this site visit.

(Reference: Report by Head of Development and Economic Growth dated 8 November 2022, supplementary report number 1 dated 22 November 2022, submitted)

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)

The Planning Officer for Mid Argyll, Kintyre and the Islands spoke to the terms of the report. The proposal seeks planning permission for a new, 'large scale' industrial distillery and ancillary visitor centre development at a Countryside Management Zone location and partly within the 'Rural Opportunity Area' (ROA) Development Management Zone. The application has attracted 37 representations of which 24 are raising objection to the proposal and one is deemed neutral as an informative and a further 11 in support. A further response was received late on 22 November 2022 from Catherine Wilson of Port Charlotte, indicating that the whole of the settlement of Port Charlotte should have been neighbour notified which was noted but not in line with procedures. Issues about the domestic water supply being compromised and concerns regarding ferries, employment, housing and landscape impacts were also raised. These concerns had previously been raised by other objectors and were addressed in the report.

A development at this location would not ordinarily be supported by the provisions of policies LDP DM1 and SG LDP BUS2, however, the Applicant has satisfactorily set out a location/operational need for the development at this location in the absence of any readily identifiable, sequentially preferable alternative.

It is considered that 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.

LDP Policy DM1 requires an Area Capacity Evaluation (ACE) to be carried out for large scale development within the countryside. However, this proposal is an EIA (Environmental Impact Assessment) Development which contains a Landscape and Visual impact Assessment undertaken in accordance with The Guidelines for Landscape and Visual Impact Assessment. 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 LDP DM1.

It was recommended that planning permission be granted as a minor departure from Policy LDP DM1, subject to the conditions and reasons detailed in the report.

Decision

The Committee agreed to grant planning permission as a minor departure from Policy LDP DM1, subject to the following conditions and reasons:

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

- 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.

Reason: 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.

29. 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.

(Reference: Report by Head of Development and Economic Growth dated 11 November 2022, submitted)

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

The Planning Officer for Helensburgh and Lomond spoke to the terms of the report. 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 located within the Upper Helensburgh Conservation Area. The proposed development is for the erection of a 4-bedroomed house with a new vehicular access from Barclay Drive.

In terms of statutory consultee responses, Roads have not objected subject to conditions. Scottish Water do not object in principle but have pointed out that surface water connection into existing Scottish Water combined sewer system would only be allowed in exceptional and justified circumstances. Helensburgh Community Council do not object to a house being built on this site in principle but have indicated the proposed design “does not do justice to the site or its position on it” and have suggested potential areas for design improvements. The Community Council supports other objections with regard to the position of the proposed access on grounds, including adverse impact on road safety and the visual impact of the Conservation Area. In view of the volume of objections received the Community Council have requested that a local hearing be held. A total of 22 representations have been received from local residents to the proposed development, 19 objections and 3 representations of a neutral nature. In relation to the assessment of this application proposal, Officers consider that, notwithstanding the number of representations, a hearing in this instance would not add value to the process and are not recommending that a hearing be held.

The proposed development by reason of siting, orientation, 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. 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.

The application was recommended for refusal for the reasons detailed in the report.

Decision

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

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.

(Reference: Report by Head of Development and Economic Growth dated 8 November 2022, submitted)

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)

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

A report advising that Scottish Ministers have determined that this application would benefit from further scrutiny by an appointed Reporter and Scottish Ministers was before the Committee for information.

Decision

The Committee noted the contents of the report.

(Reference: Report by Head of Development and Economic Growth dated 4 November 2022, submitted)

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held ON A HYBRID BASIS IN THE COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD AND BY
MICROSOFT TEAMS on FRIDAY, 9 DECEMBER 2022**

Present: Councillor Kieron Green (Chair)

Councillor John Armour	Councillor Mark Irvine
Councillor Jan Brown	Councillor Liz McCabe
Councillor Graham Hardie	Councillor Luna Martin
Councillor Fiona Howard	Councillor Peter Wallace

Attending: Iain Jackson, Governance, Risk and Safety Manager
Peter Bain, Development Manager – Planning
Tiwaah Antwi, Planning Officer – Planning
Richard Stein, Applicant
David Bittleston, Supporter
Alexi Murdoch, Objector

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Audrey Forrest, Amanda Hampsey, Daniel Hampsey, Willie Hume and Paul Kennedy.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

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

The Chair welcomed everyone to the meeting which was being held on a hybrid basis. For the purposes of the sederunt Iain Jackson, Clerk to the Committee today, read out the names of the Members of the Committee and asked them to confirm their attendance.

In advance of the meeting today interested parties confirmed they would make presentations to the Committee. Mr Jackson read out the names of those representatives and asked them to confirm their attendance. Mr Jackson also clarified that there were no others in attendance today that wished to speak.

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

PLANNING

On behalf of the Head of Development and Economic Growth, Tiwaah Antwi, Planning Officer, made the following presentation with the aid of power point slides.

The application before Members today is for the construction of a detached garden room ancillary to the main dwellinghouse on Eilean Da Mheinn, Harbour Island in Crinan. The Island is accessible via a short boat trip from the end of Crinan harbour road.

The application has attracted high volume of representations and was therefore referred to Members to be determined as per the Council's agreed scheme of delegation.

Following the publication of the Report of Handling on 5 October 2022 and the initial supplementary report on 19 October 2022, officers have received a late consultee response from West of Scotland Archaeological Services and 8 further representations as noted in the secondary Supplementary report with copies made publicly available online. For the purpose of the record, I will just highlight a typographical error in the introduction section to the supplementary report. It is confirmed that the number of late representations should read as 8 and not one as stated. It is further confirmed that all the late representations have been addressed in section 4.

To provide a background information on this application, a similar proposal for a garden room on this site was presented to members at the April PPSL prior to the Council Elections. At the time, Members decided to have a site visit and hold a Hearing prior to determination, however, the application was withdrawn prior to the Hearing date. This was intended to address some of the concerns previously raised in objection to the proposal. Similarly, during the October PPSL for the current and revised application, officers considered that this is a straightforward householder application for an ancillary building within an established extended garden area of a dwellinghouse and therefore remained of the opinion that a pre-determination hearing would not add significant value to the planning process. However, after careful deliberation, Members decided to have a site visit on 29 November 2022 and hold a Hearing today prior to determination.

Slide 3:

Moving on with today's presentation, officers seek to address two main key policy issues associated with this application; the first being the way in which officers have applied policy LDP DM 1 in the assessment of this application and the second being the proposals' impact on the National Scenic Area though objectors have lately expressed agreement with officers on this.

In the context of the adopted Local Development Plan and the proposals map, policy LDP DM1 sets out the settlement strategy which indicates areas where development on appropriate sites should or should not be encouraged/allowed. The Harbour Island in this regard sits within a Very Sensitive Countryside Zone.

The LDP defines the VSC zone as an area which comprises countryside and isolated coast which has extremely limited capacity to successfully absorb development and as such only limited categories of natural resource based development is supported in these areas.

The VSC therefore generally, relates to high peaks and remoter coastal areas – areas that are generally devoid of human habitation for the main part and where human habitation is not expected to be encouraged/required. Accordingly, this policy ordinarily does not allow any new development in the VSC zone with the exception of specified few categories noted on the next slide but is not intended to restrict acceptable proposals which seeks to support established activity.

Slide 4:

Section F of policy LDP DM1 sets out the limited categories of development allowed within the VSC zone restricting them to renewable energy, telecommunication, development directly supporting agricultural, aquaculture, nature conservation or other established activity and/or small scale development related to outdoor sport and recreation.

In view of this, the main part of this policy to focus on is part (iii) of section F which refers to development directly supporting agricultural, aquaculture, nature conservation or other established activity – which forms the basis for officers' assessment of the proposal before members today.

In practice LDP DM 1 F(iii) establishes that development which directly supports an established activity, including activities and land uses outwith those specifically identified elsewhere under section F, may be supported within the Very Sensitive Countryside zone, subject of course to compliance with any other relevant policies in the LDP.

In the case of this particular application, the established activity is the residential occupation of the applicant's dwellinghouse and their use of parts of the island for purposes that are ancillary to the residential occupation of the property.

Slide 5:

This photo depicts the existing dwellinghouse and its immediate curtilage and managed garden ground, the rising ground behind the house is part of the northern rock ridge area which is less managed on the island compared to the two valleys.

Slide 6:

This is a similar photo taken from the northern ridge looking back at the house and shows an area of lawn and some of the established paths which run through Harbour Island. The path in the centre of the screen provides the link to the application site.

Slide 7:

The proposed garden room is located approximately 70m to the south east within a sheltered valley which runs SW to NE and is enclosed by parallel rock ridges to the north and south. The floor of the valley includes an established path route connecting the dwellinghouse to a boathouse and slipway at the south of the island. Within this relatively level and sheltered area there is evidence of longer established activity which relates directly to the residential occupation of the dwellinghouse on the island with the presence of framed bedding areas, relatively level grassy open areas, drainage channels, and a number of well-established garden plants/non-native trees, in addition to the existing boathouse and slipway. This photo shows part of the extended garden area including areas of grassy open space, garden plants and a framed bedding area.

Slide 8:

Moving on to the submitted plans for the application before Members today, this is a supplementary location plan which shows the site's proximity and relation with Crinan village.

Crinan village itself is accessible by two main public roads C39 and U047. The latter would appear to split the village in two parts with properties on Crinan harbour located to its West. The Harbour Island lies some 190 metres NW of Crinan Harbour.

Slide 9:

The Island's topography is predominantly made up geological formations and it is important to understand these to fully grasp the natural features and usable spaces within the island and hopefully the site visit was of some benefit to Members who were able to attend. The main access to the site is located NE with the old access located SW next to the boathouse. There are wild and natural woodland areas on the island which will be retained as is.

The three series of rock formations of the Island run SW to NE and lie almost parallel to each other with two sheltered valleys between them. The first of the rock ridges is located northward, the second splits the two valleys and the third is located southward overlooking neighbouring residents of Crinan harbour. Essentially, from this site plan, it can be concluded that the areas in blue are less managed rocky areas and shorelines and the area demarcated red is the usable spaces within the Island. Though at the mid-point, the second rock formation extends to the steps which access both valleys.

The main house and its immediate curtilage as shown in previous photos is contained within one of the sheltered valleys with the proposed garden room to be confined within the second valley which is currently maintained and managed as an extended domesticated garden ground. It was evident on site the extended domesticated garden area predates the existing owners in that there are evidence of tropical, non-native plants, footpath which previously run from the existing boathouse and slipway (both of which is believed to have been established around the same time as the main dwellinghouse was built on the Island if not longer). There are also raised beds, established pond in more recent years and defined footpaths in the area connecting back to the main dwellinghouse via a set of reconstructed metallic steps forming part of the defined footpaths which runs through the Island.

With this in mind, officers' are confident that the secondary extended and domesticated garden area has a distinctively different use from say the areas marked blue which is mainly rocky and less managed. Based on the nature of the proposal, submitted information and evidence gathered during site visit, Officers are satisfied that the proposed garden room is to be located on land which forms part of the established activity relating to the residential occupation of a dwellinghouse, and accordingly as development which would support that established activity is considered to be consistent in principle with the requirements of policy LDP DM 1 (F)(iii).

The proposed site is precisely located (point to area) and will be confined by the rock ridges (NW and SE) and established matured trees (NE and SW) as we will see in some of the photos later on.

Slide 10:

This site plan focuses on the extended garden area including the proposed application site, rock formation bounding the site to the front and rear and footpath to the boathouse and slipway. Matured trees have been established in the area between the application site and the boathouse thereby limiting the usable land in this area.

This footpath is proposed to be improved for the delivery of material and during construction after which it will be reinstated to its current state.

For the avoidance of doubt, a condition has been recommended to restrict the use of the proposed garden room and to ensure the path is reverted to its current state post construction.

Slide 11:

The proposed plans and elevations here are as revised following withdrawal of the initial application presented to members at the April PPSL. The proposed development is intended to be ancillary to the main house. Its use is limited to Island workers and as a quiet room for the applicants and their visitors. The proposal measures 3.7 metres high, 6.5 metres in length and 3.7 metres wide – it is approx. 24 square metres and on the footprint of an existing ruins foundation. The foundations of the ruins and the prospects of a building historically existing in this position has not been considered as part of the assessment due to its insignificant scale. Also, no historic evidence has been found for the building that may have once stood on the site.

The proposed structure will have a shower facility for use by Island workers and siting area with stove for heating and will be finished in natural larch cladding.

This is the west elevation showing an area of overhang roof, two sections of the proposed development and the roof plan.

Slide 12:

This shows the north, south and east elevations and their context with existing rock ridges to the rear. The building will rely on the existing access and no new access is proposed with the exception of proposed improvement to the footpath for the delivery of materials and construction. Again, that will be reinstated upon completion.

Slide 13:

It is worth noting at this point the Harbour Island is also located within the National Scenic Area (NSA) wherein the provisions of policy LDP 3 and SG LDP ENV 12 would seek to resist development that would have an adverse effect on the integrity of the area, or which would undermine the Special Qualities of the area.

Whilst Eilean da Mheinn is a key feature within the local landscape setting of Loch Crinan and Crinan Harbour it is not specifically mentioned or identified in the NSA description or list of its Special Qualities. The topography of the island however is somewhat a miniature representation of the wider the ridges and valleys that characterise the northern part of the NSA along with the general restriction of existing built development to more sheltered locations within valleys.

Based on the nature of the proposed development as assessed against the defined qualities list here, Officers are confident that the proposal would not undermine any of these qualities not have materially detrimental effect on the designated landscape and therefore consider the proposal compliant with policy LDP 3 and SG LDP ENV 12.

The next couple of slides will focus on photos of the application site as looking for key views in and out.

Slide 14:

This is taken from the beach closest to the core path leading to Ardnoe which lies approx. 273 metres from the site.

It shows the boathouse, geological formations and their ridges with this tree being a crucial reference point to grasping the proposed site location.

This natural and unmanaged woodland area will remain intact and undisturbed although it is identified that glimpse may be achieved through the trees.

Slide 15:

This photo is taken from the junction of the Crinan harbour and the public car park towards the island. The boathouse is located here with this the proposal to be positioned to the right where the tip of this reference tree which is crucial to the positioning of the development. The proposed development will be hidden from view from this location.

Slide 16:

This photo is taken at sea towards the existing boat house and with reference to the proposed ridge height, the proposal would not be visible from the Crinan harbour given the distance from the harbour, rock ridge and established trees. The building will be hidden behind this rock

Slide 17:

This photo is taken from a slightly different angle to the previous photo in the direction of the core paths which lies some 273 metres south west of the proposed site which is hidden behind this tree and from this angle it is thought that the proposed natural finish of the development would weather overtime and blend in with the natural setting and therefore would not be significantly detrimental to the visual amenity of the National Scenic Area nor its qualities.

Slide 18:

Again, taken at sea, this photo is looking back in the direction of the Crinan harbour with the recent extension to the main dwellinghouse just blended in the background with the rock formation at this location.

The proposed development will be located to the right where it will be well set back from the location of the main house. Given that the main house is one and half storey, the proposal will not be visible from this angle

Slide 19:

This is the extension in closer view.

Slide 20:

Within the extended garden ground, this photo is taken from where tropical, non-native plant ponds and raised garden beds have been established with the application site located roughly there.

Slide 21:

This photo is taken from the S rock ridge on the island closest to Crinan looking NE where the main access and pontoon to the island is located. This also highlights parts of the natural and unmanaged woodland area and which shows a much contrast from the more managed areas

Slide 22:

From the same reference point looking NW and down to the application site which is located between these two trees with a view of the main dwellinghouse in the background.

Slide 23:

This photo shows the site location from the direction of the boathouse with the existing path running between the site and the first rock formation to the E.

Slide 24:

This shows rough footprint of the proposal and ruins - looking towards the SW towards to core path.

Slide 25:

This is the same area photographed from a different angle and highlights the footprint of the building and its entrance.

Slide 26:

This photo shows a 4 metre high reference pole on the site to depict the height of the proposal though it is a 3.7 metres high building.

Slide 27:

At sea this photo is taken between the Island and the core path with the 4 metre high pole help in place by an officer roughly at this point. This is zoomed in on the next slide for clearer visibility.

Slide 28:

When zoomed in the pole can be seen roughly here.

Slide 29:

This final photo is taken from a pedestrian's view on the core path where there may be glimpse of the garden room.

On this basis, it is concluded that the proposed development is a modest structure located within land currently managed as part of a domestic garden and will generally be screened from wider view by the surrounding landform and existing tree cover. Whilst it is accepted that the development may be partially visible from an elevated forest walk above Crinan Harbour it will not have a significant presence within the wider landscape setting, and where visible will not appear out of context in relation to existing built development either on the island or the wider locale. The development is back dropped by the settlements of Crinan Harbour and Crinan where built development, including dwellings of significant scale and mass are evident in much more prominent and elevated locations than the current proposal.

Based on the above, the application is recommended for approval subject to conditions appended in the body of the main report of handling.

Slide 30:

Thanks for chair. That is the end of my presentation

APPLICANT

Richard Stein gave the following presentation:

Introduction

Members – thank you for showing interest. Whatever disagreements, we all care passionately for our wonderful local environment. Pleased you do too. We want to maintain/enhance spectacular environment. This we have done/are doing so. Would do nothing to harm very special place. Will explain why, in unique set of circumstances granting permission won't set precedent for development in Very Special Countryside Areas. Not a test case!

Will cover

- History & nature of Eilean da Mheinn
- Garden room proposal – why we want it – and what it is – and isn't
- Relevant Local Plan Policy
- Safeguards to moderate concerns

History, nature of the Island & Glen

Nature of island – Essentially wild rocky areas – covered in bracken/grass or trees. Area 2 connected distinct cultivated areas – one has house & other Glen dealing with here – both intensively used and cultivated since at least since early 1990s. Previous owners – Mr & Mrs Siddell 1992 – 2016 great gardeners – but in last 10 plus years due to age & disability – garden round house & in glen fell into ruin.

Glen – When we arrived – glen massively run down & overgrown. Was jungle like – loads of work to restore.

Rotten wooden stairs to the house, drainage ditches needing clearing, many broken cold frames with glass, plant trays, fish boxes. Had been used as a vegetable garden (garden near house reserved for ornamental flowers & shrubs). Fruit trees and bushes. Rhododendrons, camellias & many other interesting shrubs. Number of exotic conifers &

other trees. Large areas covered with Terram weed suppressing membrane. Rough paths existed through from steps to boathouse (where previous owners used to arrive on island). Rotten rails into sea to enable boats to be pulled up into boathouse. No intention to restore! Access not good – dries at high tide. Ruined stone building in middle – slightly smaller than proposed garden room.

Garden Room proposals why & what is proposed?

Why – Wanted small annex – for use by gardeners & friends – toilet, shower. Sometimes to stay overnight. Also quiet/writing space. Chose location of ruin – centre of glen – beautiful spot middle of garden.

What is proposed

Small timber building with toilet, shower and woodstove in a perfect location. Not overlooked. Hidden among trees, rhododendrons, azaleas etc – specially designed solution for woodland hideaway.

In light of house extension experience, very surprised at objections to original proposal. Even though recommended for approval by your planners, withdrew, consulted, reapplied to address objections – substantial changes made attempting to arrive at locally harmonious solution to end local unpleasantness.

- All dimensions reduced;
- Area down from 30+ sqm to 24 sqm
- Spire & sleeping loft removed
- Ridge reduced from 6.5 to 3.7m
- Kitchen area deleted
- Skylights deleted

Not fully serviced. Intended to ancillary use – only for use with house. Barely visible – and only glimpse in winter from footpath. Not from harbour at all. Locally sourced timber construction. All access via existing pontoon. No trees affected in construction. No impact on National Scenic Area. Won't detract from the Island's character.

Development Plan Policy

Revised proposal addressed almost all concerns – now only issue raised is Development Plan policy **LDP DM1**.

What is **LDP DM1**? Policy to set out preferred areas for development in all areas across Argyll and Bute.

DM1(F) sets out where development is encouraged in **Very Sensitive Countryside** areas (VSC). These are areas of remote coastline & high hills. Very little development at all. Existing residential property extremely rare. (F)(iii) is relevant here Development directly supporting agricultural, aquaculture, nature conservation or other established activity.

No mention in policy of residential/householder development specifically – because is so little of it in VSC areas. But here clear, our residential use of the land here is an established activity – and a garden room in the garden glen would directly support our residential use and enjoyment of the property.

BUT all to be used with the main house – not separately!

Policy LDP DM1 would not permit a new independent residential unit. So no risk of weakening policy. This is not a test case.

Other LDP policies are the way to prevent inappropriate ancillary developments in the National Scenic Area. All satisfied here in view of your planners. Understand concern which has been raised – but as planners confirm – unjustified. None of our supporters would have endorsed our application otherwise. The objectors aren't the only ones who care passionately for our wonderful environment.

Safeguards

Concerns this will be a springboard for a separate residential unit on the island. We have no wish, or intention to do that – or allow it to happen in future. Have offered a s75 planning agreement to absolutely rule that out – whoever owns the island in the future.

Archaeology – happy with watching brief condition.

Restoration of haul route after works – happy.

Happy to answer any question. Would invite you to grant permission as recommended by your planning officers.

SUPPORTER

David Bittleston advised that he lived in Crinan and had been asked to speak today in support of the application. He thanked the Committee for being Councillors and for the public service they did. He said he knew how much effort and commitment it took as he had been a Councillor for 23 years.

The advised that he had 3 things he wished to talk about today. The first was the large amount of interest this garden room application had generated. The second was what the community of Crinan thought about it, and the third was the work effort from the Applicant.

He said that when the Applicant put the application in he did not consult with anyone. The reason being, when they first moved to Crinan they put in a much larger application and no one at that time made any comments or objection to it. So they did not think anyone would be interested in the garden room. He advised that it was a bit of a shock on the final day of consultation on the application that a large body of objection was received. He said that even though the application was recommended for approval and had many supporters, the Applicant thought it would be right to withdraw this application to address the concerns. He sent an open invitation to everyone objecting to come and visit the island and look at the site and comment on the revised plans. The revised plans significantly reduced the overall site and height of the garden room. Everyone writing in support has visited the island. He said that only 2 objectors took up the offer to visit the site.

With regard to the community of Crinan, he said there was a single objection signed by 28 people from the Crinan Harbour Community. He advised that only 5 of the people who signed this objection lived in Crinan. He pointed out that 20 people from Crinan supported the application and he said that there was 4 times the support for the application.

He then advised that this was not an established garden. He said that the previous owners were amazing and had filled the valley with amazing trees and plants. Sadly, due to ill health, this could not be maintained in later years. When the Applicant arrived they did an incredible amount of work to restore the garden.

In conclusion, he said that once the Applicant realised how strongly the objectors felt about the original application, he withdrew this application and invited everyone to visit the island. This application submitted now is a much smaller one. The majority of the residents on Crinan were in support and, in particular, supported the work the Applicant has done, and continues to do, to restore and improve the natural environment. He urged the Committee to accept the Officer's recommendation and grant planning permission.

OBJECTOR

Alexi Murdoch gave a presentation with the aid of power point slides. A summary of what was said is detailed below:

Good morning Councillors. Thank you for being here today and thank you for the opportunity to represent Objectors to the planning application before you.

Let me state at the outset that my submission to you here today has been put together in close consultation with two qualified and highly experienced planning consultants. Both chartered members of the RTPI.

Meabhann Crowe got her MSc in Urban and Regional Planning from Heriot Watt and was Associate Director of Planning at Colliers in Edinburgh, worked in Scotland for about 14 years before recently moving to MKO in Ireland.

(I mention Meabhann's Scottish qualifications as there seems to have been some suggestion that, since now working from Ireland, she might not have the necessary experience to speak with authority on this matter).

Steven Cameron is equally experienced and based in Helensburgh so highly familiar with Argyll & Bute Adopted Policy.

Unfortunately, through a combination of factors neither Meabhann nor Steven could attend today.

But please be rest assured, I know I don't look the part, but I'm not just talking out of my hat here! Much of what you'll hear will be direct quotes and excerpts provided by them including excerpts from submissions by Meabhann made to the Planning department on behalf of objectors.

I hope you've had chance to read some of the objections.

I think this should dispel any notion that this is about people worrying about visual amenity in Crinan specifically. None of the objectors complain about the views from Crinan, nobody is taking about what we will see or what we will not see and whether it will spoil the view.

This is all about a very important piece of Argyll and Bute Development Management Policy LDP DM1 designed to protect and conserve highest quality landscape across Argyll

and Bute. It replaced the Development Control Zone in the new LDP1 and in doing so, Section F that we are dealing with, sought to bring clarity by introducing these categorical restrictions which did not exist in the past. These restrictions as noted by the Planners, are these 4 restrictions which are renewably energy related development; telecommunication related development; development directly supporting agriculture, aquaculture, nature conservation or other established activity; and small scale development related to outdoor sport and recreation.

Today we have heard from the Planners that the criterion for approving this application in the assessment of this Policy is that it accords with number (iii). This is the first time we are hearing this today. There have been 2 reports of handling that have recommended approval of this application and at no time, in none of the bodies of these reports is it stated that this is the assessment that is being made. In fact, as I am reading it here after listing the 4, it states, the nature of the proposed development is small scale and therefore acceptable in that it is intended to be used in conjunction with the main dwelling house on the island. The report continues to say – it is worth noting that policy LDP DM1 is not intended to restrict acceptable extension of existing residential dwellings within the Very Sensitive Countryside designation, this includes erection of detached, ancillary annex out buildings.

Now, this is the problem that we have had all along. This is the problem that our consultants have had. Everyone we have consulted with has said that this justification does not exist in the Policy. I sympathise with anyone that has gone to see this, I sympathise with the Applicant. I understand what it is they want to do. No one is contesting the design, what it is intended for. The main problem is that this building is actually prohibited by Policy, and if it is allowed to be put in, in an area that prohibits it, because supposedly it is not intended to restrict extension of dwellings, even though this is something almost 100m away, we end up in a situation where the Very Sensitive Countryside Development Management Zone becomes pointless. And this is a key piece of policy, I would say one of the most key pieces of policy. Development Management in the LDP has been designed very carefully by Senior Planners to ensure that the landscape of Argyll and Bute, which is probably Argyll and Bute's most precious resource - natural and sustainable resource, is protected now and for future generations.

We discussed with our clients consultants about whether or not this development fits into any of these 4 categories and the consensus is, that while it is suggested here for the first time today that it does fit into number (iii), that would not actually be correct. So we contest that.

Slide 1 LDP MAP.

There are 2 main designations on the island. National Scenic Area and Very Sensitive Countryside. This report focuses on the first and fails to completely, to correctly assess the second. In fact it has been ignored. I am shocked to hear for the first time, after months and months of our consultant trying to have contact with the Planners to get clarity on this language about how the category is not intended to restrict the expansion of dwellings, we hear today, well actually it accords with number (iii).

This is perhaps illustrated by **Section (R) Reasons why Planning Permission or Planning Permission in Principle Should be Granted:** - The nature of the proposal constitutes small scale householder development deemed acceptable and consistent with the requirement for the Settlement area. By virtue of its location, massing, design, materials and infrastructure the development will be in keeping with the character of its

immediate surrounding and the wider National Scenic Area. It would not give rise to any detrimental residential or visual amenity concerns.

The second sentence is fine but the first sentence about the settlement area is not. If you look at the map you will see the island is not in settlement.

Crinan is affected by an overarching national designation. The NSA and 3 development management zones.

As you see the entire island falls in the VSC Zone.

This places very strict restriction on development in the form of allowing only 4 categories of development.

This development does not accord with any of those (this is not contested).

So what we have in place of this is a justification for approval that completely hinges on an argument that in turn relies on 3 ideas.

That the site is a Brownfield Site.

That it is a long established well managed garden.

That it forms part of domestic curtilage.

Ultimately none of these, even if accepted, actually work to make the development accord with the Policy, but let's look at them anyway.

Before we do that though it's important to note planning history.

Planning History

From 2017 ROH EXCEPTION MADE AND TREE SCREENING EXCUSE

Notwithstanding the applicant's Design Statement, the Local Planning Authority has assessed, and remain firmly of the view that the proposed extension of a single storey cottage by the addition of a two-storey design will have an insensitive relationship with the existing dwellinghouse and as such is completely unacceptable with regard to design related policy guidance.

However, on a very fine balance, and taken into account the resultant development will be screened, or glimpsed in views from the mainland and sea, it is considered that this (only just) adequately mitigates against unduly detrimental impact of the design on the landscape character of the NSA to a level where the proposal can be supported as an exception to Local Development Plan policy. Once again for clarity, this should not be interpreted as an argument that otherwise similarly unacceptable design can be approved within the highest quality landscape on the basis that it can't be seen by reason of, for example, temporary natural features such as trees.

And yet this argument is being offered 5 years later in this report of handling.

D. Landscape Impact P19

The proposed development is a modest structure located within land currently managed as part of a domestic garden and will generally be screened from wider view by the surrounding landform **and existing tree cover**.

So we have an exemption made 5 years ago where it is noted this justification should not be used again and here we are 5 years later seeing it used in exactly the same way.

Mr Bain was the reviewing Officer on that Application so might remember.

Worth noting:

From 2017 Design Statement

The extension is proposed to the North West Elevation, betwixt a natural rock contour and the Existing Dwelling.

This not only assists in the visual containment of the proposal, occupies the site of an existing outbuilding and absorbs an existing extension, but tends away from all habitation located to the South East and nearby mainland...

An Extension to any other face would negatively highlight island habitation;

- Toward the Harbour by additional light pollution.
- Toward Crinan peninsula and the oak woodland, increasing visibility and mass.
- Toward the Poltalloch peninsula (sea) by again increasing visibility from the hill Dwelling behind the harbour and sailors. Again introducing light pollution to same.

All above would exacerbate the presence of habitation on the island within the national scenic area.

Regarding Brownfield Site (Photos)

The “Ruins”

While Officers state in their report that the footing or outline of the unknown old stone structure/byre etc **cannot be considered as material** to the assessment, they nonetheless inexplicably go on to mention it repeatedly and go as far as to suggest that this is a ‘brownfield site’. This is highly misleading.

In addressing comments:

Further comment pertained to the stone structure on site. It is noted that this element should not be given weighting as no historic records have been found to indicate there was a building at the location between 1865 – 1971 – though no further maps of a scale large enough to show the structure were published between 1899 and 1971.

[Comment: This comment is noted. **As per the report, no material weighting is given to this feature in that the ruins are not deemed substantial to allow for a redevelopment of the site.**]

And in ROH1:

[Comment: This point is noted. **It is however worth noting that the footing as observed on site are not substantial to be considered for a redevelopment.**]

And YET the body of the report does NOT actually qualify this. Rather it seems to suggest the opposite.

On p8 quoting the Design Statement

The unique location of the garden room and very special nature of this hidden glen within the Island requires an equally unique and special design solution. The design here has evolved as a solution which compliments the nature of a very special area of land, **using the existing foundation footprint.**

In C. Natural Environment

The existing site is a brownfield location that is currently occupied by low stone walls of a former building.

And **B** on p17

It is considered that the proposed location is carefully chosen where it will be confined in the glen **and on a brownfield site with evidence of ruins foundation (approx. 500 mm above the ground).**

Steven Cameron said:

Brownfield and 'ruin' argument – the planning officer recognises that no weight can be attached to any historical use. Any 'structure' or building that may have existed has long been disused. The Planning concept of 'abandonment' is well established. Criteria to consider 'abandonment' include the condition of the building and the period of non-use. In this instance there is no building to re-use and the non-use period is evidently lengthy. **The site under no circumstances can be considered a brownfield site as any historic use, if one existed, cannot be reinstated.** The suggestion that the site is brownfield is akin to suggesting that a Roman Camp could be re-established as a camp as the site was previously used for that purpose.

Well Management Garden, Within Curtilage – site plan (pointing out Orchard and species garden), drawing from 2019 Woodland; Glen with wood photo

Curtilage: 2019 drawing

Steven said

Curtilage – the previous planning application clearly shows the residential curtilage tightly drawn around the existing house, the ground outside this is essentially countryside (in this case 'very sensitive countryside'). The current application site is described in the earlier application as 'dense woodland' which would remain 'unaffected and undisturbed' by the earlier development.

Any focus on or allusion to the development being within curtilage and being ancillary is misleading. The application site is not residential curtilage, the development requires the benefit of planning permission, the planning authority is progressing a planning application.

Curtilage – as with domestic garden ground extensions into the Green Belt, a similar extension into VSC will require a ‘change of use’ planning permission. Any application would need to be assessed against the relevant Development Management Policies, in this case VSC. The previous planning application indicates the site is dense woodland, not residential curtilage, therefore planning permission is required for the change of use as well as any new building.

Note Conditions and Reasons Relative to Application Ref. No. 17/01819/PP

3. No development shall commence until the following details have been submitted to and approved in writing by the Planning Authority to ensure retention and management of the existing woodland areas:

- (i) **A woodland management plan for the applicants’ land ownership as shown edged red and the remainder of the whole island as shown on drawing AR/241/01;** and,
- (ii) Details of the existing trees within the vicinity of the existing building and proposed extension are known, as shown on a plan, specifying those to be felled or trimmed. The development shall only progress in accordance with these duly authorised landscape/land management measures and there shall be no other tree felling/tree surgery works undertaken within these red/blue edged areas **(for purposes of this condition to comprise the whole island)** in contradiction to the approved details/woodland management specification unless approved in writing by the Planning Authority prior to any works being implemented. Any trees or plants which within a period of ten years from the completion of the development die, for whatever reason or are removed or damaged shall be replaced in the next planting season with others of the same size and species, unless otherwise agreed in writing with the Planning Authority.

Reason: To ensure implementation of the satisfactory scheme of landscaping and to protect the special landscape qualities of the National Scenic Area (NSA).

LDP DM 1 Section F) Very Sensitive Countryside

B. Location, Nature and Design of Proposed Development

P17

The proposed site includes land within a Very Sensitive Countryside Zone where Policy DM1 only gives encouragement to specific categories of development on appropriate sites. These comprise: (i) Renewable energy related development, (ii) Telecommunication related development, (iii) Development directly supporting agricultural, aquaculture, nature conservation or other established activity, (iv) small scale development related to outdoor sport and recreation.

The nature of the proposed development is **small scale and therefore acceptable in that it is intended to be used in conjunction with the main dwellinghouse on the island**. It is worth noting that Policy DM1 is not intended to restrict acceptable extension of existing residential dwellings within the Very Sensitive Countryside designation – this includes erection of detached ancillary annex/outbuildings within their garden grounds.

And earlier on page 12 a similar statement:

While the proposed building is not located immediately beside the existing dwellinghouse on the island it has been established that this part of the island is managed and utilised as part of the garden ground of the main dwellinghouse. The application has therefore been deemed a householder application for a domestic garden room ancillary to the main house. **Though Policy LDP DM1 sets out categorical development allowed within Very Sensitive Countryside Zones. It does not seek to restrict extension to established residential dwellings including erection of ancillary annex/outbuildings.**

The claim is made that the Policy has been assessed and the development conforms;

Based on the above, the Planning Authority is satisfied that the proposed development within the curtilage of the main dwellinghouse and its intended domesticated use is acceptable and conforms to Policy LDP DM1 without compromise.

Meabhann said:

1. The Officer claims the proposal is compliant with the adopted Development Plan and specifically references Policy LDP DM1. This policy is a development management control policy and includes only 4 no. categories of development; the proposal does not accord with any of these.
2. The Officer makes a link between the proposal being located on part of the island deemed managed garden ground. While this in itself is highly questionable, the Officer goes on to claim to assess the proposal against the 4 no. categories of development set out in the Policy but has not in fact undertaken any such assessment. The Officer states that the Policy “*does not seek to restrict extension to established residential dwellings including erection of ancillary annex/buildings.*” This wording is not included in the adopted Policy. The Policy is explicit. The Policy makes no reference whatsoever to residential development. The Officer has not pointed to any adopted Supplementary Guidance or interim guidance that explains this interpretation and application of the policy. The assessment presented in the report of handling is therefore completely flawed.

Impact of Proposal on the Very Sensitive Countryside

In the first instance it is most pertinent to consider the clear contravention with Policy that exists. Planning policy LDP DM1 (F) is clear in that ‘only’ certain specific categories of development ‘on appropriate sites’ will be entertained under that policy. The proposed development fails to fall within any of the four categories set out under part (F) of the Policy above. The proposed development is therefore not in accordance with Policy DM1 and as such, being within designated Very Sensitive Countryside, cannot be granted planning permission. There is no provision in the Policy or elsewhere in the Development Plan or Supplementary Guidance that provides for any other decision to be forthcoming.

RE-ZONING

In our objection letter we offered the following suggestion, and this suggestion still stands today.

Availability of proper channels for Development

We would like to suggest to the Applicant, however, that the proper channel by which to bring forth this proposal for building development on the island exists and is actually quite straightforward. This is for the Applicant to apply to the Council to have the land in question re-zoned in the next LDP from Very Sensitive Countryside to within the Settlement Zone.

This is a path available to everyone in Argyll and Bute.

Although we don't believe such a re-zoning in this area would be appropriate (given its sensitivity and being within an NSA, and the fact that it's obviously always been zoned this way for good reason) should the applicant be successful in including the island in the Development Zone, an application of this type could then be brought forward in compliance with Zoning Policy.

But while the island remains within Very Sensitive Countryside Zone, this development would clearly be in breach of that Policy and as such must be refused.

It is worth noting that ROH response to this suggestion:

'A suggestion was made for the applicant to use the proper channel in bringing forth the proposal....by applying to the council for re-zoning the site in question from the Very Sensitive Countryside designation to a settlement zone to allow the proposed development to go ahead.

[Comment: This comment is noted. However, it is noted that the designation is not proposed to change in the proposed LDP2.]

We are not sure what to make of this comment.

Either way, the suggestion still stands.

Steven Cameron said: On VSC

3. VSC – the existing house and its curtilage, as well as the application site, all sit within the VSC designation. Similar to a farmhouse or dwelling sitting in the green belt, any development proposals which require an express grant of planning permission must be assessed against policy criteria. Within the green belt for example, this would consider the development's impact on the characteristics of green belt, within VSC, it must accord with the VSC restrictions. A development is not automatically acceptable, nor can it benefit from being in curtilage (which in this case it isn't in any event) as the wider impacts on the Development Management Zone must be taken into account. Otherwise there is no point in having specific DMZs for different character areas.
4. The VSC Development Management Zone is explicit in what is acceptable in terms of development. The proposed development does not fall within any of these classes of development.

NOTE. We have sought for months through our planning consultant for an answer from Officers as to where the justification for this additional residential expansion criteria may be found in Policy. The only answer we have received was this reference in the most recent report.

Reference was made in relation to misinterpretation of Policy DM1 as per the Committee report for the previous application (21/02308/PP) which stated the policy is not intended to restrict acceptable extension of existing residential dwellings and their gardens within the Very Sensitive Countryside designation.

[Comment: In view of this, Officers remain of the view that though this policy seeks to protect the Very Sensitive Countryside zone against new developments, it has been interpreted correctly and the development assessed against it accurately and without compromise.]

Essentially, in view of your question we remain of the same view...

It seems clear that there simply is no provision in adopted policy to substantiate this statement.

The whole *point* of a *categorically restrictive* Development Management Zone is surely to *restrict* development within that zone to *only* those *categories* actually listed in the Policy. This is not, as in other areas, open to interpretation. This is *not subjective*. The policy is *objective* by design. It would not work otherwise.

This from Steven Cameron and this is key:

This is important/VSC & Greenbelt – to emphasise the above points it is worth noting that LDP DM1 part G in relation to development within the Green Belt also sets out exemptions to the general presumption against any new development, this includes part (v) which applies to “Demolition and replacement of buildings and alterations or extensions of such buildings, including dwelling houses, subject to no change of use occurring.” In other words, the Green Belt DM Zone explicitly allows alterations and extension to buildings in the green belt, the VSC DM Zone does not.

The Officer appears to make a subjective assumption that the policy did not intend to restrict domestic or residential ancillary development. If the intention was to allow ancillary residential development then the policy would be explicit in this regard and this would have been included in the list of acceptable developments.

This from Argyll & Bute’s own MAIN ISSUES REPORT 2011 Comment on Management Zones

This Main Issues Report (MIR) represents the first formal stage in producing a new Local Development Plan (LDP).

Perhaps this better speaks to the intention of this policy:

Chapter 9

SETTLEMENT STRATEGY

The main advantages of the use of this zone system is that it builds certainty into the planning process...

Precedent

There remains real concern that should planning permission be granted this will erode the weight of the above named policy and important designations across not just the island, but wider Argyll & Bute. This is especially true of the application of Policy LDP DM1. Should that transpire, it is inevitable that continued development of man-made structures in VSC will occur. This development is clearly not in accordance with the policy provisions of the Plan, and to grant planning permission is considered to be detrimental to the ability of the Authority to enforce any future controls in similar locations. A refusal of this planning application would ensure no precedent exists for development to be proposed in VSC areas which do not conform to the Policy controls set out in the existing Plans and Guidance.

Summary

To summarise,

The proposed building, although proposed as a 'room' is in fact a fully serviced building which is far removed from the main house, and seeks to build in a geographically separate, remote and largely undisturbed glen on the island within the highly restricted Management Zone of Very Sensitive Countryside as well as within a nationally important National Scenic Area

Most crucially, the building and the proposed plan fail to fall into any of the four strict categories of the development management policy in place, outside of which no development of any scale is allowed.

Consequently, this application is wholly and fundamentally incompatible and does not comply with Argyll & Bute Planning Policy and must be refused.

Refusal Justification

A clear breach of Policy would exist should permission be granted for this development. **There is categorically no justification set out in the adopted Development Plan or associated Supplementary Guidance (SG) for these statements from the Planning Authority.** There has been no interim technical note or similar provided by the Planning Authority to detail out how the application of Policy LDP DM1 can be altered from that clearly stated in the adopted Development Plan.

The policy wording is explicit, in that only four development categories exist where development in this Zone would be deemed acceptable. As the proposal fails to fall within any of the development categories set out in the Policy, it must be rejected.

At this point the Committee took a 5 minute comfort and resumed the hearing at 12.20 pm.

It was noted that Councillor Fiona Howard had left the hearing during the previous presentations for personal reasons. She did not return to the hearing.

MEMBERS' QUESTIONS

Councillor Irvine advised that he had heard from Mr Murdoch today that there were 2 key issues crucial to this - the definition of the area of curtilage, and the development categories under which this application might fall. He sought clarification from Planning. Mr Bain referred to the definition of curtilage and said the objectors were correct in respect of identifying that there was an inconsistency in the identification of curtilage between the 2017 application and the current submission. He advised that the 2017 application was for an extension to the existing dwellinghouse and the curtilage within the plans submitted were defined by the Applicant's Agent at that time. The focus of the assessment in that matter was looking at the acceptability of extending the property. In that case the main focus was that this was a very large extension to a very small property. The current application shows a larger curtilage which the Applicant has claimed within the supporting information was used for functions that were ancillary to the dwelling house. This was an issue that Officers queried at the outset of this application, certainly at validation stage, as to why the curtilage had been shown differently. Mr Bain advised that it was the discretion of the Applicant to ~~the~~ define plans and that Officers have, in undertaking a site visit, and assessing the information provided by the Applicant, sought to establish that the claimed area of additional garden ground was genuinely something that had in the past been used for that purpose. He advised that this was something which certainly the Members who had been on site would have had a chance to look at and get a feel for themselves how the land was used and whether that was something that had occurred very recently or something which, as Officers have taken the view from looking at that part of the application site, had a bit more depth to it in terms of the length of time which that activity has occurred. In terms of the second issue, Mr Bain said the application site was located within very sensitive countryside. The objectors have raised an issue which was worth clarifying and was a matter which was dealt with in supplementary report number 2. He advised that it essentially came down to a misinterpretation of what Officers were intending to say. In hindsight, he said, the wording of Officers in the original report of handling could have been clearer in terms of establishing exactly where the proposal sat within the context of policy LDP DM 1 (F). Essentially the report of handling talked about an established activity. It talked about very sensitive countryside not being intended to restrict the extension of an established residential dwelling and that was essentially the same as looking at F(iii) which supported development directly related in supporting an established activity on the land.

Councillor Irvine referred to the benefit of visiting the site a few weeks ago and having the chance to walk around, and said that it would appear that between the 2017 application and this application that some clearing of the application site was more recent. He asked Planning Officers if it was their opinion that the established activity was historically established activity which had gone on for years or if it was more recent and fell somewhere between 2017 and now. Mr Bain advised that his view of it and his experience of the island, having been on it and visited it, was in relation to the current application as he had not visited it in 2017. The view taken was that there was sufficient indication that there was historic use of that area as an ancillary area to the residential occupation of the dwelling house. Information that had been provided by the Applicant confirmed that the level of use of that area had varied over time. From an Officer perspective, he said they had not sought to take the view that it would be an unlawful activity or would be an unlawful extension of the curtilage.

Councillor Hardie asked Planning Officers to comment on what Mr Murdoch had said about setting a precedent if this application was granted. Mr Bain said that he would disagree with that view. He advised that provided Members were satisfied that the land in

which the building was to be located was part of the established activity, he would suggest the proposal was well aligned with policy LDP DM1 (F)(iii).

Councillor Green, in terms of considering the current application, asked what the Planning Officer view was on whether setting a precedent was a material consideration. Mr Bain said that setting a precedent in planning terms was usually quite difficult. He advised that ordinarily you would be concerned about precedent where you were looking to justify a departure from development plan policy because you would be looking to accept circumstances where you were setting the plan aside and you would ordinarily be looking to set a very high bar for that to be assured that there were material circumstances to planning that were not readily replicated. So accepting something that was not planned for but relative justification for doing so. He said that they did not think that was the case in this instance. As stated in the Officer presentation, he said they felt that this proposal was aligned with the Local Development Plan. On that basis, he said they would highlight that each application was required to be assessed on its own merits. He said it would be difficult to use this case as an example that would look to undermine the intentions of LDP DM 1 or the protection of the very sensitive countryside.

At this point it was noted that Councillor Luna Martin wished to speak. The Chair sought and received clarification from Councillor Martin that she had joined the meeting sometime after the hearing had started. The Governance, Risk and Safety Manager, confirmed to Councillor Martin that as she had not been present from the start of the hearing she would be unable to take part in determination of this application and would not be permitted to ask any questions.

Councillor Brown said that she had two questions, one for Planning Officers and one for the Applicant. She referred to the proposal fitting in with policy LDP DM1 (F)(iii), and asked if it would also fit with policy LDP DM1 (F)(iv). She pointed out (F)(iv) was for a small scale development relating to sport and recreation. She commented that this would be an ancillary garden room to be used for reading and writing and asked if that would come under recreation. Mr Bain advised that in terms of the provisions of LDP DM1(F)(iv), this was intended to relate to public facilities or facilities with a wider public benefit than a private garden area.

Councillor Brown sought and received clarification from Mr Stein that the garden room may be used for people to stay overnight if they required extra space for their guests if they were part of a group of people staying at the house and that there would be a sofa bed there for that purpose. He said they would not be having meals or living there, it would just be a place to sleep. He said they would always be part of what happened in the house and that there was no intention to use it separately for people who were not part of a grouping in the house. He confirmed that the building would be big enough to accommodate someone on a sofa bed. He said it would not be a regular or permanent thing.

Councillor Irvine referred to comments made by the Objectors about rezoning and sought clarification on the issue of zoning and rezoning from Planning. Mr Bain said that his interpretation of this was in reference to the Local Development Plan process whereby when a Plan was renewed, which up till now was every 5 years, and moving forward would be every 10 years. Part of that process involved the Council preparing a Plan and going out to consultation on its proposals which would include its settlement strategy and any zoning of land. He said there was an opportunity through that consultation process for any party to ask the Council to rezone land either to promote development or protect it from further development. He said it was not an automatic process - it would feed into the

consultation process and may be subject to counter objection from other parties. If it was a matter of contention it would be an issue for Scottish Ministers to resolve at examination. He said it was possible but it was a process that came around infrequently and was not something that could be readily achieved in a short timescale.

Councillor Armour referred to the Objector saying that there was dense woodland in the 2017 application and commented that having the good fortune to have visited the island, it did not look like a dense woodland. He asked if the area had materially changed since 2017. Mr Bain said it was difficult to say as he and Ms Antwi were only familiar with the island in its current form. He noted from the 2017 application that there was an indication that there may have been more trees at that location. He said that as far as he was aware the Woodland Management Plan submitted at that time in relation to the extension of the house focussed on the woodland area around the building. He said he was not aware if they had any details of the tree cover at that time and how that might have changed.

Councillor Armour asked Mr Stein when any clearance of woodland was made. Mr Stein said that looking from the steps towards the boat house the bit that was dense woodland was up on the ridge. On the other side there was a block of dense woodland by the steps and otherwise in the glen itself it was thicket. He said there was not ever in the glen dense woodland. He said there were a number of trees that needed pruning as they were unhealthy and there were a few removed. He advised that towards the boat house where there was more tree cover, SSE were concerned about their overhead power line and they came and felled a number of trees in that area between the boat house and the centre of the glen. He said they wanted to clear a 10m belt and they removed a number of trees from that area. Otherwise, he advised that there had been no removal of dense woodland just a thinning out of some trees as they were so over grown they were growing into each other.

Councillor Armour asked if there had been any attempt to find out what the building ruin was. He said he thought it did look like it could have been some sort of living structure. He asked if there had been any work done to find out what this could have been. Mr Bain said no and that from their end the report noted the presence of the footprint of this ruin. It indicated that the site had some form of previous development but Planning were not sure what it was. He said that part of the reason for not investigating that further was because the presence of a previous development was not a fundamental matter in looking to justify approval of this development. Had the case been made that it was a redevelopment, then the provenance of the ruin, its scale, its function, would all have been relevant factors in looking at the assessment of this case. He said it was something that was there and that had relevance to some degree, but it was not considered to be a fundamental factor in assessing the acceptability or otherwise of this development. He referred to the late comment received from West of Scotland Archaeology (WOSA). He said that they had not cleared up the mystery of that structure either. He said they had commented on more wider issues of archaeology in the area.

Councillor Armour asked if he was correct to say that WOSA would like to look at this site before any works started. Mr Bain said that they had expressed that within the wider locality of the Dunadd and Kilmartin glen area, there was a high concentration of archaeological finds within previously settled areas, and on that basis the WOSA had advised that it would be appropriate to condition a watching brief for any ground breaking work associated with this development but they had not identified any specific sensitivity or interest in the structure that was on the site.

Councillor Irvine referred to the issue of curtilage being a crucial argument here. He commented that on site they had seen a small pond, some previously established bedding areas and the route through to the old boat house and slip way. He asked if that would have been historically defined as curtilage, those areas that would have previously been in use as part of the day to day activities. He asked Planning, if going to use a boat house, for example, would constitute part of the curtilage of any given property. Mr Bain said that taking access through an area itself would not necessarily define it as curtilage, but it may indicate other activity. Generally when you have a route that was well used that may give rise to other activity over time along that route. He said the specific circumstances of the properties that it linked would need to be looked at and the function that was being undertaken within that area. He advised of the specific circumstances of this island - it was in single ownership with a dwellinghouse centrally on the island, it had an obvious, immediate curtilage which was quite intensively managed and used for cultivation, domestic outbuildings, seating areas, and grassed areas well maintained compared to the remainder of the island. He advised that having been on the island, he viewed the valley or glen to the south of that to be a secondary area, not managed to the same extent as the immediate curtilage. There was a different characteristic to that but it still felt domestic and used for purposes ancillary to the residential enjoyment of the dwellinghouse. Having walked the remainder of the island, once you stepped up on to the ridges either side of the house or to the southern side of the valley you had a much more rugged landscape characterised by rock outcrops, by bracken and by tree cover not managed in the same way as the domestic area of the island. He advised that there was a decision in this that was going to come back to the Members. Ultimately it was whether the Members were convinced that the application site formed part of that curtilage area or area of established activity that related to the residential occupation of part of the island. As Officers, he said that they had been there and observed the ground conditions. Taking it back to the question about tree cover, he said that the times that he had been on the island he did not see any evidence of any recent ground disturbance or any indication that there had been any extensive fellings. He advised that he appreciated that the condition of the land at the moment was improved from the position it was when the Applicant first took ownership of the island. Whether that constituted a change of use or just meant bringing the historic garden back into use, as Officers have taken the view, he said it was for Members to take a view on.

SUMMING UP

Planning

Peter Bain summed up as follows:

Overview & Section 25 of the T&CP (Scotland) Act 1997:

During the course of today Members have heard a range of issues both in support of and opposition to the development. In reaching a decision today, Members are reminded of the requirement placed upon decision makers by Section 25 of the Town and Country Planning (Scotland) Act 1997 that they are required to determine all planning applications in accordance with the provisions of the adopted development plan unless material considerations indicate otherwise.

Policy Overview

The proposal is for a modest building with a footprint of 24sqm and a ridge height of 3.7m located in a sheltered and well screened site within an extended garden area associated with the sole dwellinghouse on the island.

The proposed use of the building as a garden room that would be utilised solely for purposes ancillary to the main dwelling located approximately 70m to the North West. Accordingly, this is a householder development which, given its secluded location, will not have any direct impact upon the privacy or residential amenity of any neighbouring property, nor does it give rise to any concern in respect of access or infrastructure requirements.

The fact that a planning application for a householder development has proven to be so controversial in attracting 131 representations is perhaps the most unusual aspect of this case however it does remain the opinion of officers that, notwithstanding the concerns raised by third parties, the matters at hand are in fact relatively straightforward with the issues of settlement strategy and the impact of the proposal upon landscape being identified as the two fundamental policy matters that Members will require to reach a clear position on before making their own decision on whether or not to grant planning permission.

Settlement Strategy:

The first issue that members will require to address in reaching a determination on this matter is to decide whether or not the proposed development is aligned with the settlement strategy as set out in the Argyll and Bute Local Development Plan 2015. There are seven development management zones defined in the Local Development Plan which seek to inform the content of policies in the plan, particularly with regard to the form, location and scale of new development. The Development Management Zones help support the LDP's settlement strategy by guiding larger scales of development primarily to larger key settlements and safeguarding or more sensitive and vulnerable areas from inappropriate scales of development.

Policy LDP DM 1 establishes the acceptable scales of development in each of the zones with the boundaries of all the settlements and countryside zones mapped in the Local Development Plan proposal maps.

In this instance, it is confirmed that the application site is located within the Very Sensitive Countryside which is a development management zone that generally comprises predominantly remoter and elevated areas of countryside, and isolated coast which have extremely limited capacity to successfully absorb development and within which only limited categories of development is supported.

The provisions of Policy LDP DM 1 (F) (iii) do however clearly identify that within Very Sensitive Countryside support can be afforded to development which directly supports an "established activity" that falls outwith the other defined categories of development that might be supported. The other defined categories are development related to renewable energy, telecommunications, agriculture, aquaculture, or small scale outdoor sports and recreation.

Officers have advised that within the context of policy LDP DM 1, the existence of the applicant's dwellinghouse should be acknowledged as an "established activity" with such

consideration reasonably being extended also to other land which forms a function that is ancillary to the residential occupation and enjoyment of that property. Officers are however clear in their view that there is a marked distinction between areas of the island that form part of that “established activity” and areas that do not form part of the established residential activity. The ‘domesticated’ areas essentially comprise the lower lying sheltered areas in the middle of the island and include the dwellinghouse itself, its immediate curtilage with flower beds, lawns, and domestic outbuildings, and contained valley to the south which is less intensively managed but is nonetheless distinctively different in its appearance and character to the outlying areas of the island to the north and south which are more rugged in nature.

It is noted that the objectors have raised issue with the conflict between the curtilage defined in the Applicant’s 2017 application to extend the dwellinghouse. In this respect I would highlight to Members that the extent of the curtilage was not a key factor in consideration of the earlier application. The key issue for Officers in dealing with the application to extend the house was the acceptability of adding a 2 storey extension to a single storey property. Members who are familiar with other elements of the plan’s sustainability design policy will note that ordinarily that policy is looking for extensions to property to be subservient in nature. The 2017 application extended an argument as to why in that particular circumstance, and given the sensitivities of the case, a larger form of extension might be accommodated. That certainly is the focus of that assessment and the arguments and the safeguards that provided. But what that permission doesn’t do, that wasn’t a permission for a new dwellinghouse. So that permission was not looking to establish the boundaries of any land that might have a change in use from another non-domestic purpose to residential. It was simply accepting the facts that the Applicant put in front of us at that time in terms of the way they defined their boundary. Looking at the current application, I would contend that from the information available there is additional land that is used, has been used, historically to support the function of the dwellinghouse on that island. That is the conclusion the Officers have reached in assessing the facts put before them in this application and in their own observations in visiting the site.

In considering whether the current proposal benefits from the support afforded by policy LDP DM 1 (F) (iii) members will require to arrive at view on whether the land to be developed falls forms part of the area of “established activity”. The contained nature, undulating topography and land cover have made it challenging to provide members with photographs that accurately depict the experience of visiting the island, however it is hoped that, in addition to the information presented today that those members of PPSL who were able to attend the site visit last week will be in a position to assist their fellow Councillors in reaching a view on way or the other in this respect.

Consideration of this aspect of the proposal is clear – if Members agree that the development is within an area of “established activity” associated with the existing dwellinghouse and that the proposed development directly supports that function then they should also logically reach the view that the application is, in principle at least, consistent with the settlement strategy set out in policy LDP DM 1.

It is further noted that whilst the circumstances of the site are open to a degree of interpretation given the absence of any clear boundary demarcation between curtilage or other garden ground and other ‘non-domestic’ land within the same ownership the implications of Members decision on the circumstances of this particular application site would not be expected to set a precedent or undermine the application of policy LDP DM 1 elsewhere as objectors contend.

Landscape Impact:

The second significant issue for members to determine is to establish whether they consider that the development would or would not have a significant adverse impact upon the Knapdale National Scenic Area. Whilst the acceptability of the scale, siting and design of the proposed building are matters also considered to be relevant, officers assessment of these matters against policy LDP 9 and SG LDP Sustainable Design identifies that the proposed garden room and its intended function are appropriately sited and designed having regard to its relationship to the associated dwelling and its immediate setting. The provisions of LDP 3 and SG LDP ENV 12 however require consideration of the impact of the development upon the wider setting, including the landscape character and appearance of the NSA.

Whilst Eilean Da Mhienn is recognised as being a key feature within the local setting of Loch Crinan and Crinan Harbour it is not specifically mentioned or identified in Nature Scotland's Citation for the NSA designation or its list of Special Qualities.

Whilst the development is of modest scale and sited in a manner that will prevent it from being viewed prominently it is recognised that the development will still be visible from some locations offering views of the island, including the elevated footpath above Crinan Harbour. However it is also appropriate to recognise that whilst the island is sparsely populated it is a location where man-made development is already evident due to the previous establishment of the dwellinghouse and the boathouse. The proposed garden room would be set between these two existing structures and would not introduce built development into a location which is otherwise devoid of development, neither would the proposed scale and design of the building appear out of place in relation to existing built development.

Where the development is open to view it will be seen in the context of the existing buildings on the island and against a wider backdrop which includes existing built development at Crinan Harbour, and elevated properties in Crinan. Whilst officers are satisfied that the proposed development would not have a significant impact upon the integrity of the NSA or the special qualities for which it is designated and accordingly is consistent with Policy LDP 3 and SG LDP ENV 12 this is again ultimately a matter upon which Members will require to reach their own view in determining the application.

Conclusion:

In summary, the case before Members has been assessed by officers who have reached a view informed by both internal and external consultees that the siting, scale, design, finishes, amenity, access and servicing arrangements associated with the proposed development are considered to be sufficiently aligned with the relevant provisions of the Argyll and Bute Local Development Plan 2015 and it is accordingly recommended that the application should be granted planning permission subject to the conditions and reasons appended to Supplementary Report No. 2.

Applicant

Mr Stein invited the Committee to follow the advice of their expert and impartial Planning Officers.

Objector

Mr Murdoch advised that despite the intention by Planners here today that this development fitted within F section iii, he would say that if you read section iii carefully it stated 'Development directly supporting agricultural, aquaculture, nature conservation or other established activity.' If that other established activity was completely removed from the previous categories, it could be defined as anything. He said that surely if extensions to dwellings were listed in the Greenbelt as something that was specifically allowed, that would be listed as well in very sensitive countryside. To use established activity and to claim that could be garden or anything, he said, was highly misleading. Giving some evidence to this, he pointed out that in the upcoming LDP2, which he advised was about to be adopted, the zoning did not change. He said there were some changes to the countryside zonings. The countryside changed from presumption against development primarily to presumption in favour of certain developments. So the countryside zone did change but the very sensitive countryside zone did not change. He advised that the nomenclature changed to remote countryside, but in terms of the categories that were allowed, this remained the same. He said there was, however, a subtle change in the language and that was, along with agriculture and so on, changed to specify countryside activity. He suggested that this was a clarification of the language to avoid exactly the kind of situation faced today - that established activity could be co-opted and be used to mean anything.

He advised that he would argue that if you allowed established activity to mean just anything, it sort of made moot the point of having these categories. Furthermore he said that if we were to accept that this was a garden, and it was long established, even though 5 years ago it clearly wasn't, that it had been rediscovered and it had been reclaimed, this did not automatically mean that because we have established there was a garden there, that this building that was proposed, which was a new structure, had anything to do with gardening activity. He said they were not talking about putting up a large greenhouse, this was a small guest house. He advised that he did not see how that had anything do to with established activity. He said that if established activity was supposed to mean, established activity to do with the house, again that could mean anything – he could put up a cinema, or put up a bar.

He advised that he knew these rural development management zones were peculiar to many people, and maybe to some Members too. He said that for these areas out in the countryside and very sensitive countryside in the special landscape across Argyll and Bute, this was a key tool that the Council had and had adopted in order to protect this landscape. He said that from a subjective point of view, a visit to the site might lead you to conclude that in terms of assessing and in terms of the visual amenity, it might be a small thing, and it might not matter, you might only glimpse it a little.

He advised that it should be noted that in terms of the excuse of tree screening, it was specifically suggested in the 2017 report of handling that this excuse should not be used again for obvious reasons. He said that trees came down, they got felled, they got sick. He commented on the whole idea of using tree screening for a second time to essentially make an exception in this same site, in a National Scenic Area, in very sensitive countryside. The idea that this would not create a precedent, he said he strongly disagreed with that. He said this would absolutely create a precedent in that by allowing this interpretation of established activity to just mean anything we want, that meant that tomorrow, if this went through, anyone who had land in their ownership and was in very sensitive countryside and that maybe wasn't in their curtilage yesterday, could fall into their curtilage tomorrow because they started gardening it, and then by calling it their

garden, it became domestic curtilage, and then, once it had become domestic curtilage, apparently that just meant a building could go up. He said that to him that was the definition of precedent and it was going to become impossible for the authority to control development of this sort in the very sensitive countryside development management zone designation.

He said that was what objectors had a problem with. It wasn't even specifically about this one development, this was about what this represented to wider Argyll and Bute. He said it was the reason people across Argyll and Bute were worried, it was the reason why people from even further afield who came to Scotland, who recognised the value Scotland had - these dwindling, remote and wild landscapes. He said that encroachment into these areas had to be strongly resisted. He said the Scottish Government said so and the Local Development Plan said so. He advised that this was the remit the authority needed to uphold its own policy and that was what they were arguing for here today. He asked the Committee to uphold policy in the public interest and refuse this application.

The Chair received confirmation from all parties present that they had received a fair hearing.

The Chair ruled and the Committee agreed, to adjourn for lunch at 1.07 pm. The Committee reconvened at 2 pm. Councillor Luna Martin did not return to the meeting.

DEBATE

Councillor Hardie thanked everyone for their presentations. He advised that having read the paperwork and heard from everyone today, he was satisfied that to grant this application would be a decision made in accordance with the Local Development Plan so he was content to grant the application. He advised that he was also satisfied that by granting the application no precedent would be made or set.

Councillor McCabe said that she took a different view. She advised that she felt that if this application was granted it would set a precedent as Mr Murdoch had stated, people could commence gardening, the curtilage could be extended and they could apply to build. She said the development was 100 yards away from the house. She said she did not think the application should be granted.

Councillor Armour thanked everyone for their presentations as they had been really helpful. He said that it had also been helpful to visit the site and commented that he could certainly see from the plans from 2017 where it said dense woodland, he could see why, as it looked like that from the many pictures seen. He advised that on site it did not. He advised that it looked like it had been a garden and was trying to be brought up to a standard it looked like it had been previously. He said that it was obvious that the main way of getting to the island was from the boat house at the south end of the island which you would need to come through the glen. He said that it looked to him that a dwelling had previously been there. He said that the thing that had swung this for him was visiting the site and seeing what was there, and that he was minded, like Councillor Hardie to support the application.

Councillor Irvine advised that like Councillor Armour, he had benefited from visiting the site and being able to put the application area into context, helped him with the discussion about curtilages. He commented that this was a crucial factor, the fact that this would be extended to the area where the application site was. He said it was only separated by the fact of the rock formation. He said he had noted that Mr Stein had reinstated new steps

down into that area and that it was clear that previously, historically, it was used as part of the ongoing activities around the house. He advised that he could see clearly from the site visit that some of that had lapsed, and that some of the ground was not in the best of condition, showing that its use had lapsed, but, he said that he found himself inclined to see this as part of the curtilage. He advised that he found it uncomfortable that the Committee, along with Officers too, were having to make an interpretation of LDP DM 1 and that this was not as clear as perhaps it could have been. He advised that if he has come to the conclusion that this was fair curtilage, then he also had to come to the conclusion that the application site was part of ongoing activities that had previously existed and that existed now. He confirmed that he was minded to support the Officer's recommendation to approve the application.

Councillor Brown said that she had listened to both sides and commented that looking at the pictures and being on site put it right into context. She said she could see where the existing garden curtilage was and she could see where the extended curtilage was and that it had been in use. She pointed out that the old pictures presented by Mr Murdoch, showed that the biggest thing you could see then was the existing house. She commented that it did not look to her like there was any massive dense woodland. She said you could see the valley, you could see both sides of the rock and you could see where you would come from the house all the way down to where the wee boat house was. She advised that, whilst taking into consideration LDP DM 1 (F)(iii), she thought the Planners had made the case for her and that she was minded to support the application.

Councillor Green said he was grateful that some Members had been able to attend the site visit as he had been unable to go. He advised that he had taken the opportunity of looking at the site from Crinan Harbour when he happened to be in the area. He advised that having listened to all the arguments today and seen the presentations, he was minded to go with the Planner's recommendation. He said he thought the development was relatively small scale and unobtrusive. He said he did not have any problems with it and setting the precedent had been covered as well.

Councillor McCabe confirmed that she remained of a different mind. She advised that when she saw the pictures from 2017 that the Applicant had put in, there was an inconsistency between 2017 and now of what was on the plans.

Councillor Wallace said that he too had listened to all the arguments carefully. He advised that while he had sympathy for what the objectors were trying to do to protect the landscape, he said that he did think he came down on the side that he did think, having visited the site, that there was a clear difference in the landscape between the house site and the valley and then the rest of the island. He said he was minded to support the Officer's recommendation.

DECISION

The Committee agreed by a majority to grant planning permission subject to the following conditions and reasons, as detailed in supplementary report number 2:

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 14/06/2022, 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
Proximity and Location Plan	AR/287/A/01		25/08/2022
Site Plan with Curtilage (1:1250)	AR/287/A/02		25/08/2022
Site Plan (1:250)	AR/287/A/03		25/08/2022
Proposed Elevations	AR/287/A/05		26/07/2022
Proposed Elevation, Sections and Plans	AR/287/A/04		26/07/2022

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

- Notwithstanding the provisions of Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997, the building hereby permitted shall be utilised solely as a structure ancillary to the occupation of the main dwelling and shall not be occupied independently thereof as a separate dwelling unit.

Reason: To define the permission on the basis of the Planning Authority's assessment of the use applied for.

Note to Applicant:

For the avoidance of doubt this permission only provides for the occupation of the ancillary building and the main dwelling by a single household and their non-paying guests. Specifically the occupation of the building independently from that of the main dwelling (e.g. as a separate fulltime residence or a holiday letting unit) shall require the benefit of a separate planning permission.

- Notwithstanding the provisions of Condition 1, the proposed path improvement to be carried out between the boathouse and the application site for the delivery of materials and construction of the garden room, hereby approved, shall be removed and the ground reinstated within three months following completion of the structure.

Reason: To ensure the development integrates into its surroundings, in the interest of visual amenity.

- No development or ground breaking works shall commence until a method statement for an archaeological watching brief has been submitted to and approved in writing by the Planning Authority in consultation with the West of Scotland Archaeology Service.

The method statement shall be prepared by a suitably qualified person and shall provide for the recording, recovery and reporting of items of interest or finds within the application site.

The name of the archaeological organisation retained by the developer shall be given to the Planning Authority and to the West of Scotland Archaeology Service in writing not less than 14 days before development commences.

Thereafter the development shall be implemented in accordance with the duly approved details with the suitably qualified person being afforded access at all reasonable times during ground disturbance works.

Reason: In order to protect archaeological resources.

(Reference: Report by Head of Development and Economic Growth dated 5 October 2022, supplementary report number 1 dated 18 October 2022 and supplementary report number 2 dated 8 December 2022, submitted)

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held BY MICROSOFT TEAMS on WEDNESDAY, 21 DECEMBER 2022**

Present: Councillor Kieron Green (Chair)

Councillor John Armour	Councillor Fiona Howard
Councillor Jan Brown	Councillor Willie Hume
Councillor Amanda Hampsey	Councillor Mark Irvine
Councillor Daniel Hampsey	Councillor Andrew Kain
Councillor Graham Hardie	Councillor Peter Wallace

Attending: Shona Barton, Governance Manager
Fiona Macdonald, Solicitor
PC Raymond Borland, Police Scotland

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Audrey Forrest, Paul Kennedy and Liz McCabe.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF A TAXI DRIVER LICENCE (K OLIPHANT-SMITH, SANDBANK DUNOON)

The Chair advised the Committee that this Application would need to be continued until January 2023 due to Royal Mail delays/industrial action preventing the Applicant from receiving 14 days' notice of this hearing, in compliance with the 1982 Act (Schedule 1, Section 4 (2)).

DECISION

The Committee agreed to continue consideration of this Application to a meeting of the PPSL Committee on 18 January 2023.

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

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held BY MICROSOFT TEAMS on WEDNESDAY, 21 DECEMBER 2022**

Present: Councillor Kieron Green (Chair)

Councillor John Armour	Councillor Willie Hume
Councillor Jan Brown	Councillor Mark Irvine
Councillor Amanda Hampsey	Councillor Andrew Kain
Councillor Daniel Hampsey	Councillor Luna Martin
Councillor Graham Hardie	Councillor Peter Wallace
Councillor Fiona Howard	

Attending: Shona Barton, Governance Manager
Fiona Macdonald, Solicitor

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Audrey Forrest, Paul Kennedy and Liz McCabe.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF A STREET TRADER LICENCE (G PLUMB, DALMALLY)

The Chair advised the Committee that this Application would need to be continued until January 2023 due to Royal Mail delays/industrial action preventing the Applicant from receiving 14 days' notice of this hearing, in compliance with the 1982 Act (Schedule 1, Section 4 (2)).

DECISION

The Committee agreed to continue consideration of this Application to a meeting of the PPSL Committee on 18 January 2023.

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

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held BY MICROSOFT TEAMS on WEDNESDAY, 21 DECEMBER 2022**

Present: Councillor Kieron Green (Chair)

Councillor John Armour	Councillor Willie Hume
Councillor Jan Brown	Councillor Mark Irvine
Councillor Amanda Hampsey	Councillor Andrew Kain
Councillor Daniel Hampsey	Councillor Luna Martin
Councillor Graham Hardie	Councillor Peter Wallace
Councillor Fiona Howard	

Attending: Shona Barton, Governance Manager
Fiona Macdonald, Solicitor
PC Raymond Borland, Police Scotland

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Audrey Forrest, Paul Kennedy and Liz McCabe.

2. DECLARATIONS OF INTEREST

Councillor Graham Hardie declared a non-financial interest in this application as he knew the Applicant personally. He left the meeting and took no part in the determination of this application.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF A TAXI DRIVER LICENCE (S OSBORNE, 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 Police Scotland opted to proceed by way of audio call and PC Raymond Borland joined the meeting by telephone.

At a Civic Hearing held on 22 June 2022 in respect of this application, it was agreed not to make a decision at that time and to continue consideration until the outcome of court proceedings or until December 2022, whichever was earlier.

It was noted that only those Members who participated in the hearing on 22 June 2022 could participate in the continuation of the hearing. On that basis, Councillor Daniel Hampsey left the meeting at this point.

The Chair advised the Committee that this Application would need to be continued until January 2023 due to Royal Mail delays/industrial action preventing the Applicant from receiving 14 days' notice of this hearing, in compliance with the 1982 Act (Schedule 1, Section 4 (2)). Consequently, the Application would become a "deemed grant" by default upon the expiry date for determination of the Application by the Licensing Authority, which would fall on 6 January 2023 (as per Section 3(b) of the 1982 Act).

The Chair also advised that all avenues had been explored in terms of making a determination before the expiry date, noting that due to the scheduled public holidays on 26 and 27 December 2022 and on 2 and 3 January 2023, it would not be possible to give the Applicant 14 days' notice of a hearing being held on or before that date in compliance with the 1982 Act (Schedule 1, Section 4 (4)).

The Council's Solicitor, Fiona Macdonald, further advised that the normal 28 day appeal period for Objectors would not apply in this case as it had been deemed to have been granted under Section 3(4) of the 1982 Act. She pointed out that if Police Scotland were of a view that the "deemed grant" of this Application would pose a risk on the grounds of undue public nuisance or a threat to public order or public safety, they could lodge a request for the immediate suspension of the Licence. She advised that the Council as Licensing Authority, would not be able to act on any request received until 6 January 2023, being the expiry date of the Application. If necessary, the Executive Director with responsibility for Legal & Regulatory Support could act on the request for an immediate suspension following that date, and thereafter convene a Suspension Hearing with the appropriate period of notice given to all parties to attend.

PC Borland confirmed that due to the nature of the offence a request would likely be made by Police Scotland for the immediate suspension of this Licence. He confirmed the dates of the Intermediate Diet and for the Trial.

DECISION

The Committee:

1. agreed that further consideration of the Application would need to be continued as the Applicant had not received 14 days' notice of this hearing being held;
2. noted that as a consequence of this continuation, this Application would become a "deemed grant" upon the expiry date for consideration of the Application by the Licensing Authority on 6 January 2023 as it would not be possible to give the Applicant 14 days' notice of a rescheduled hearing on or before that date;
3. noted that the normal 28 day appeal period for Objectors would not apply in this case; and
4. noted the options open to Police Scotland if they considered the "deemed grant" of this Application would pose a risk on the grounds of undue public nuisance or a threat to public order or public safety.

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

**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: 21/02709/PP

Planning Hierarchy: Local Development

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

SUPPLEMENTARY REPORT NO. 2

1. INTRODUCTION

The attention of Members is drawn to the main Report of Handling dated 8th November 2022 and to supplementary report No.1 dated 22nd November 2022 that is currently before them for consideration in respect of the above application.

This supplementary report has been provided with regards to additional correspondence received by the applicant on the 14th of December 2022 and also in response to the applicant's comments received on the 23rd of November in response to supplementary report No.1.

Firstly, with regards to the additional correspondence received on the 14th of December for which the main points 1 & 2 have been copied in (**in bold**) below;

1. The roads officer twice stated that the minimum width for fire engine access is 3.5 metres. This is misinformation. The required width for fire engine access widths at "pinch points" is 2.75 metres. In the context of Ferry road as with many other private accesses this can be critical and the PPSL members have been misguided here.

In respect of the above Stuart Watson the Assistant Network and Standards Manager has noted; Designing Streets (extract below) makes allowance for a carriageway width to be reduced to 2.75m over short distances, this is not intended to cover the full length of a road. The minimum width is stated as 3.7m and any reduction from this has to be agreed by the Fire Safety Officer.

"Emergency vehicles - The requirements for emergency vehicles are generally dictated by the fire service requirements. All development proposals should be discussed with the relevant Fire Authorities.

The Association of Chief Fire Officers has expanded upon and clarified these requirements as follows:

- *A 3.7 m carriageway (kerb to kerb) is required for operating space at the scene of a fire. Simply to reach a fire, the access route could be reduced to 2.75 m over short distances, provided the pump appliance can get to within 45 m of all points within a dwelling.*
- *If an authority or developer wishes to reduce the running carriageway width to below 3.7 m, they should consult the local Fire Safety Officer.”*

In addition to the above, the National Roads Development guide, under section 3.1.9 (d) Fire Fighting, states:

“Notwithstanding the recommended road widths in these guidelines, all roads should accommodate access and operation of fire tenders. The width of roads and reinforced emergency vehicle paths and their proximity to buildings is detailed in Part E of the Building Standards (Scotland) Regulations. This document specifies a minimum width of 3.7 metres adjacent to low rise dwellings to facilitate the use of pumping appliances (this width is increased to 4.5 metres to permit the use of heavy rescue and firefighting equipment where buildings are 9 metres or more in height). **It should be noted that a basic vehicle path of 3.5 metres width (2.75 metres at pinch points)** is appropriate for access but not operation of the fire tender. ”

2. It was also stated at the meeting that discussions with the roads officer and the applicant had reached a stage where there may be no point in further discussion. Again misinformation. Apart from an initial discussion with the roads officer in July / August 2020 there have been no discussions or site meeting between the roads officer and the applicant to date. I asked the roads officer in November 2020 for a meeting which was declined. Over the last two years despite many attempts to engage with the roads officer there has been no meaningful assistance from the officer.

In respect of the above Stuart Watson the Assistant Network and Standards Manager has noted; Road Officers have not refused to meet - only that there was no merit in meeting before an acceptable submission had been received.

Secondly, with regards to the applicant’s comments received on the 23rd of November 2022 in respect of supplementary report No.1 the following is noted in conjunction with the roads area manager;

The applicant has noted in regards to road width; *Details have been provided to confirm that the full length of the private road between the A 814 and the development site would achieve a 3.5 metre width. Also I have submitted confirmation that at the location where the existing road width requires to be increased, the frontages have given their permission.*

In terms of the above comment from the applicant it is noted that drawings detailing new/ widened sections of carriageway ‘make-up’, in accordance with standard detail section requirements available with SD 08/003 Rev A have not been provided within the drawing package. Furthermore, where the existing carriageway is to be retained, no details have been

provided as to the method of 'proving' the existing formation is suitable for retention in accordance with the aforementioned standard section detail.

The applicant also notes in regards to passing places; *a site visit would confirm that the area of the existing passing places exceeds the width and length of a standard passing place. Although the geometry of these passing places differs from standard detail SD 08/003A they provide the same ability to pass easily and safely and have done so for many years. This is where consideration should be given to the fact that Ferry Road is within Rhu Conservation Area and as such any improvements should be both proportionate and commensurate with any current access issues and take into account the location of the site. Any required improvements should therefore be the minimum necessary to satisfy any identified roads issues.*

In terms of the above comment from the applicant it is confirmed that the geometry of passing places has been considered within the geometry detailed within SD 08/003 Rev A. Therefore, to ensure consistency throughout the area, passing place geometry shall be constructed in accordance with SD 08/003 Rev A. Where this is not apparent within the drawing package provided, the condition has been applied. Whilst consideration should be applied towards the Conservation Area status, so to should it be applied to the road safety of all road users.

Furthermore, the applicant has noted the following in regards to the proposed passing place at the driveway access and proposals to install a grass verge; *I confirm that the proposal to introduce a new grass verge has been proposed from the submission of the application which was validated 16th February 2022. The supporting drawings were included. To date no construction details have been requested, however, prior to any works starting on site this detail would be submitted for approval. It should be noted that the angle the roads officer refers to as being "too acute" is 50% less acute than the junction of Ferry road and the main A814. The proposed passing place final design to be agreed prior to any works starting on site.*

In response to the above the roads officer has noted that until such time that drawings/ details have been provided/ approved by Roads the condition previously set out shall apply.

Lastly the applicants have noted in regards to speed limits; *As previously advised the existing traffic calming measures (speed ramps) plus the proposal of an additional passing place and further traffic calming measures ensures that the traffic speeds are below 20mph. It should not be forgotten that very few vehicles travel along this route, however, these combined traffic calming measures will maintain slow traffic speeds.*

In regards to the above, from a position of road safety, the road has been measured against the lowest regulatory speed of 20mph. With due consideration for the hierarchy of road users, which places pedestrians over vehicles, in addition to there being no footway in this location, the assessment speed of 20mph was considered correct from a position of road safety to all road users.

2. RECOMMENDATION

The additional comments from the applicant have been mentioned for completeness but do not alter the recommendation contained in the main Report of Handling dated 8th November

2022; namely, that the application be **granted** subject to the conditions, reasons and informative notes contained therein.

Author of Report: Emma Jane **Date:** 10th January 2023

Reviewing Officer: Howard Young **Date:** 10th January 2023

Fergus Murray
Head of Development and Economic Growth

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: 21/02709/PP

Planning Hierarchy: Local Development

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

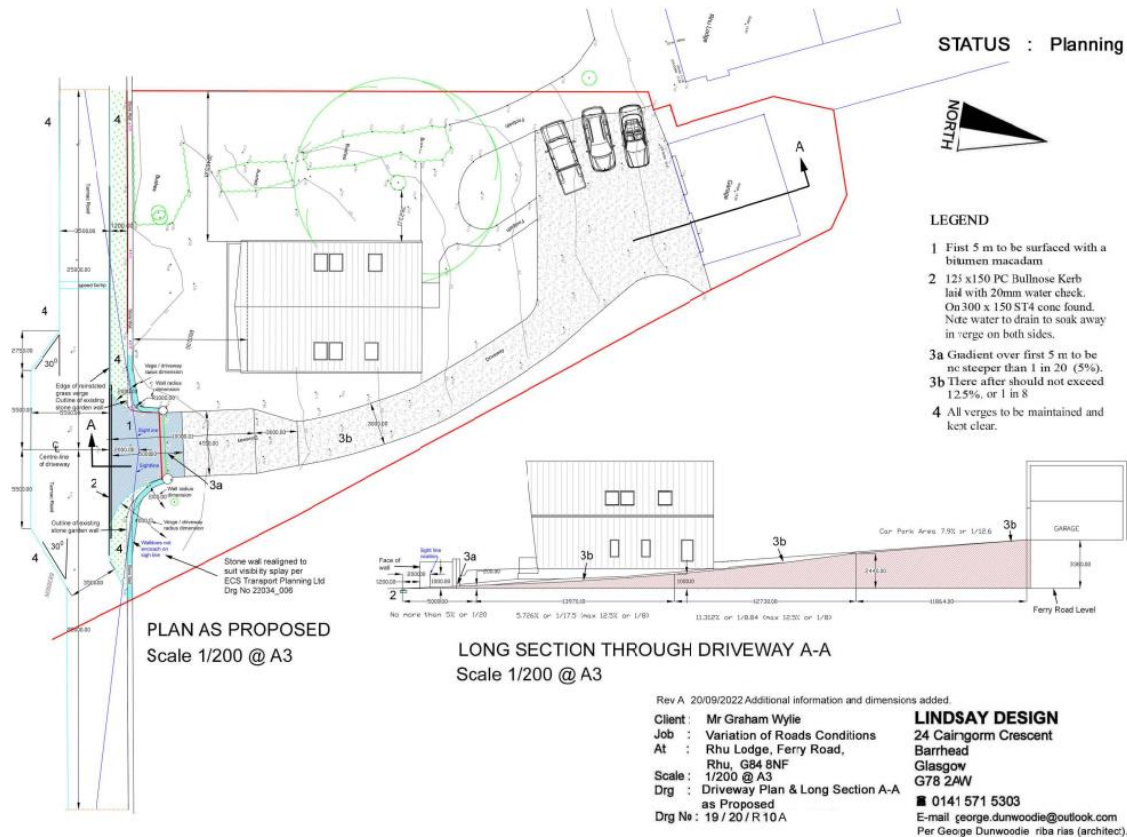
SUPPLEMENTARY REPORT NO. 1

1. INTRODUCTION

The attention of Members is drawn to the main Report of Handling dated 8th November 2022 that is currently before them for consideration in respect of the above application.

This supplementary report has been provided with regards to proposed drawing reference 19/20/10 as an updated drawing (ref: 19/20/10 REV A) below, has been supplied by the applicant. The roads officer has provided further comment on this drawing and has noted;

Whilst the details as shown within this drawing noting the 4.5m wide driveway for the first 10m, the radius and the kerb with water check are correct, it is noted that they have been shown in the incorrect location as these should be measured back from the boundary wall and not from a point beyond the boundary wall therefore, the details contained within this drawing are not acceptable.



Further to this, the applicant has provided further information within an email to Members commenting on the detail within the published report of handling. Most of the matters noted have been covered in detail within the report of handling and appendix A. However please note the following additional comments;

In Relation to note 1; *The requirement to provide a 3.5 metre wide adopted road between the A814 and the entrance dwelling (sic) is unnecessary, and most of Ferry Road is already more than 3.5 metres wide and the submitted plans show that a 3.5 metre wide road can be provided along the whole length of the road by simply surfacing a small gully approximately 60 metres long, on the north side of the road, immediately after the split.*

Officer comment; While it is noted that that proposed drawings contain a note that the carriageway will be 3.5m wide we do not have specific details of this to show that the proposals accord with the standard details. It is also noted that the road is within shared ownership hence why condition 3(a) should remain to ensure this is implemented.

In relation to note 2; *With respect to the provision of passing places, there are two intervisible passing places already in existence, within 100 metres of each other, and these have operated safely for many years. At the access to the approved new dwelling a third passing place will be introduced.*

Officer comment; Again while this has been noted on the proposed drawings, there has been no details provided to show that the existing passing places accord with standard detail SD 08/003 A, hence why condition 3(b) should remain to ensure this is implemented as per the standard detail.

In relation to note 3; *The Road's Officer's additional concern, the absence of a formal turning head, cannot be introduced now. The current application seeks only the variation (or*

removal) of conditions that were attached to the previous grant of planning permission, and this did not include any requirement in respect of the turning head, which in any event is already used by the Council refuse lorry, and which has proved to be more than adequate for many years.

Officers comment; In regards to the lack of formal turning head, this has been raised as a concern that supported the need for roads improvements. There is no planning condition being imposed that requires this.

In terms of the proposed passing place at the driveway access and proposals to install a grass verge, it is noted that the visibility splays as detailed within revised drawing 9/20/10 REV A show the splays taken from a point beyond the boundary / edge of existing carriageway. There is no existing verge, if the applicant wishes to realign the road to install a verge then we would need specific details on this, in terms of road construction. Furthermore, this would no longer solely be assessed as a passing place but as a road realignment and therefore, the details within this drawing are not acceptable as the angle is too acute hence the requirement for a condition.

Lastly in response to the comments in regards to speed limits, the roads officer has noted; Ferry road is a private road and therefore has no enforceable speed limit, it is commonly accepted that the default speed limit should be 30mph on private roads. As a local authority we cannot imply a speed limit of less than 20mph therefore, in the absence of accurate speed surveys we have deemed a 20mph visibility splay is acceptable, this is detailed as part of the planning conditions.

2. RECOMMENDATION

This revised drawing and the additional comments from the applicant have been mentioned for completeness but do not alter the recommendation contained in the main Report of Handling dated 8th November 2022; namely, that the application be **granted** subject to the conditions, reasons and informative notes contained therein.

Author of Report: Emma Jane **Date:** 22nd November 2022

Reviewing Officer: Howard Young **Date:** 22nd November 2022

Fergus Murray
Head of Development and Economic Growth

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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: 21/02709/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

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



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

This report is a recommended response to the Scottish Government's Energy Consents and Deployment Unit (ECDU) Section 36 consultation regarding the proposed Clachaig Glen wind farm and battery storage located approximately 20km north of Campbeltown and 1.8km north-east of Muasdale on the west coast of the Kintyre.

Reference No: 22/00613/S36

Applicant: The Scottish Government on behalf of AECOM Limited (on behalf of RWE Renewables UK Onshore Wind Ltd)

Proposal: Electricity Act Section 36 consultation relevant to Clachaig Glen wind farm and battery storage

Site Address: Approximately 20km north of Campbeltown and 1.8km north-east of Muasdale on the west coast of Kintyre.

(A) Section 36 application made up of the following elements:

- Construction, 35 year operation and subsequent decommissioning, of 12 wind turbines (5 with a maximum tip height of 200m, and 7 with a maximum tip height of 185m, all with a maximum rotor diameter of 155m)
- 12 associated turbine transformers (maximum footprint 5m x 3m)
- Battery Storage Area (approximate area of 75m x 60m comprised of a maximum of 27 containers not exceeding 2.6m high. The facility will be surrounded by a 2.5m high security fence (expected up to 30 MW).
- Turbine foundations
- Crane pads
- Access tracks
- Watercourse and culvert crossings
- Passing places
- Underground cabling
- Up to 6 borrow pits
- A temporary construction compound (to then be used for the battery storage facility)
- Control building and substation compound
- Concrete batching plant
- Forestry felling and replanting
- Permanent Anemometer Mast (up to 110m height)
- Site access from A83

Associated works, but which do not form part of this application, include a connection to the grid network. Final details of the grid connection would be subject to a separate design and consent process at a later date.

(B) RECOMMENDATION:

It is recommended that the Council as Planning Authority objects to this proposal for the reasons detailed below, and that the Scottish Government be

notified accordingly. Members should note that an objection from the Council will instigate the requirement for a Public Local Inquiry to be held.

(C) **CONSULTATIONS:**

ENERGY CONSENT UNIT RESPONSES:

NatureScot (11th July 2022) - have advised the ECU that the nature and scale of the proposal at this location is such, that it cannot be accommodated without significant adverse landscape and visual effects, including cumulative effects and night time effects. NatureScot advise that there would be no adverse effect on the integrity of the Kintyre Goose Roosts Special Protection Area (SPA). NatureScot advise that there would be no significant effect on wider countryside populations of golden eagle or hen harrier in Natura Heritage Zone (NHZ) 14.

Response to NatureScot consultation – the Applicant submitted a response to NatureScot’s consultation advice of 11th July 2022 for further consideration.

NatureScot (10th November 2022) – advised the ECU that they note the contents of the ‘Response to NatureScot Consultation’. They consider that it raises points which are not in dispute. They agree that the application raises no issues of national importance, and they agree that there would be significant local visual impacts at some locations. It correctly notes that the focus of NatureScot’s response to the S36 consultation is exclusively on issues within their remit, while the ‘Response’ document also highlights wider considerations which come into Scottish Ministers’ decision-making for cases like this. Accordingly, NatureScot’s advice in relation to this S36 consultation continues to be as submitted on 11th July 2022.

Transport Scotland (TS) (25th April 2022) – advised the ECU that, further information was required regarding: the assessment of environmental impacts; the study area; and the abnormal loads assessment before they could provide their final response on the EIAR. The ECU asked that the Applicant supply feedback on the information requested by Transport Scotland.

Response to Transport Scotland (9th September 2022) – the Applicant submitted a response to Transport Scotland’s advice of 25th April 2022 for further consideration.

Transport Scotland (21st November 2022) – advised the ECU that they have considered the ‘Response to Transport Scotland’ and can confirm that they have no objection subject to conditions in the event that consent is granted. These conditions relate to: approval of proposed route for any abnormal loads on the trunk road and any accommodation measure required; during delivery period of construction materials any additional signing or temporary traffic control measures must be undertaken by a recognised QA traffic management consultant, to be approved by Transport Scotland before delivery commences; and Prior to commencement of deliveries to site, a Construction Traffic Management Plan must be submitted to and approved by Transport Scotland to ensure that general construction traffic and abnormal loads can be transported along the trunk road network safely and efficiently.

Marine Scotland Science (MSS) (28th March 2022) – advised the ECU that resident brown trout populations may be present which are listed as a priority species for conservation in the Scottish Biodiversity List and, if so, MSS recommend that a fish population monitoring programme should be set up to monitor these fish populations before, during and after construction. MSS also advise that the developer establishes

a water quality monitoring programme as felling is proposed and acidification is a known problem in the area. The water quality monitoring programme should be integrated with the fish population monitoring programme and follow MSS generic monitoring programmes. The developer states “yes” to a designated area, for which fish is a qualifying feature within/or downstream of the site. MSS are unsure what designated area the developer is referring to. MSS are satisfied that a decommissioning and restoration plan is included in a condition, should consent be granted for this development.

Scottish Forestry (SF) (21st April 2022) – advised the ECU that they require confirmation from the Applicant in respect to the UKFS and Phase 1 felling, and that insufficient information has been supplied to enable them to fully assess the proposal in respect to Scottish Government’s Policy on Control of Woodland Removal and further information was requested. They also recommend a condition to secure Compensatory Planting.

Scottish Environment Protection Agency (SEPA) (21st April 2022) – advised the ECU that they have reviewed the information provided and request the following additional information: a detailed peat depth survey - so that it can be clearly identified where infrastructure is to be located on deep peat > 1m and therefore where deep peat excavations are proposed; that re-location/micro-siting is considered to reduce the quantities of peat proposed to be excavated; and SEPA understand that 267m of floating track is currently proposed and 5,445m of excavated track. SEPA request that all track on deep peat > 1m; sections that are to be floated and sections that are to be excavated are identified and floating/re-location/micro-siting are considered to reduce the quantities of peat proposed to be excavated. In addition, SEPA request that conditions to secure that: once agreed, the requirement for floating tracks and their design; that the Watercourse Crossing Strategy is agreed by relevant parties including SEPA, with amendments as required, and implemented in full; that the restoration of 56.2ha to blanket bog (secured by condition or other planning measure); and that a Peat Management Plan is submitted, agreed by relevant parties including SEPA, and implemented in full.

Response to SEPA (13th September 2022) – the Applicant submitted clarification to the ECU regarding the issues and concerns raised. SEPA considered this and sought further clarification via the ECU on the 22nd of September 2022. The Applicant supplied further clarification on the 27th of October 2022.

SEPA (16th November 2022) – advised the ECU that further to their response to the ECU of 21st April 2022. They have reviewed the additional information provided and have no requests for further information or objection. They request that conditions to address the following matters are attached to any grant of consent: Any areas of peat with a depth >1m will be avoided through micro-siting wherever possible. If / where it is not possible to avoid peat >1m, an alternative design for the crane pads, such as floating crane pads with piles, and for other infrastructure including floating roads, will be used wherever possible; The requirement for floating tracks and their design is agreed by relevant parties including SEPA and implemented in full; A Finalised Peat Balance, to accommodate the detailed ground investigation and final design, with confirmation of the final volume of any waste peat, to be agreed prior to the commencement of development in consultation with SEPA and implemented in full; The Watercourse Crossing Strategy is agreed by relevant parties including SEPA, with amendments as required, and implemented in full; Method statements for borrow pit restoration incorporating principles based on best practice guidance including SR & SEPA (2012), SNH & FCS (2010), SEPA (2017) and Scottish Government (2017) to be implemented including: – All peat and soil sourced from the borrow pits should be

replaced within the same borrow pit, where possible; Restoration activities should be overseen by an Ecological Clerk of Works to ensure methods are properly adhered to; and the restoration of 56.2ha to blanket bog is agreed by relevant parties including SEPA and implemented in full with a defined timescale.

Historic Environment Scotland (HES) (15th June 2022) – advised the ECU that they do not wish to object. HES consider that there would be a significant adverse impact on the setting of the Dunan Muasdale, dun (SM3223) scheduled monument. They also note that a minor level of adverse impact would occur on the settings of other nearby heritage assets in their remit. They are nevertheless content that none of these impacts are of a level that would raise issues in the national interest.

Ironside Farrar (Environmental Consultants on behalf of Scottish Government ECU to audit Peat Landslide Hazard Risk Assessment (PLHRA)) (17th May 2022) – advised the ECU that the PLHRA requires minor revisions: although much of the PLHRA is sound, one or two key elements are considered to be insufficiently robust to support the PLHRA conclusions and minor revisions are required; areas for attention will be advised in the review findings and may be progressed by the developer through either an appendix to the original submission or by clarification letter.

Response to Ironside Farrar (11th September 2022) – the Applicant prepared a response for consideration of Ironside Farrar.

Ironside Farrar (Environmental Consultants on behalf of Scottish Government ECU to audit Peat Landslide Hazard Risk Assessment (PLHRA)) (22nd November 22) – advised the ECU that they have considered the Applicant's response and the information submitted addresses the queries raised and concludes the assessment, no further response is required. It is noted that several actions require to be followed through at construction stage and several points are noted for future reporting.

BT (7th April 2022) – have advised the ECU that the proposal should not cause interference to BT's current and presently planned radio network and they have no objection.

Defence Infrastructure Organisation/Ministry of Defence (MOD) (14th April 2022) – advised the ECU that they have no objection subject to conditions to secure: aviation lighting and aviation charting & safety management.

Joint Radio Company Limited (22nd March 2022) – advised the ECU that the proposal is cleared with respect to radio link infrastructure operated by Scottish Hydro (Scottish & Southern Energy) and Scotia Gas Networks, and they have no objection.

Argyll District Salmon Fishery Board (18th May 2022) – advised the ECU that they understand that Argyll Fisheries Trust has no site-specific information on fish populations in the proposed area so they are keen that the developer takes measures to fully assess fishery interests on and adjacent to the site. The developer states "no" to the provision of a proposed monitoring programme adding that the fish survey results indicate that a monitoring programme is not necessary and that the fish populations at the site are shown to be "limited with no notable species." Several physical obstacles are likely to prevent the access of migratory fish to the watercourses within the site. However resident brown trout populations may be present which are listed as a priority species for conservation in the Scottish Biodiversity List and, if present they require that a fish population monitoring programme should be established to monitor these fish populations before, during and after construction.

Response to Argyll District Salmon Fishery Board (7th July 2022) – The Applicant provided the ECU with a response to the consultation advice of ADSFB.

Argyll District Salmon Fishery Board (23rd July 2022) – have advised the ECU that on review of the site location, they accept the Applicant's conclusions in that monitoring may not be effective or appropriate in this case.

Royal Society for the Protection of Birds Scotland (RSPB) (27th April 2022) – have advised the ECU that they do not object to this proposal, however they advise that turbines T1, T3 are relocated along with borrow pit BP06 to within the forestry and a Habitat Management Plan applied to minimise the carbon impact of the development and mitigate for biodiversity impacts. The ECU sought a response from the Applicant on these points.

Response to RSPB Scotland (9th September 2022) – the Applicant provided the ECU with a response to the consultation advice of the RSPB.

Mountaineering Scotland (25th March 2022) – have advised the ECU they have no comment to make on the proposal.

Scottish Water (8th May 2020) – advised the ECU they do not object and advise that this does not confirm the proposal can be serviced. Advice is provided on: Asset Impact Assessment; Drinking Water Protected Areas; and Surface Water.

Glasgow Prestwick Airport (GPA) (25th April 2022)– advise the ECU that subject to confirmation from the Airport's APDO that the proposal will have no impact on their published Instrument Flight Procedures (IFP's) they are likely to have no objection. However until such times as they have confirmation that there is no impact on their IFP's – the Airport must put in a holding objection until this matter is fully concluded.

Glasgow Prestwick Airport (GPA) (18th July 2022) – Following further examination of their Instrument Flight Procedures (IFP's), GPA are now content that the proposal will have no impact on published Terminal Arrival Area (TAA) minimum altitudes in the location of the proposal. Consequently, GPA is content to remove its objection.

National Air Traffic Services Safeguarding (NATS) (24th March 2022) – advised the ECU that the proposal has been examined from a technical safeguarding aspect and does not conflict with NATS safeguarding criteria. Accordingly, they have no safeguarding objection.

Highlands and Islands Airports Limited (HIAL) (23rd March 2022) have advised the ECU that their calculations show that, at the given position and height, the proposal would not infringe the safeguarding criteria for Campbeltown Airport. Therefore, HIAL has no objection.

British Horse Society (BHS) (23rd March 2022) – provided advice to the ECU on the importance of off-road riding and active travel and suitable infrastructure. They have not raised any objection.

Crown Estate Scotland (12th April 2022) – have confirmed to the ECU that the assets of Crown Estate Scotland are not affected by this proposal and they have no comments.

West Kintyre Community Council (WKCC) (25th April 2022) – have advised the ECU that they object to this proposal in respect to: Landscape & Visual Impact; Hydrology/Private water supplies/ Increased risk of flooding; and Tourism.

East Kintyre Community Council (EKCC) (22nd March 2022) – advised the ECU that they object to the proposal on the grounds of visual amenity due to cumulative harmful visual impacts contrary to Argyll & Bute Council's Policy LDP 6 and Proposed Local Development Plan 2 Diagram 7; and Community Development Amenity due to the wholesale harmful impacts to a designated Tourism development area.

ARGYLL & BUTE COUNCIL RESPONSES

ABC Consultant Landscape Architect (20th June 2022) – recommends that an objection should be raised on landscape and visual grounds. There could be scope to mitigate the effects of this proposal through a reduction in the size of turbines and possible omission/reposition of more prominent turbines (for example Turbines 1 and 3 which are particularly prominent in views from the west). Further mitigation of visible aviation lighting should also be considered through the installation of an Aircraft Detection Lighting System once approved by the CAA (Civil Aviation Authority) which would significantly reduce the duration of lighting.

ABC Area Roads (12th April 2022) – have advised that they have no objection. The access to this site is from the A83 Tarbet - Campbeltown Trunk Road, and Transport Scotland should be notified.

ABC Environmental Health – it has not been possible for Environmental Health to provide advice on this proposal. Considering this, the advice of an independent noise consultant has been sought to review this proposal.

ABC Noise Consultant (22nd December 2022) – have advised that good practice has been adopted by the Applicant, with a few minor issues identified. The most significant of these issues is the identification of several derelict buildings within 2km of the site boundary, for which the planning status is unknown, and for which the ongoing residential use should be established. If it remains the planning authorities wish that these properties should remain with a residential use, then these should be reassessed by the Applicant, including where relevant the battery storage equipment which may become significant. As presented, the assessment relies on background noise data from previously proposed or consented wind farms, and separate considerations are made for the noise of the current wind farm site, and then for the cumulative situation with all existing and consented wind farms in the local area in addition to the proposed site. It is not entirely clear from the evidence presented whether these limits have been correctly transposed, or that the higher value for the adopted fixed limits have been justified. Further information on this aspect should be sought from the Applicant. However, the size and scale of the proposals may justify the use of the higher value fixed limit. In the absence of any new residential receptors being identified (e.g. currently derelict properties), there are no reasons to object to the scheme on noise grounds, but a suitably worded condition to limit the noise levels, tonality and amplitude modulation should be applied.

ABC Flood Risk Assessor (13th May 2022) – no objection to the proposal subject to planning conditions to the effect of the following: watercourse crossing not to reduce the cross-sectional area of the channel and ideally be design to convey the 1:200 year plus climate change flow plus an allowance for freeboard; and drainage to be designed in accordance with CIRIA C753 guidance and Sewers for Scotland 4th edition.

ABC Flood Risk Assessor (19th December 2022) – was consulted further on the letters of representation which raise concerns in respect to flooding. The Flood Risk Assessor has no objection to the proposal subject to planning conditions to the effects of the following: watercourse crossings not to reduce the cross-sectional area of the channel and ideally be designed to convey the 1:200 year plus climate change flow plus an allowance for freeboard; and drainage to be designed in accordance with CIRIA C753 guidance and post-development surface water runoff should not exceed pre-development surface water runoff.

ABC Local Biodiversity Officer (20th April 2022) – no objection to the proposal and has advised that the information provided is acceptable in respect to: a Construction Environment Management Plan incorporating a Peat Management Plan, Habitat Management Plan, culvert details, silt management, maintenance of hydrological regime and treatment/storage of borrow pit soil/vegetation; there were no limitations arising from COVID-19, surveys continued uninterrupted whilst adhering to COVID-19 restrictions; Blanket bog/Groundwater Dependent Terrestrial Ecosystems (GWDTE) hydrology have been considered; and Native woodland and other habitats/species recommended by the Local Biodiversity Officer have been considered.

The West of Scotland Archaeology Service (WOSAS) (27th July 2022) – No objection subject to a condition to secure the implementation of a programme of archaeological works in accordance with a written scheme of investigation to be agreed by the WoSAS, approved by the Planning Authority, and thereafter fully implemented and that all recording and recovery of archaeological resources within the site is undertaken to the satisfaction of the Planning Authority in agreement with the WoSAS.

Please note: the above are summaries and the full consultee responses can be viewed on the Energy Consent Unit and Argyll & Bute Council websites.

(C) REPRESENTATIONS:

As the Council is not the determining Authority all letters of representation are considered by the Energy Consents Unit. At time of writing, public representation figures stand at 2 objections, which are published on the ECU website. The key issues raised are summarised below:

Material Considerations raised objection are summarised as follows:

- Flooding Impacts (increased risk because of the development) on High Crubasdale Farm and Bridge House, Muasdale.

Comment: A copy of this representation was sent to the Council's Flood Risk Assessor for comment on 1st December 2022, to ascertain if it would alter their consultation advice in any way. A response was received on the 19th of December 2022, which differs slightly from the previous advice given. A requirement is now added to the recommended conditions that post development surface water run off should not exceed pre-development surface water run-off.

Public Consultation – Whilst not a statutory requirement for Section 36 applications, the Applicant has undertaken Public Consultation. Further information on this is contained in the Pre-Application Consultation Report (October 2021) which is available on the ECU website - ECU00002103

Note: the comments raised above are addressed in the assessment of the proposal at Appendix A of this report.

Note: please note that the letters of representation above have been summarised and that the full letters of representations are available on the Energy Consents Units website.

(E) SUPPORTING INFORMATION

Has the application been the subject of:

i) Environmental Impact Assessment Report (EIAR): Yes

EIAR comprising:

- Volume 1: Non-technical summary (NTS)
- Volume 2a: Main Report
- Volume 2b: Figures
- Volume 2c: Landscape & Visual Figures
- Volume 2d: Visualisations
- Volume 3: Appendices
- Volume 4: Confidential Annex

Key matters covered in the EIAR include: Introduction; Approach to the EIA; Project Description; Reasonable Alternatives; Summary of Consultation; Planning & Energy Policy Context; Landscape & Visual; Noise; Ecology; Ornithology; Geology, Hydrology & Hydrogeology; Cultural Heritage; Socio-economics, Recreation & Tourism; Traffic, Transport & Access; Infrastructure & Telecommunications; Aviation Safeguarding; Forestry; Shadow Flicker & Summary of Effects; and Conclusion.

ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: NatureScot have advised the ECU that there is a likely significant effect on the Greenland white-fronted goose feature of the Kintyre Goose Roosts SPA. This is because the distance to turbines is within the known foraging range of the geese. Scottish Ministers are therefore required to carry out an Appropriate Assessment in view of the site's conservation objectives for its qualifying interest.

iii) A design or design/access statement: Yes

iv) A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc.: Other key documents submitted in support include:

- Planning Statement (PS)
 - Design Statement (DS)
 - Pre-application Consultation (PAC) Report
 - Habitats Regulation Appraisal (HRA)
-

(F) Local Development Plan (LDP) and any other material considerations over and above those listed above which have been considered in the assessment of the application:

Members are asked to note in the context of the Local Development Plan (LDP) and planning process that this application has been submitted to the Scottish Government under Section 36 (S36) of the Electricity Act 1989. As part of the S36 application process, the Applicant is also seeking that the Scottish Ministers issue a Direction under Section 57 (2) of the Town and Country Planning (Scotland) Act 1997 that deemed planning permission be granted for the proposal. In such instances, the LDP is not the starting point for consideration of S36 applications, as Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 which establish the primacy of LDP policy in decision-making, are not engaged in the deemed consent process associated with Electricity Act applications. Nonetheless, the adopted Argyll & Bute LDP 2015 remains an important material consideration informing the Council's response to the proposal.

Schedule 9 of the Electricity Act does require both the Applicant and the decision-maker to have regard to the preservation of amenity. It requires that in the formulation of proposals the prospective developer shall have regard to:

(a) the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiological features of special interest and of protecting sites, buildings, and objects of architectural, historic, or archaeological interest; and

(b) shall do what he reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings, or objects.

Similarly, it obliges the Scottish Ministers in their capacity as decision maker to have regard to the desirability of the matters at a) and the extent to which the Applicant has complied with the duty at b). Consideration of the proposal against both the effect of SPP (2014) and the adopted Argyll & Bute LDP 2015 will ensure that proper consideration is given by the Council to the extent which the proposal satisfies these Schedule 9 duties.

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

Argyll & Bute Local Development Plan (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 5 – Supporting the Sustainable Growth of Our Economy

Policy LDP 6 - Supporting the Sustainable Growth of Renewables

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 & Bute Local Development Plan 2015 & 2016

SG LDP ENV 1 – Development Impact on Habitats, Species and Our Biodiversity (i.e. biological diversity)
SG LDP ENV 2 – Development Impact on European Sites
SG LDP ENV 4 – Development Impact on Sites of Special Scientific Interest (SSSIs) and National Nature Reserves
SG LDP ENV 5 – Development Impact on Local Nature Conservation Sites (LNCS)
SG LDP ENV 6 – Development Impact on Trees / Woodland
SG LDP ENV 7 – Water Quality and the Environment
SG LDP ENV 9 – Development Impact on Areas of Wild Land
SG LDP ENV 11 – Protection of Soil and Peat Resources
SG LDP ENV 12 – Development Impact on National Scenic Areas (NSAs)
SG LDP ENV 13 – Development Impact on Areas of Panoramic Quality (APQs)
SG LDP ENV 14 –Landscape
SG LDP ENV 15 –Development Impact on Historic Gardens and Designed Landscapes
SG LDP ENV 16(a) – Development Impact on Listed Buildings
SG LDP ENV 19 – Development Impact on Scheduled Monuments
SG LDP ENV 20 – Development Impact on Sites of Archaeological Importance
SG LDP MIN 2 – Mineral Extraction
SG LDP PG 1 – Planning Gain
SG LDP BAD 1 – Bad Neighbour Development
SG LDP Sustainable - Sustainable Siting and Design Principles
SG LDP SERV 1 – Private Sewage Treatment Plants and Wastewater (i.e. drainage) Systems
SG LDP SERV 2 – Incorporation of Natural Features / Sustainable Systems (SUDS)
SG LDP SERV 3 – Drainage Impact Assessment (DIA)
SG LDP SERV 5 – Waste Related Development and Waste Management
SG LDP SERV 5(b) – Provision of Waste Storage and Collection Facilities within New Development
SG LDP SERV 6 – Private Water Supplies and Water Conservation
SG LDP SERV 7 – Flooding and Land Erosion – The Risk Framework for Development
SG LDP TRAN 1 – Access to the Outdoors
SG LDP TRAN 2 - Development and Public Transport Accessibility
SG LDP TRAN 4 – New and Existing, Public Roads and Private Access Regimes
SG LDP TRAN 6 –Vehicle Parking Provision
SG LDP TRAN 7 –Safeguarding of Airports
SG LDP REC/COM 1 - Safeguarding and Promotion of Sport, Leisure, Recreation, Open Space and Key Rural Services

Supplementary Guidance 2 (December 2016)

Spatial Framework Guidance

Supplementary Guidance 2 – Wind farm map 1

Supplementary Guidance 2 – Wind farm map 2

Note: The above supplementary guidance has been approved by the Scottish Government. It therefore constitutes adopted policy and the Full Policies are available to view on the Council's Web Site at www.argyll-bute.gov.uk

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

- National Planning Framework for Scotland 3, NPF3

- Revised Draft National Planning Framework 4, NPF4 (November 2021)

The policies in the revised draft NPF4 most relevant to this proposal include:

- Policy 1 – Tackling the climate and nature crisis
 - Policy 2 – Climate mitigation and adaptation
 - Policy 3 – Biodiversity
 - Policy 4 – Natural places
 - Policy 5 – Soils
 - Policy 6 -Forestry, woodland, and trees
 - Policy 7 – Historic assets and places
 - Policy 11 – Energy
 - Policy 13 – Sustainable transport
 - Policy 22 – Flood risk and water management
 - Policy 23 – Health and safety
 - Policy 25 – Community wealth benefits
 - Policy 33 – Minerals
-
- Scottish Planning Policy (SPP) (June 2014)
 - Argyll & Bute Landscape Wind Energy Capacity Study (2017)
 - Climate Change (Emissions Reduction Targets) (Scotland) Act 2019
 - Scottish Energy Strategy, December 2017
 - Onshore Wind Policy Statement, Scottish Government (December 2022)
 - Historic Environment Policy for Scotland (HEPS, 2019)
 - The Scottish Government's Policy on 'Control of Woodland Removal' (Forestry Commission Scotland 2009)
 - Siting and Designing Wind Farms in the Landscape, SNH (August 2017)
 - Guidance for Landscape and Visual Impact Assessment, 3rd Edition, Landscape Institute, and Institute of Environmental Management & Assessment, (2013);
 - Onshore Wind Turbines: Planning Advice, Scottish Government (May 2014).
 - PAN 1/2011: 'Planning and Noise' (March 2011)
 - PAN 60 – Planning for Natural Heritage (Jan 2008)
 - Scottish Government Good Practice Principles for Shared Ownership and Community Benefit of Onshore Renewable Energy Developments;
 - Views of statutory and other consultees;
 - Planning history of the site
 - Legitimate public concern or support expressed on relevant planning matters
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- *Argyll & Bute proposed Local Development Plan 2 (pLDP2) (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:*
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- Policy 14 – Bad Neighbour Development
 - Policy 19 – Schedule Monuments
 - 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 40 – Vehicle Parking Provision
 - Policy 43 – Safeguarding of Aerodromes
 - Policy 58 – Private Water Supplies and Water Conservation
 - Policy 63 – Waste Related Development and Waste Management
 - Policy 76 – Development Impact on Local Nature Conservation Sites (LNCS)
-

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

(H) Is the proposal consistent with the Local Development Plan: No

Author of Report: Arlene Knox

Date: 4th January 2023

Reviewing Officer: Sandra Davies

Date: 4th January 2023

Fergus Murray

Head of Development and Economic Growth

RECOMMENDED REASON(S) FOR OBJECTION TO: 22/00613/S36

1. Landscape & Visual Impact (including cumulative)

Argyll & Bute Council assesses development proposals with the aim of protecting conserving and where possible enhancing the built, human, and natural environment. A development proposal will not be supported when it does not protect, conserve or where possible enhance the established character and local distinctiveness of the landscape in terms of its location, scale, form, and design. Argyll & Bute Council will resist renewable energy developments where these are not consistent with the principles of sustainable development and it has not been adequately demonstrated that there would be no unacceptable significant adverse landscape and visual impacts, whether individual or cumulative.

The proposed site lies within the *Upland Forest Moor Mosaic* LCT identified in the Argyll & Bute Landscape Wind Energy Capacity Study (LWECS). This landscape has some characteristics which reduce sensitivity to large scale wind energy development including a generally simple landform and land cover and an expansive scale. However, these uplands already accommodate a number of operational and consented wind farms which limits scope for further wind farm development whilst minimising effects on more sensitive landscape and visual receptors within the Kintyre coasts, West Loch Tarbert, and the islands of Gigha and Arran.

This proposal would have significant adverse effects on the character of the *Upland Forest Moor Mosaic* LCT. It would also significantly and adversely affect the character of the Sound of Gigha between Gigha and Kintyre. There would be relatively limited views from the settled east and west coasts of Kintyre but with more extensive visibility occurring across the Sound of Gigha, Gigha and from the more sparsely settled upland area immediately surrounding the proposed development.

A consent for 14 turbines between 115.5m and 126.5m applies to the site. This proposal comprises 12 turbines between 185m and 200m. The principal change between the consented and proposed scheme is the greater degree of intrusion associated with the substantially larger turbines now proposed on views from the Sound of Gigha and from the eastern side of Gigha, and also in close views from a section of the Kintyre Way. The visible aviation lighting fixed to 8 of the proposed turbines would also be likely to extend the duration of significant adverse visual effects experienced from these same locations. In views from Gigha and the Sound of Gigha the proposal would be significantly larger than other operational and consented wind farms and would form a key focus in views towards the Kintyre peninsula, detracting from the scenic character of water, settled coastal fringe and uplands.

The potential cumulative effects of this proposal with the Sheirdrim and Narachan application-stage wind farms are additionally of concern as together these schemes would dominate views to the east from the north-eastern part of Gigha. Lighting of the Narachan wind farm and this proposal could extend the duration of significant adverse cumulative effects during hours of darkness.

Argyll & Bute Council therefore objects to this proposal on landscape and visual grounds. There could be scope to mitigate the effects of this proposal through a reduction in the size of turbines and possible omission/reposition of more prominent turbines (for example Turbines 1 and 3 which are particularly prominent in views from the west). Further mitigation of visible aviation lighting should also be considered through the installation of an Aircraft Detection Lighting System once approved by the CAA which would significantly reduce the duration of lighting.

Having due regard to the above it is concluded that the proposal will have significant adverse landscape and visual impacts (including cumulative) and is therefore inconsistent with the provisions of: SG LDP ENV 14 –Landscape; SG 2 Renewable Energy; LDP STRAT 1 – Sustainable Development; LDP DM1 – Development within the Development Management Zone; LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment; Policy LDP 6 – Supporting the Sustainable Growth of Renewables; of the Argyll & Bute Local Development Plan; SPP (2014); NPF3; Policy 4 – Natural Places and Policy 11 – Energy of Revised Draft NPF4; the Onshore Wind Policy Statement, (2022); and guidance contained in the Argyll & Bute Landscape Wind Energy Capacity Study 2017.

Notes for the Energy Consents Unit

Battery Storage – Whilst, the provision of battery storage meets the requirements of policy, Officers are concerned that no consideration has been given to the Landscape & Visual Impact of this battery storage facility. This is a large facility of 27 shipping containers proposed to be located in a rural landscape. Before a decision is reached on this proposal by the ECU it is the view of Argyll & Bute Council that the impacts of this needs to be considered.

Noise – Argyll & Bute Council would be grateful to receive clarification from the Applicant in respect to the points raised by the Noise Consultant on residential receptors and fixed limits.

APPENDIX A – PLANNING LAND USE AND POLICY ASSESSMENT

A. THE SECTION 36 CONSENTING REGIME

In Scotland, any application to construct or operate an onshore power generating station, in this case, a renewable energy development with an installed capacity of over 50 megawatts (MW) requires the consent of Scottish Ministers under Section 36 of the Electricity Act 1989. Any ministerial authorisation given would include a 'deemed planning permission' and in these circumstances there is then no requirement for a planning application to be made to the Council as Planning Authority. The Council's role in this process is one of a consultee along with various other consultation bodies.

It is open to the Council to either support or object to the proposal, and to recommend conditions it would wish to see imposed if authorisation is given by the Scottish Government. In the event of an objection being raised by the Council, the Scottish Ministers are obliged to convene a Public Local Inquiry (PLI) if they are minded to approve the proposal. They can also choose to hold a PLI in other circumstances at their own discretion. Such an Inquiry would be conducted by a Reporter(s) appointed by the Directorate for Planning and Environmental Appeals. If consent is given, either where there has been no objection from the Council, or where objections have been overruled following PLI, the Council as Planning Authority would become responsible for the agreement of matters pursuant to conditions, and for the ongoing monitoring and enforcement of such conditions.

This report reviews the policy considerations which are applicable to this proposal and the planning merits of the development, the views of bodies consulted by the Scottish Government along with other consultations undertaken by the Council, and 3rd party opinion expressed to the Scottish Government following publicity of the application by them. It recommends views to be conveyed to the Scottish Government on behalf of the Council before a final decision is taken on the matter. The conclusion of this report is to recommend that the Council raise an Objection to this Section 36 consultation on Landscape & Visual Grounds for the reasons detailed in this report.

B. SETTLEMENT STRATEGY

Policy LDP DM1 establishes acceptable scales of development in three different 'zones' or the 'Settlement Strategy'. In terms of the local development plan proposals map, the proposed wind farm and access is located within the 'Rural Opportunity Area,' 'Countryside Zone,' and the 'Very Sensitive Countryside.' Where the wind turbines would be located is within the Countryside Zone and Very Sensitive Countryside. In the Very Sensitive Countryside, only specific categories of development are supported. This however includes renewable energy related development. In principle, policy LDP DM 1 supports renewable energy and ancillary developments in these areas, providing they are consistent with all other Local Development Plan Policies. Policy LDP 6: Renewable Energy provides the primary policy framework for assessing wind farms. In this case, it is considered that it has not been demonstrated that the scale and location of the proposal, will integrate sympathetically without giving rise to adverse consequences in terms of landscape & visual impact (including cumulative). For the reasons detailed below in this report, it is considered that this proposal does not satisfy Development Plan Policy and associated guidance in respect of renewable energy development.

Having due regard to the above it is considered that the proposal is contrary to the provisions of LDP DM1 – Development within the Development Management Zones; SPP; NPF 3 and Revised Draft NPF 4.

C. SUPPORTING THE SUSTAINABLE GROWTH OF RENEWABLES

Argyll & Bute Council is keen to ensure that Argyll & Bute continues to make a positive contribution to meeting the Scottish Government's targets for renewable energy generation. These targets are important given the compelling need to reduce our carbon footprint and reduce our reliance on fossil fuels, reinforced by the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019. The Council will support renewable energy developments where these are consistent with the principles of sustainable development and it can be adequately demonstrated that there would be no unacceptable significant adverse effects.

D. LOCATION, NATURE, AND DESIGN OF PROPOSED DEVELOPMENT

Background

Consented Development - In December 2019, the Applicant received permission for a 47.6 MW wind farm at the development site. This was through appeal to Scottish Ministers (reference PPA-130-2064). This comprises 14 wind turbines: 13 with a blade tip height of up to 126.5 metres (m) (and hub height of up to 80m); one with a blade tip height of up to 115.5m (and hub height of up to 69m); and associated infrastructure ('the Consented Development').

Proposed Development – In their Design Statement, the Applicant has advised that due to the advancement of wind turbine technology, subsequent design modifications and significant changes to the wider economics of onshore wind farms and other renewable technologies in Scotland, they are now submitting this new application under Section 36 to construct and operate a wind farm and battery storage facility with a generating capacity in excess of 50MW on the existing site of the Consented Development.

The site boundaries for the Consented Development and the Proposed Development are almost identical, except for a section to the east of the site which has been excluded at the request of Forestry Land Scotland; the access track leading from the A83 to the site has been widened to accommodate the delivery of larger turbine components, and a larger turning circle and turbine laydown area on the opposite (western) side of the A83 to the site. Due to these changes, the site has decreased in size from 12.59 km² to 12.47 km², with the exclusion of the area to the east being the reason for the smaller site size.

As with the Consented Development, the access track leading from the A83 to the site will be the sole access / egress from the site for construction, maintenance, and decommissioning.

The Proposed Development comprises 12 wind turbines (two less than the Consented Development) and seeks an increased operational period of 35 years (the operational period is 25 years for the Consented Development). The Proposed Development additionally includes a battery storage facility with an expected upper capacity of 30 MW that was not part of the Consented Development.

Five of the turbines within the development would have a maximum blade tip height of 200m, whilst the remaining seven would have a maximum tip height of 185m. All would have a maximum rotor diameter of 155m.

Planning History - Apart from the Consented Development, there is no previous planning permission granted for development within the site, except for the temporary anemometer mast which has been erected by the Applicant. FLS currently have permitted development rights over the site for their forestry operations.

The site - is located approximately 20km to the north of Campbeltown, 1.8km northeast of Muasdale and 3.7km southeast of Tayinloan. The A83 between Lochgilphead and

Campbeltown is located approximately 1km to the west. Access to the site will be taken from the Killean Estate junction with the A83, with the access following the existing Cross-Kintyre Timber Haul Route to the east, then to the south to the site entrance using the existing forestry track. This is the same access as the Consented Development. The access track between the A83 and the site is approximately 6km in length.

Most of the site is currently forested and managed by FLS for timber production, except for the higher land on the eastern boundary. The crop is in various stages of growth across the site with forestry operations currently ongoing. The higher ground in the east includes some open ground that has not been planted. This is an area of high annual rainfall, as evidenced by the blanket peats and peaty topsoils which are apparent in undisturbed open ground areas. Flatter areas on the highest ground within the site thus support wet blanket peats, with associated mire vegetation. Forms of wet heath occur on the more steeply sloping valley sides, where peat would be expected to be shallower. The western part of the survey area includes a range of grasslands. These become progressively more productive and agriculturally improved towards the west of the area, where the ground is lower.

The southern part of the site maintains height from the main eastern ridge, with a height in this southerly area of up to 250m Above Ordnance Datum (AOD). From this ridge the ground falls steeply to 140m AOD in a valley with a watercourse, Clachaig Water, before rising to approx. 240m AOD to the North West of the site. Clachaig Water continues west out of the site where it eventually meets the sea. The site contains three small lochs in the east and south: Loch Na Creige, Loch Mor and Dubh Loch. Loch Na Naich is located outside of the site to the immediate northeast.

There are several residential properties located within 3km of the site, including several isolated properties located adjacent to the west of the A83 associated with the small settlements of Muasdale, Beacharr and Glenbarr. The nearest residential property is High Clachaig, which is located approximately 1.2km west-southwest of the closest turbine (T14). It should be noted that under the Consented Development, the residential property of High Clachaig was located approximately 850m from the nearest turbine (Turbine T12); but as this turbine has now been removed it has resulted in an increased distance between residential properties and turbine locations.

The Kintyre Way Long Distance Route follows the access track for the proposal from the A83 until it is approximately 560m to the north of the site, where the Kintyre Way then heads eastwards and the wind farm access heads south. At its closest point, the Kintyre Way passes approximately 230m from the north eastern point of the site and 1km from the nearest turbine (T02).

Proposal

Wind Turbines - The proposal comprises up to 12 turbines, with two different heights. 7 turbines with a blade tip height of 185m, and 5 with a blade tip height of 200m. All turbines will have a maximum rotor diameter of 155m. Each turbine will have a 50m micro-siting tolerance. Aviation lighting – 8 turbines will require visible-red and 8 will require infra-red hub mounted obstruction lights.

Wind Turbine Foundations – 12 turbine foundations with a 22m diameter (380m²). The depth cannot be confirmed until after the ground investigation is completed (post consent). Each foundation to have a 50m micro-siting tolerance.

Turbine Crane Pads – 1 main crane pad and 3 assembly crane pads per turbine. Dimensions per main crane pad: 40m x 35m (1962.5m²). Dimensions of assembly crane pads per turbine: 114m², 171m² and 203m². Each crane pad will have a 50m micro-siting tolerance.

Permanent Anemometer Mast - 50m micro-siting allowance. Up to 110m high permanent wind monitoring mast (steel lattice structure), Foundation: Approximately 20m² and Crane hardstanding: Approximately 20m x 20m.

Control Building and Substation Compound - 100m micro-siting allowance. Compound dimensions: 100m x 50m (footprint: 5,000m²), Control building height: Up to 5.5m, and maximum height of substation: Up to 10m.

Temporary Construction Compound and Battery Storage Facility – will have 100m micro-siting allowance. Approximate dimensions 135m x 75m, giving a compound area of 10,125m². Its use will be temporary as a construction compound, thereafter it is to be used to house battery storage.

Battery Storage – expected upper capacity of 30MW (with total generation of wind turbines and battery storage expected to have a capacity of around 90MW, but less than 100MW). It is to be installed in part of the construction compound (approximate area of 75m x 60m) on completion of most of the construction works. It shall consist of 27 containers not exceeding 2.6m high.

Site Access Track – from the A83 to the main site 6km of upgraded existing track. Main development site length 11km (comprising 8.9km new track and 2.1km upgraded existing track). It will be 5m wide (wider at bends) and will have a 100m micro-siting tolerance due to forested conditions preventing detailed ground investigations until nearer construction.

Passing Places - A total of 12 new passing places will be required between the A83 and the main site. A total of 7 of these will be in the main site. Up to 12 cross places may also be required for forestry operations to continue during the construction works for the proposal, these will be designed as small passing places and their location will be confirmed prior to construction.

Watercourse & Culvert Crossings – 6 watercourse crossing points are proposed including: 4 new crossings and alterations to 2 existing crossings.

Borrow Pits (Temporary Quarries) – up to 6 borrow pits are proposed. These will have short tracks to link them to the main access track and 100m micro-siting tolerance.

Cabling – Approximately 10km of underground cabling will be required. These will be installed along site access tracks, as far as practicable.

Forestry – the area to be felled for the proposed development and peatland restoration is 102.32ha. The total restock, including 56.2ha of peatland restoration is 83.73ha.

Infrastructure

Water and Foul Drainage – Scottish Water has advised the ECU they have no objection, but, that this does not confirm that the proposal can be serviced.

Asset Impact Assessment – Scottish Water has advised the ECU that according to their records, the proposal impacts on existing and abandoned Scottish Water assets. The Applicant must identify any potential conflicts with these assets and contact Scottish Waters Asset Impact Team to apply for a diversion. The Applicant should be aware that any conflict with assets identified may be subject to restrictions on proximity of construction.

Drinking Water Protected Areas – Scottish Water has advised the ECU that the proposal lies within the disused Scottish Water drinking water source catchments of the Clachaig Water (Muasdale), Barr Water and Carradale Water. As these are no longer used for public water supply Scottish Water has no concerns in relation to drinking water supply or quality of these catchments. The Carradale and Saddell boreholes are also located within the wider area. The Saddell boreholes are approx. 10km south-east of the site and will not be affected by the proposal. The north-eastern tip of the site encroaches into the uppermost part of the catchment of the Drochaid Burn which is a tributary of the Carradale Water. As there does not appear to be any development planned for this area, the risk to the Carradale Boreholes is low.

Surface Water - Scottish Water has advised the ECU that for reasons of sustainability and to protect their customers from potential future sewer flooding, they will not accept any surface water connections into their combined sewer system.

Grid Network - The grid connection does not form part of the S36 application. Final details of the grid connection would be subject to a separate design and consent process at a later date.

E. SPATIAL FRAMEWORK FOR WIND FARMS

SPP requires that planning authorities set out in the Development Plan a Spatial Framework identifying those areas that are likely to be most appropriate for onshore wind farms. In terms of the Council's Spatial Framework guidance for wind farms (contained within Supplementary Guidance 2: Wind Farm Map 1 and Map 2) the site is within Group 2 and 3 areas. It is partly within a Group 2 area due to the presence of deep peat. This was considered in the Report to Scottish Ministers published by the Scottish Government Reporters in their determination of the Appeal for the Consented Development. This report concluded that all parties agreed that the Consented Development addressed the requirements of deep peat and so there was no spatial reason why the site could not be considered as if within a Group 3 area. In Group 2: Areas of significant protection – wind farms may be appropriate in some circumstances. Further consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design, or other mitigation. Group 3: Areas are likely to be acceptable, subject to detailed consideration against identified policy criteria.

F. NET ECONOMIC IMPACT, INCLUDING LOCAL AND COMMUNITY SOCIO-ECONOMIC BENEFITS SUCH AS EMPLOYMENT, ASSOCIATED BUSINESS AND SUPPLY CHAIN OPPORTUNITIES

Policy LDP 6 – Supporting the Sustainable Growth of Renewables, SG 2 Renewables and SPP require applications for renewable energy developments to be assessed against net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities.

During construction, the proposal would have a beneficial effect on the local economy, which would arise because of job creation and local expenditure by the developer and contractors. Workers involved with the project would stay locally (i.e. in hotels and other accommodation), use local services and spend in local restaurants and shops. Given that only a small number of businesses will be impacted for a brief period of time, the significance of effect on the local economy is assessed to be Minor Beneficial in the EIAR.

The construction of the proposal will create jobs, which has the potential to impact on the local job market. The total employment generated during construction is predicted to be between 12.5 FTE and 18.75 FTE based on a 12-to-18-month construction period, the exact proportion of which would be local is uncertain and given the nature of wind farm development, there will be several specialised roles. As the number of local jobs available is low and short-term in

nature, the magnitude of the construction job creation is considered to be Low. The significance of effect on the local job market is therefore likely to be Minor Beneficial. The socio-economic impacts associated with the decommissioning phase are likely to be similar to those during construction.

High Clachaig Forest covers most of the site and is managed by FLS for timber production. The forest has some economic value and low social value. As a socio-economic receptor, High Clachaig Forest is therefore considered to have low sensitivity to change. FLS are in the process of producing the Carradale Land Management Plan, which includes a future felling and replanting plan for High Clachaig Forest and the site. The most up-to-date version of this Plan has been used to assess the impacts of the proposal on High Clachaig Forest. As FLS and the Applicant have worked together to ensure the proposal does not have a significant effect on FLS' felling and restocking plans, the Carradale Land Management Plan includes the proposal, with Phase 1 felling (2022 to 2026) including most of the area needed for wind farm construction. There would be some additional felling to accommodate the construction of the wind farm (26.5 ha), however this area is currently planned to be felled at a later date and so this 26.5 ha does not relate to any forestry which is not planned to be felled by FLS. The magnitude of change in terms of reduced amenity and restricted access associated with tree removal for the proposal is therefore Negligible, as the area to be felled for the construction is being conducted by FLS as part of normal forestry operations. The significance of effect during the construction phase is also considered to be Negligible.

Typically, the proposal will be operated remotely during the operational phase and will only require irregular maintenance and repair visits to site. This would equate to at least 21.5 FTE jobs, based on a minimum 50MW installed capacity, over a 35-year lifespan. Therefore, the magnitude of the impact on the local job market is considered to be negligible and the significance of effect on operational job creation is considered to be Negligible.

As part of the Applicant's agreement with FLS, the Applicant is offering the local community the opportunity to invest in the proposal. Once planning permission is granted, the Applicant will set up a new Limited Company. This entity will be called a Special Purpose Vehicle (SPV) and will take the project forward. This will involve one or more community organisations coming together to form the Community Vehicle. The Community Vehicle will then be able to invest in the SPV up to a total share of 49%. If they decide not to invest to that level, then the landowner FLS will themselves be able to invest up to a combined total, with the community, of 49%. As FLS are a large employer in the region, this would have a secondary benefit locally. In return for this investment, the Community Vehicle will receive shares in the SPV. The number of shares the Community Vehicle will receive will be dependent on the funding requirements of the SPV at that time. However, those shares will be non-voting and the Community Vehicle will not be responsible for deciding how the SPV or the project is run or managed. Only an appropriate 'Community Vehicle' will be able to invest. The criteria for what makes an appropriate Community Vehicle eligible to invest is set out in the FLS Community Investment on Scotland's National Forests and Land Guidelines (2019). In addition to the operational effect of the proposal itself, it will also generate an additional local economic benefit as a result of a community benefit payment that would be provided by the Applicant. The total value of the community benefit payment associated with the proposal is dependent on the eventual installed capacity. For example, with a capacity of 60MW, this would be £300,000 per year (60MW @ £5,000 per MW), which equates to £10.5 million over the 35-year operational period.

Post construction, the forest will be restocked with commercial softwoods including Sitka spruce. Areas of native broadleaved planting and the retention of open ground, particularly focussed on peatland restoration which will be funded by the Applicant, will also form part of the restocking proposals. The exception will be the areas immediately around the wind turbines, battery storage facility and other infrastructure which will be maintained as open

ground. With the operation of the proposal there will be no change to the baseline function of the site as forest managed for commercial timber production. The significance of effect during the operational phase on High Clachaig Forest as a socioeconomic receptor is therefore considered to be Negligible.

The EIAR advises that Community Benefit Funds would be made available for the local community. Community Benefit is not however, considered to be a 'material planning consideration' in the determination of planning applications. If permission were to be granted, the negotiation of any community benefit, either directly with the local community or under the auspices of the Council, would take place outside the application process.

Having due regard to the above the proposals net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities has been assessed and it is concluded that the proposal is consistent with the provisions of Supplementary Guidance 2 (December 2016); LDP DM1 – Development within the Development Management Zones; LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment; LDP 6 - Supporting the Sustainable Growth of Renewables; SPP; NPF3; Revised Draft NPF4 and the Onshore Wind Policy Statement in this regard.

G. THE SCALE OF CONTRIBUTION TO RENEWABLE ENERGY GENERATION TARGETS

Policy LDP 6 – Supporting the Sustainable Growth of Renewables, SG 2 Renewable Energy and SPP require applications for renewable energy developments to be assessed against the scale of contribution to renewable energy generation targets.

The Scottish Government is committed to increasing the supply of renewable energy within Scotland. The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 sets stringent targets for Scotland. The Act sets a legally-binding “net-zero” target of all greenhouse gases by 2045. The “net-zero” target for Scotland is five years ahead of the date set for the whole of the UK. If approved the proposed development has the potential to produce renewable energy and make a meaningful contribution to renewable energy generation targets. The proposal would provide over 50 MW, with the total generation of the wind turbines and battery storage having a currently expected capacity of 90MW, but less than 100MW.

Having due regard to the above the proposals scale of contribution to renewable energy generation targets has been assessed and it is concluded that the proposal is consistent with the provisions of SG 2; 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 6 - Supporting the Sustainable Growth of Renewables; SPP; NPF3; Revised Draft NPF4 and the Onshore Wind Policy Statement in this regard.

H. EFFECT ON GREENHOUSE GAS EMISSIONS

Policy LDP 6 – Supporting the Sustainable Growth of Renewables, SG 2 Renewable Energy and SPP require applications for renewable energy developments to be assessed against their effect on greenhouse gas emissions.

Commitment to the development of renewable energy has become increasingly important since climate emergencies were declared by the Scottish Government in April 2019 and the UK Government in May 2019. Whilst UK (and European) legislation have set the target of achieving net zero greenhouse gas emissions by 2050, Scotland has set this target for 2045. All of these targets demonstrate the immediacy placed on actions at a national and

international scale. The development of renewables is recognised by the Scottish Government as being important to the Scottish economy and there is an aim of renewable sources generating the equivalent of 100% of Scotland's gross annual electricity consumption.

Onshore wind energy will be vital in achieving this ambitious target. The proposal has the potential to prevent approximately 3.1 million tonnes of carbon dioxide (CO₂) equivalent emissions from being released into the atmosphere over the project's 35-year lifetime compared to a fossil fuel mix of electricity generation. This is the equivalent of the emissions from 50,756 average houses (more than the total number of households in Argyll & Bute, which is estimated at 42,801). If approved the proposal has the potential to produce renewable energy and make a meaningful contribution to a net zero electricity network.

Having due regard to the above the proposals effect on greenhouse gas emissions has been assessed and it is concluded that the proposal is consistent with the provisions of SG 2 Renewable Energy; 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 6 - Supporting the Sustainable Growth of Renewables; SPP; NPF3; Revised Draft NPF4 and the Onshore Wind Policy Statement in this regard.

I. IMPACTS ON COMMUNITIES AND INDIVIDUAL DWELLINGS, INCLUDING RESIDENTIAL AMENITY, NOISE AND SHADOW FLICKER (INCLUDING CUMULATIVE IMPACTS).

Policy LDP 6 – Supporting the Sustainable Growth of Renewables, SG 2 Renewable Energy and SPP require applications for renewable energy developments to be assessed against impacts on communities and individual dwellings, including visual impact, residential amenity, noise, and shadow flicker.

Noise – It has not been possible to obtain advice from Environmental Health on Noise. Consequently, the advice of an independent Noise Consultant has been obtained. They have advised that good practice has been adopted by the Applicant, with a few minor issues identified. The most significant of these issues is the identification of several derelict buildings within 2km of the site boundary, for which the planning status is unknown, and for which the ongoing residential use should be established. If it remains the Planning Authorities wish that these properties should remain with a residential use, then these should be reassessed by the Applicant, including where relevant the battery storage equipment which may become significant. As presented, the assessment relies on background noise data from previously proposed or consented wind farms, and separate considerations are made for the noise of the current wind farm site, and then for the cumulative situation with all existing and consented wind farms in the local area in addition to the proposed site. It is not entirely clear from the evidence presented whether these limits have been correctly transposed, or that the higher value for the adopted fixed limits have been justified. Further information on this aspect should be sought from the Applicant. However, the size and scale of the proposals may justify the use of the higher value fixed limit. In the absence of any new residential receptors being identified (e.g. currently derelict properties), there are no reasons to object to the scheme on noise grounds, but a suitably worded condition to limit the noise levels, tonality and amplitude modulation should be applied.

Air Quality – It has not been possible to obtain advice from Environmental Health on Air Quality.

Lighting – It has not been possible to obtain advice from Environmental Health on Lighting

Shadow Flicker – The term 'shadow flicker' is given to the flickering effect created when a rotating wind turbine rotor blade periodically casts a shadow across the windows and doors of

a nearby property. The study indicated that only one property (High Clachaig) is located within the range to be affected by shadow flicker from the proposal. It is expected that there will be shadow flicker for up to 13 hours per year at High Clachaig, between the hours of 05:45 and 07:00. However, when considering that the property has no windows facing the proposal, shadow flicker is not expected to affect residents inside the property. Whilst no significant adverse effects are anticipated, if necessary, the following mitigation measures for shadow flicker could be employed: affected dwellings can be screened from turbines to prevent shadow flicker; and standard shadow flicker controllers can be installed on turbines to shut them down when all parameters needed to cause shadow flicker are present, thereby eliminating the problem.

Private Water Supplies - it has not been possible to obtain advice from Environmental Health on Private Water Supplies. SEPA – have advised the ECU that they note that PWS (Private Water Supplies) have been addressed as far as possible. West Kintyre Community Council – have advised the ECU that they have been made aware of the possibility of there being several properties close to the site with private water supplies that are not registered with the local Council, they would expect the developer to ascertain the whereabouts of these private supplies and ensure a full risk assessment of these is carried out to ensure that no harm would come to them were the application to be approved.

Having due regard to the above subject to the recommended conditions being applied in the event that consent is granted it is concluded that the proposal will not have any adverse impacts on communities and individual dwellings, including, residential amenity, noise and shadow flicker and subject to the recommended conditions is consistent with the provisions of SG 2 Renewable Energy; 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 6 - Supporting the Sustainable Growth of Renewables; SPP; NPF3; Revised Draft NPF4 and the Onshore Wind Policy Statement in this regard.

J. LANDSCAPE AND VISUAL IMPACTS, INCLUDING EFFECTS ON WILD LAND (INCLUDING CUMULATIVE IMPACTS)

Policy LDP 6 – Supporting the Sustainable Growth of Renewables, SG 2 Renewable Energy and SPP require applications for wind turbine developments to be assessed against any landscape and visual impacts including wild land.

The Council's Landscape Consultant undertook a Landscape and Visual Review of this proposal (June 2022). The report drafted by Argyll & Bute Council's landscape consultant is based on a review of the Environmental Impact Assessment Report (EIAR) of April 2022 and visits to the study area.

Background to the proposal - The original Clachaig Glen wind farm comprised 14 turbines with 13 of these 126.5m high to blade tip and the remaining turbine 115.5m high to blade tip. This development gained consent on appeal in 2019. The current application ('the proposal') comprises 12 turbines (5 up to 200m high and 7 turbines 185m high) on the same site. The proposal additionally includes a battery storage facility and widening of the access track from the A83 to accommodate larger turbine components and visible aviation lighting is proposed to be fixed to the nacelles of 8 turbines.

Information provided in Landscape and Visual Impact Assessment (LVIA) - The LVIA has been undertaken in accordance with the Guidelines for Landscape and Visual Impact Assessment, Third Edition. While the Council's Landscape Consultant agrees with the majority of the LVIA findings on the significance of landscape and visual effects, they consider that in some instances receptor sensitivity and the magnitude of change is under-estimated.

The Design Statement provides a useful summary of the evolution of the consented scheme and the current application. The figures provided to support the LVIA are clear and informative although it would have been beneficial to have had baseline photographs from the additional wireline viewpoint locations SW1 and SW2.

The Council requested during scoping that comparative visualisations be produced showing the consented scheme and the proposal from key viewpoints. This has not been done by the Applicant using a justification that this would be contrary to 2018 guidance from NatureScot (EIA-R section 7.1). It is further explained in EIA-R paragraph 7.4.17 that it is assumed that the consented scheme would not be built due to the lack of availability of smaller turbines. For completeness sake, a comparison of the change in effects between the consented scheme and the proposal (which would involve increases of between 58 and 74m in the height of turbines) has been undertaken by the Council's landscape consultant using wireline visualisations from the Clachaig Glen Additional Environmental Information (AEI) Report submitted to the Killean and Clachaig Glen Wind Farms Conjoined Public Local Inquiry held in 2018.

2017 Argyll and Bute Landscape Wind Capacity Study - The proposed wind farm lies within the *Upland Forest Moor Mosaic* Landscape Character Type (LCT) identified in the Argyll & Bute Landscape Wind Capacity Study (LWECS). This LCT covers the Kintyre peninsula between Machrinhanish/Campbeltown in the south and West Loch Tarbert in the north. The proposed turbines, which would be up to 200m high to blade tip, would fall within the 'Very Large' typology considered in the LWECS. The LWECS concludes that the combined landscape and visual sensitivity of the *Upland Forest Moor Mosaic* LCT is high-medium to wind turbines of this size. The guidance set out in the study for this LCT advises that there is very limited scope for additional turbines to be accommodated within this landscape principally due to potential cumulative effects that could occur on the coastal fringes of Kintyre and on views from Arran and Gigha. The area of the peninsula to the north of Beinn Bhreac is noted as being particularly sensitive due to likely increased effects on Arran, Gigha and surrounding seascapes. The guidance further advises that significant intrusion on adjacent settled and small-scale landscape character types and on Arran and Gigha should be avoided by siting larger turbines well back into the interior of these uplands.

Since this study was issued in 2017 the Eascairt, Clachaig Glen I, Beinn an Tuirc III and High Constellation wind farms have been consented on the Kintyre peninsula. The addition of these wind farms increases sensitivity in terms of potential cumulative effects and reduces scope for further wind farm development to be accommodated within the *Upland Forest Moor Mosaic* LCT.

The design of the proposal - The proposed turbines will be substantially larger than those within nearby operational wind energy developments including the Cour, Freasdail, Beinn an Tuirc, Blary Hill and Auchadaduie schemes. The difference in size between turbines in operational wind farms will be principally appreciated from sections of the Kintyre Way and to a lesser degree from the Sound of Gigha and Gigha where the proposal would be closer to views and reasonably well-separated from other operational wind farms thus minimising contrasts of scale. The combination of closer proximity and/or very large turbines will result in the proposal being considerably more dominant or prominent (depending on distance) in views from the west than existing wind energy developments located on the Kintyre peninsula.

Although not specifically noted as a design objective in the LVIA, the proposal appears to have been designed to minimise intrusion on the west Kintyre coast. In general, the design layout of turbines appears reasonably well-balanced from representative viewpoints with the exception of Viewpoint 13 from the Kintyre Way where the overlap of turbines gives a very congested and unsatisfactory appearance and contributes to the significant effects that will be experienced from this long-distance recreational route.

The proposed turbines at 200m and 185m height would dominate the scale of the Kintyre peninsula when seen in views from the west where the near full extent of many turbines is appreciable. In views from the east from Arran and from the north near Clachan, partial

screening by landform reduces the perceived size of the turbines and they appear less overwhelming in relation to other landscape features. It is considered that the size of the turbines proposed is too large for the scale of the landscape of the Kintyre Uplands appreciated from the Sound of Gigha and Gigha.

Comparison of the effects of the consented scheme and the proposal - There would be little difference in the horizontal extent of theoretical visibility between the consented scheme and the proposal with the key changes being in the numbers and/or vertical extent of the much larger turbines now proposed seen in key views.

Comparison of key views between the Clachaig Glen AEI 2018 (the consented scheme) and the current proposal reveal the following:

- A greater number of turbines would be visible from Viewpoint 13 Kintyre Way and with these appearing substantially larger and more congested than those in the consented scheme. There would be a significant exacerbation of the effect on views.
- The turbines within the proposal would have a much more dominant visual effect in views from the Sound of Gigha and from the east coast of Gigha (Viewpoints 8, 9, 10, 12 and 15) because of the substantially larger turbines. The proposed turbines would also appear much larger in relation to the height of the Kintyre peninsula and would have a more overwhelming effect on other landscape features such as clearly visible buildings, small woodlands, and fields on the west coast of Kintyre.
- In longer views from south Knapdale (Viewpoint 2) and the Islay ferry (Viewpoint 18), a substantially greater vertical extent of turbines will be visible. The consented scheme largely appeared as blade tips with very few hubs visible but all turbines would be seen well above hub height in the proposal.

Landscape effects - The proposed development site lies within the Kintyre *Upland Forest Moor Mosaic* LCT identified in the LWECs. There would be direct and significant adverse effects on the character of part of this LCT.

There would be relatively limited visibility of the proposal from the *Rocky Mosaic* LCT which covers the coastal fringes of Kintyre and Knapdale and from the *Coastal Plain* LCT which covers a small part of the western coast of Kintyre in the Tayinloan area and while effects would be adverse (with some localised significant effects on the character of the *Rocky Mosaic* LCT associated with the removal of trees and hedgerows to accommodate construction traffic on the access route from the A83) they would not be significant overall on these LCTs (Landscape Character Type).

There would be more consistent visibility of the proposal across the Sound of Gigha and greater intrusion associated with very large turbines of up to 200m high to blade tip. The LVIA considers effects on the Seascape Character Units (SCU) identified in the 2005 Scottish Nature Heritage Commissioned Report 103. The Council's Landscape Consultant considers that these SCUs are too broad to form a basis for LVIA of a specific proposal and that more detailed Local Coastal Character Areas (LCCA) should have been defined in accordance with NatureScot's Guidance Note on Coastal Character Assessment issued in 2018.

It is considered that the Sound of Gigha, lying between Gigha and Kintyre would form a LCCA more appropriate for detailed assessment. Representative viewpoints 8, 9, 10 and 15 within the Sound of Gigha illustrate the degree of prominence of the proposal and the contrasts in scale that would occur with the smaller scale settled coastal fringes and the relatively narrow extent of water and it is concluded that these effects would significantly affect the character of this LCCA.

The requirement for visible aviation lighting on all turbines within the proposal will contribute to the magnitude of change and duration of landscape effects. The sparsely settled Kintyre

peninsula and surrounding seascapes have low night-time light levels and this would change with the proposal.

Effects on valued landscapes - The proposed turbines do not lie within a designated landscape although the lower part of the proposed access track from the A83 is located in the West Kintyre Area of Panoramic Quality (APQ). While there would be some localised significant adverse effects associated with the proposed access track, visibility of the turbines would not be widespread from the remainder of this APQ and also from the South Knapdale APQ. The Council's Landscape Consultant concludes that effects would not be significant overall on the APQ designation in Argyll & Bute. Effects on the North Arran National Scenic Area (NSA) and Arran Wild Land Area (WLA) are not considered in detail in this appraisal as these landscapes lie outside Argyll & Bute. The Council's Landscape Consultant considers that effects on these valued landscapes are however unlikely to be significant due to this proposal being located on the west-facing hill slopes of the Kintyre peninsula which limits the vertical extent of turbines visible from the east.

Effects on visual amenity - The Zone of Theoretical Visibility (ZTV) mapping within the LVIA indicates that visibility would be mainly concentrated over the Sound of Gigha and Gigha with some patchier visibility across parts of south Knapdale and the interior of the Kintyre peninsula. There would be some limited visibility from the west coast of Kintyre and from the West Loch Tarbert area. There would be relatively little visibility from the east coast of Kintyre.

Visibility of the proposal from the western coastal fringes of Kintyre would not be widespread with effects on views from the A83 and settlement unlikely to be significant as evidenced by Viewpoints 17 and 20 which show that blade tips only would be visible. Viewpoints 14 from A'Chleit and Viewpoint 18 from the Glenacardoch area show that, while noticeable, intrusion would be relatively minor as mainly blade tips would be visible. The proposal would however have an increased intrusion from Point Sands and the Gigha Ferry Terminal at Tayinloan (Viewpoints 11 and 12).

The most significant adverse effects of this proposal on views from within Argyll & Bute would be on:

- ***The Kintyre Way***, affecting approximately 2km of the route where it passes close to the proposal near Loch na Naich as represented by Viewpoint 13. In these close views the proposal would not be seen in the context of the more expansive upland landscape but would impinge on the more intimately scaled views across the contained dip of Loch na Naich. The proposal would have a very congested appearance in this view which are likely to persist for up to 2km along the route where the turbines are seen more 'end on', contributing to the significant effects on views. The proposal would also contribute to significant cumulative effects on views from the route particularly when seen sequentially with the operational and consented wind farms of Deucheran Hill and Cour which lie in the middle part of the Kintyre peninsula. This proposal will contribute to the negative incremental effects of wind farm development on the experience of receptors across the length of the route.
- ***Sound of Gigha – including from the Gigha ferry*** Representative viewpoints 15 and 10 demonstrate the prominence of the proposed turbines on views from the ferry and from recreational watercraft where receptors are likely to focus on views east to Kintyre and westwards to Gigha within the confines of the Sound.
- ***Gigha*** where this proposal would be seen together with the nearby operational Blary Hill Auchadaduie, Tangy and Beinn an Tuirc wind farms but would lie closer to key views along the eastern coast of Gigha. The closer proximity and substantially larger turbines of this proposal would result in a dominant effect on views from Ardmish and South Pier (and from other areas on the east coast of the island) which focus on Kintyre. Views from the small hill of Creag Bhan, which is the destination of a promoted walk, would also be

significantly affected although the proposal would not interrupt the focus of views westwards to Jura from this hill.

While effects from the Islay ferry would not be significant due to the distances involved (14km at the closest point of route shown in Viewpoint 6) and from the B8024 south of Kilberry (Viewpoint 2 which lies at >18km) the turbines of the proposal will be clearly noticeable and appear much larger than operational turbines on Kintyre resulting in adverse effects on views.

Visible aviation lighting effects - Visible aviation lights will be fixed to the nacelles of 8 turbines. In-built mitigation measures include directional lighting shielding which would reduce the intensity of lighting experienced from lower elevation views and a reduction in lighting from 2000 candela to 200 candela during good atmospheric conditions. Technical Appendix 7.2 provides details on the technical aspects of the lighting proposed but does not assess the landscape and visual effects of the lighting. Night-time visualisations have been generated from three viewpoints with the LVIA including Viewpoint 8 at Ardmish on Gigha, Viewpoint 11 from Point Sands and Viewpoint 24 from Beinn Bharrain on Arran. Reference is made to these night-time visualisations in the detailed visual assessment in Technical Appendix 7.5 although no conclusions are reached on the specific effects of visible aviation lighting.

Taking a worse-case scenario of 2000 candela lighting the Council's Landscape Consultant considers that visible aviation lighting could extend the duration of significant adverse effects on views from sections of the Kintyre Way, from the Sound of Gigha and from the east coast and hills of Gigha particularly given the low light levels and dark skies of this sparsely settled study area.

Cumulative landscape and visual effects - The greatest cumulative effects with operational, consented and application-stage wind farms will be experienced from the Kintyre Way, the Sound of Gigha and from Gigha.

Cumulative effects on the Kintyre Way - In terms of consented and application-stage proposals, the Clachaig Glen proposal would be seen together and sequentially from the Kintyre Way with the nearby Narachan wind farm forming a cluster of wind turbine development in the middle part of the Kintyre peninsula together with the operational Deucheran Hill and Cour wind farms. This proposal would make a major contribution to significant cumulative effects on the section of the Kintyre Way between Tayinloan and Carradale due to the size of the turbines and their close proximity to the route.

Cumulative effects on views from the Sound of Gigha and Gigha - This proposal would be seen with the operational Auchadaduie, Blary Hill, Tangy and Beinn an Tuirc wind farms in views from the Sound of Gigha and the south-east coast of Gigha. It has been noted in the preceding text that this proposal would appear significantly more prominent in these views than these operational wind farms.

The consented High Constellation and Airigh wind farms would be more visible in views from the north-eastern part of Gigha. They would be seen together with this proposal from the small hill/Core Path of Creag Bhan on Gigha. The application-stage Sheirdrim and Narachan wind farms would also be prominent from this elevated viewpoint. An additional wireline visualisation has been produced from Creag Bhan (SW1) but it should be noted that there is no accompanying baseline photograph and it does not show all the operational, consented and application-stage wind farms that would be visible. The combined effect of consented and application-stage wind farms would result in significant cumulative effects from Creag Bhan and from other parts of north-east Gigha.

Conclusions - The proposed site lies within the *Upland Forest Moor Mosaic* LCT identified in the Argyll & Bute LWECS. This landscape has some characteristics which reduce sensitivity to large scale wind energy development including a generally simple landform and land cover and an expansive scale. However, these uplands already accommodate a number of operational and consented wind farms which limits scope for further wind farm development

whilst minimising effects on more sensitive landscape and visual receptors within the Kintyre coasts, West Loch Tarbert and the islands of Gigha and Arran.

This proposal would have significant adverse effects on the character of the *Upland Forest Moor Mosaic* LCT. It would also significantly and adversely affect the character of the Sound of Gigha between Gigha and Kintyre. There would be relatively limited views from the settled east and west coasts of Kintyre but with more extensive visibility occurring across the Sound of Gigha, Gigha and from the more sparsely settled upland area immediately surrounding the proposed development.

A consent for 14 turbines between 115.5m and 126.5m applies to the site. This proposal comprises 12 turbines between 185m and 200m. The principal change between the consented and proposed scheme is the greater degree of intrusion associated with the substantially larger turbines now proposed on views from the Sound of Gigha and from the eastern side of Gigha, and also in close views from a section of the Kintyre Way. The visible aviation lighting fixed to 8 of the proposed turbines would also be likely to extend the duration of significant adverse visual effects experienced from these same locations. In views from Gigha and the Sound of Gigha the proposal would be significantly larger than other operational and consented wind farms and would form a key focus in views towards the Kintyre peninsula, detracting from the scenic character of water, settled coastal fringe and uplands.

The potential cumulative effects of this proposal with the Sheirdrim and Narachan application-stage wind farms are additionally of concern as together these schemes would dominate views to the east from the north-eastern part of Gigha. Lighting of the Narachan wind farm and this proposal could extend the duration of significant adverse cumulative effects during hours of darkness.

It is recommended that an objection should be raised to this proposal on landscape and visual grounds. There could be scope to mitigate the effects of this proposal through a reduction in the size of turbines and possible omission/reposition of more prominent turbines (for example Turbines 1 and 3 which are particularly prominent in views from the west). Further mitigation of visible aviation lighting should also be considered through the installation of an Aircraft Detection Lighting System once approved by the CAA which would significantly reduce the duration of lighting.

The Council's landscape consultant recommended the following visualisations for the Committee to review:

- EIA-R Figure 7.6a/b – Zone of Theoretical Visibility maps
- EIA-R Viewpoints 8, 9 and Supplementary Visualisations SW1 from Gigha including night-time visualisation from Viewpoint 8 Ardminish.
- EIA-R Viewpoints 10 and 15 Sound of Gigha
- EIA-R Viewpoints 13 and 16 – close views from the Kintyre Way and track used by walkers near North Muasdale.
- The Clachaig Glen consented scheme Additional Environmental Information Report November 2018 – comparison of the changes between the consented and proposed scheme from the Sound of Gigha, Gigha, the Kintyre Way, Islay ferry and south of Kilberry.
- It will also be useful for Committee members to compare the effects of the Narachan wind farm application in views from Gigha to help inform their view of the differences in the degree of intrusion between the two proposals. These differences principally relate to the greater distance and the more effective screening by ridges lying immediately west of the Narachan wind farm which reduce the perceived size of the turbines appreciated from the east coast of Gigha when compared with the Clachaig Glen turbines (see Viewpoint 8 Ardminish Figure VP8.2 in the Clachaig Glen EIA-R)

The Applicant organised for the 15 visualisation packs to be printed for Members' consideration. The only exclusion from the Council's Landscape Consultants list is the "Additional Environmental Information Report November 2018" and associated "Figure VP8.2". The reason provided for this is that the Applicant does not agree that outdated assessment work on the Consented Development is relevant, as the scheme is no longer being promoted.

NatureScot - have advised the ECU that the nature and scale of the proposal in this location cannot be accommodated without significant adverse landscape and visual effects, including cumulative effects and night time effects.

Significant adverse effects of the proposal are predominantly in relation to Gigha and the Sound of Gigha, as well as part of Kintyre. In NatureScot's view, turbines of this scale in this location, would detract from the character, scenic views and experience as currently enjoyed by tourists and residents in these areas. There would also be significant cumulative effects when the proposals are considered with operational, consented, and proposed wind farms. NatureScot consider that the proposal would have some significant effect on the appreciation of the relatively dark rural setting as a result of the proposed turbine lighting.

A significant reduction in the height of turbines together with careful design consideration to remove/ relocate the most prominent turbines could mitigate these effects.

The proposed turbines would require aviation lighting, in a sparsely populated area characterised by low levels of artificial light at night. While proposed measures to control the intensity and direction of lighting could significantly reduce the potential for effects, there would be significant night-time landscape and visual effects within the area immediately surrounding the site. There would be more extensive significant effects should the 2000cd lighting be unmitigated.

West Kintyre Community Council have advised the ECU that they object to this proposal on the grounds of Landscape and Visual Impact. East Kintyre Community Council have advised the ECU that they object to the proposal on the grounds of visual amenity due to cumulative harmful visual impacts contrary to Argyll & Bute Council's Policy LDP 6 and Proposed Local Development Plan 2 Diagram 7; and Community Development Amenity due to the wholesale harmful impacts to a designated Tourism development area.

Access & Turning Area – In addition to objecting to the Consented Development, the Council also raised concern regarding the landscape and visual impact of the large turning area proposed on the opposite side of the A83. This concern was not shared by the Reporters who granted consent, which includes a condition requiring details of this turning area to be submitted. The proposed turning area is also included in the current application, but as it already has consent and has not changed, it is not considered prudent to repeat these concerns.

Battery Storage – Whilst, the provision of battery storage meets the requirements of policy, Officers are concerned that no consideration has been given to the Landscape & Visual Impact of this battery storage facility. This is a large facility of 27 shipping containers proposed to be located in a rural landscape. In other proposals considered by the Council these areas are usually depicted on the photomontages. It is the view of the Council that the ECU should consider the landscape and visual impact of these before reaching a decision on this application.

All the above consultee advice and responses have been considered. Officers concur with the expert advice of NatureScot and the Council's landscape consultant in respect to landscape and visual impacts (including cumulative).

Having due regard to the above it is concluded that the proposal will have adverse landscape and visual impacts (including cumulative and is therefore inconsistent with the provisions of: SG LDP ENV 14 –Landscape; SG 2 Renewable Energy; LDP STRAT 1 – Sustainable Development; LDP DM1 – Development within the Development Management Zones; LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment; Policy LDP 6 – Supporting the Sustainable Growth of Renewables of the Argyll & Bute Local Development Plan; SPP; NPF3; Revised Draft NPF4 and the Onshore Wind Policy Statement.

K. EFFECTS ON NATURAL HERITAGE INCLUDING BIRDS (INCLUDING CUMULATIVE IMPACTS)

Policy LDP 6 – Supporting the Sustainable Growth of Renewables, SG 2 Renewable Energy and SPP require applications for wind turbine developments to be assessed against any impact they may have on natural heritage including birds.

Ornithology

The Royal Society for the Protection of Birds Scotland (RSPB) – have advised the ECU that they do not object to this proposal, however they advise that turbines T1 and T3 are moved eastwards from open ground/blanket bog and are sited within the forestry and that turbine T4 (Turbine 4) is moved from the edge further into the forestry. This would minimise potential collision by hen harriers and kestrel, and assist in reducing habitat loss to golden eagles plus reduce blanket bog and carbon impacts. Borrow pits (BP06) should be in an area of existing forestry rather than impact on open ground habitats. A Habitat Management Plan should also be secured to minimise the carbon impact of the development and mitigate for biodiversity impacts (upland management outcomes that delivers positively for golden eagles.

Designated Sites

NatureScot have advised the ECU that there would be no adverse effect on the integrity of the Kintyre Goose Roosts Special Protection Area (SPA) and there would be no significant effect on wider countryside populations of golden eagle or hen harrier in Natura Heritage Zone (NHZ) 14. The status of the SPA means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended (the “Habitats Regulations”) apply, or (for reserved matters), the Conservation of Habitats and Species Regulations 2010 as amended apply. Scottish ministers are therefore required to carry out an Appropriate Assessment in view of the site’s conservation objectives for its qualifying interest. To help with this NatureScot have advised the ECU that, in their view, based on the information provided and appraisal carried out to date, the proposal will not adversely affect the integrity of the site. No flights by Greenland white-fronted geese were recorded within 400m of the proposed turbine locations. There is therefore a very low risk of collisions. Neither is there any foraging habitat within the site that is functionally-linked to the SPA, so there is a very low likelihood of any displacement and disturbance effects.

Ecology

SEPA advice on Ecology – have advised the ECU that they request that the restoration of 56.2ha to blanket bog is secured by condition or other planning measure.

The Council’s Local Biodiversity Officer – has no objection to the proposal and has advised that the information provided is acceptable in respect to: a Construction Environment Management Plan incorporating a Peat Management Plan, Habitat Management Plan, culvert details, silt management, maintenance of hydrological regime and treatment/storage of borrow

pit soil/vegetation; there were no limitations arising from COVID-19, surveys continued uninterrupted whilst adhering to COVID-19 restrictions; Blanket bog/Groundwater Dependent Terrestrial Ecosystems (GWDTE) hydrology have been considered; and Native woodland and other habitats/species recommended by the Local Biodiversity Officer have been considered.

Fish

Marine Scotland Science (MSS) - have advised the ECU that resident brown trout populations may be present which are listed as a priority species for conservation in the Scottish Biodiversity List and, if so MSS advise that a fish population monitoring programme should be established to monitor these fish populations before, during and after construction. MSS also advise that the developer establishes a water quality monitoring programme as felling is proposed and acidification is a known problem in the area. The water quality monitoring programme should be integrated with the fish population monitoring programme and follow MSS generic monitoring programmes. The developer states “yes” to a designated area, for which fish is a qualifying feature within/or downstream of the proposed development area. MSS are unsure what designated area that the developer is referring to. MSS are satisfied that a decommissioning and restoration plan is included in a condition, should consent be granted for this development.

Argyll District Salmon Fishery Board – in their most recent response they have advised the ECU that on review of the site location, they accept the Applicant’s conclusions in that monitoring may not be effective or appropriate in this case.

Forestry - The majority of the site is currently forested and managed by FLS for timber production, except for the higher land on the eastern boundary of the site. The crop is in various stages of growth across the site with forestry operations currently ongoing. In Scottish Forestry (SF) most recent consultation response they advised the ECU that they are content that the proposal meets the UKFS species diversity requirements and confirm that they have no outstanding issues with the proposal. Planning conditions to secure Compensatory Planting and a Long Term Forest Plan in the event the proposal receives consent are recommended.

Crown Estate Scotland have confirmed to the ECU that the assets of Crown Estate Scotland are not affected by this proposal and they have no comments to make.

Having due regard to the above it is concluded that subject to the conditions recommended by NatureScot, Marine Scotland, SEPA, Scottish Forestry, RSPB Scotland and the Council’s Local Biodiversity Officer the proposal is acceptable in terms of natural heritage and birds and is consistent with the provisions of SG LDP ENV 1 – Development Impact on Habitats, Species and Our Biodiversity (i.e. biological diversity); SG LDP ENV 7 – Water Quality and the Environment; SG 2 Renewable Energy; LDP STRAT 1 – Sustainable Development; LDP DM1 – Development within the Development Management Zones; LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment; Policy LDP 6 – Supporting the Sustainable Growth of Renewables of the Argyll & Bute Local Development Plan; SPP; NPF3; Revised Draft NPF4; Onshore Wind Policy Statement, Scottish Government; and The Scottish Government’s Policy on ‘Control of Woodland Removal’ (Forestry Commission Scotland 2009).

L. IMPACTS ON CARBON RICH SOILS, USING THE CARBON CALCULATOR (INCLUDING CUMULATIVE IMPACTS)

Policy LDP 6 – Supporting the Sustainable Growth of Renewables, Supplementary Guidance

2 and SPP require applications for renewable energy developments to be assessed against any impact they may have on carbon rich soils, using the carbon calculator.

Carbon balance calculations for this proposal have been undertaken in accordance with the Scottish Government guidance and these are reported in Chapter 11 of the EIAR. The carbon balance calculations found that the proposal could result in a relative saving of just over 3.1 million tonnes of carbon dioxide equivalent emissions over its lifetime (35 years) if a fossil fuel mix of electricity generation were used as the counterfactual. It is expected to take 1.8 years for the carbon lost during construction to be 'paid back' by the carbon saved through generating electricity from a renewable energy resource. It is important to note that the carbon balance calculations do not account for a replanting regime, the 56.2 ha of peatland restoration proposed or the battery storage facility due to limitations with the calculator and in order to produce a robust result.

SEPA – Peat – have advised the ECU that they request that the requirement for floating tracks and their design is a matter addressed by a condition attached to any grant of consent.

SEPA – Peat Management Plan – have advised the ECU that they request that a condition is attached to any grant of consent requiring that a Peat Management Plan be submitted, agreed by relevant parties including SEPA, and implemented in full.

Ironside Farrar (Environmental Consultants on behalf of Scottish Government ECU to audit Peat Landslide Hazard Risk Assessment (PLHRA)) – advised the ECU in their most recent response that they have considered the Applicant's response to their initial consultation advice and the information submitted addresses the queries raised and concludes the assessment, no further response is required. It is noted that several actions require to be followed through at construction stage and several points are noted for future reporting.

Having due regard to the above, subject to the recommended conditions it is concluded that the proposal will not have an adverse impact on carbon rich soils, using the carbon calculator and is therefore consistent with the provisions of SG LDP ENV 1 – Development Impact on Habitats, Species and Our Biodiversity (i.e. biological diversity); SG LDP ENV 11 – Protection of Soil and Peat Resources; SG 2 Renewable Energy; LDP STRAT 1 – Sustainable Development; LDP DM1 – Development within the Development Management Zones; LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment; Policy LDP 6 – Supporting the Sustainable Growth of Renewables of the Argyll & Bute Local Development Plan; SPP; NPF3; Revised Draft NPF4 and the Onshore Wind Policy Statement.

M. PUBLIC ACCESS, INCLUDING IMPACT ON LONG DISTANCE WALKING AND CYCLING ROUTES AND THOSE SCENIC ROUTES IDENTIFIED IN THE NPF (INCLUDING CUMULATIVE IMPACTS)

Policy LDP 6 – Supporting the Sustainable Growth of Renewables, SG 2 Renewable Energy and SPP require applications for renewable energy developments to be assessed against any impact they may have on public access, including impact on long distance walking and cycling routes and those scenic routes identified in NPF 3.

Both West Kintyre and East Kintyre Community Councils have raised concern in their objections to the ECU regarding the impact of this proposal on the Kintyre Way. The Landscape & Visual Impact of the proposal on the Kintyre Way is considered under Section J of this report.

Having due regard to the above it is concluded that the proposal will not have any adverse physical impacts on public access, including impact on long distance walking

and cycling routes and those scenic routes identified in the NPF3 and is therefore consistent with the provisions of SG 2 Renewable Energy, SG LDP TRAN 1 – Access to the Outdoors; LDP STRAT 1 – Sustainable Development; LDP DM1 – Development within the Development Management Zones; LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment; Policy LDP 6 – Supporting the Sustainable Growth of Renewables of the Argyll & Bute Local Development Plan; SPP; NPF3; Revised Draft NPF4 and the Onshore Wind Policy Statement.

N. IMPACTS ON THE CULTURAL HERITAGE, INCLUDING SCHEDULED MONUMENTS, LISTED BUILDINGS AND THEIR SETTINGS (INCLUDING CUMULATIVE IMPACTS)

Policy LDP 6 – Supporting the Sustainable Growth of Renewables, SG 2 Renewable Energy and SPP require applications for renewable energy developments to be assessed against any impact they may have on the historic environment, including scheduled monuments, listed buildings and their settings.

Historic Environment Scotland (HES) – have advised the ECU that they do not wish to object to the proposal. They consider that there would be a significant adverse impact on the setting of the Dunan Muasdale, dun (SM3223) scheduled monument. They also note that a minor level of adverse impact would occur on the settings of other nearby heritage assets in their remit. They are nevertheless content that none of these impacts are of a level that would raise issues in the national interest.

The West of Scotland Archaeology Service (WOSAS) – advise that they have no objection subject to condition to secure the implementation of a programme of archaeological works in accordance with a written scheme of investigation to be agreed by the West of Scotland Archaeology Service, approved by the Planning Authority and thereafter fully implemented and that all recording and recovery of archaeological resources within the site is undertaken to the satisfaction of the Planning Authority in agreement with the West of Scotland Archaeology Service.

Having due regard to the above it is concluded that based on the advice of Historic Environment Scotland and the West of Scotland Archaeology Service that, subject to a condition to secure a scheme of archaeological investigation that this proposal is consistent with the provisions of SG LDP ENV 15 – Development Impact on Historic Gardens and Designed Landscapes; SG LDP ENV 16(a) – Development Impact on Listed Buildings; SG LDP ENV 19 – Development Impact on Scheduled Ancient Monuments; SG LDP ENV 20 – Development Impact on Sites of Archaeological Importance; LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment; Policy LDP 6 – Supporting the Sustainable Growth of Renewables; and SG 2 Renewable Energy of the Argyll & Bute Local Development Plan; SPP; the Onshore Wind Policy Statement and Historic Environment Policy for Scotland in this respect.

O. IMPACTS ON TOURISM AND RECREATION (INCLUDING CUMULATIVE IMPACTS)

Policy LDP 6 – Supporting the Sustainable Growth of Renewables, SG 2 Renewable Energy and SPP require applications for renewable energy developments to be assessed against any impact they may have on tourism and recreation.

Mountaineering Scotland have advised the ECU they have no comment to make on the proposal.

British Horse Society – have provided advice to the ECU on the importance of off-road riding and active travel and suitable infrastructure. They have not raised any objection to the proposal.

West Kintyre Community Council – have advised the ECU that they object on the grounds of Tourism Impact. East Kintyre Community Council – have advised the ECU that they object to the proposal on the following grounds of Community Development Amenity due to the wholesale harmful impacts to a designated Tourism development area. These concerns will be considered by the ECU in their determination of the application.

The Council regards landscape as being a particularly valued asset both in terms of its intrinsic qualities and in terms of its value to the tourism economy. For all types of development the maintenance of landscape character is an important facet of decision-making in the countryside in Argyll & Bute, regardless of the scale of development proposed. The Council's LDP Policy LDP 6 identifies impacts on tourism and recreation as a material consideration in the assessment of renewable energy developments on the basis that inappropriate developments with significant adverse effects which contribute to the degradation of landscape character are unlikely to be in the interests of the Argyll tourism economy.

The concerns expressed regarding the adverse landscape and visual impact this proposal will have on tourism have been considered. As these two matters are intrinsically linked, and there is little evidence to demonstrate whether wind farms adversely affect tourism, it is considered that such impacts are covered in the landscape and visual impact assessment of the proposal and recommended reason for objection.

Having due regard to the above, in terms of the impacts on tourism and recreation the proposal is considered to be consistent with the provisions of: SG LDP TRAN 1 – Access to the Outdoors; LDP STRAT 1 – Sustainable Development; LDP DM1 – Development within the Development Management Zones; LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment; Policy LDP 6 – Supporting the Sustainable Growth of Renewables; SG LDP ENV 14 –Landscape; and SG 2 Renewable Energy of the Argyll & Bute Local Development Plan, SPP; NPF 3; Revised Draft NPF 4 and the Onshore Wind Policy Statement in this respect.

P. AVIATION, DEFENCE AND SEISMOLOGICAL RECORDING (INCLUDING CUMULATIVE IMPACTS)

Policy LDP 6 – Supporting the Sustainable Growth of Renewables, SG 2 Renewable Energy and SPP require applications for renewable energy developments to be assessed against any impact they may have on Aviation, Defence and Seismological Recording.

Glasgow Prestwick Airport (GPA) have advised the ECU that following further examination of their Instrument Flight Procedures (IFP's), they are now content that there will be no adverse impact on published Terminal Arrival Area (TAA) minimum altitudes in the location of the proposal. Consequently, GPA is content to remove its remaining aviation holding objection to this development. Defence Infrastructure Organisation/ Ministry of Defence (MOD) – have advised the ECU that they have no objection subject to conditions to secure: aviation lighting and aviation charting & safety management. Highlands and Islands Airports Limited (HIAL) - have advised the ECU that their calculations show that, at the given position and height, the proposal would not infringe the safeguarding criteria for Campbeltown Airport. Therefore, Highlands and Islands Airports Limited has no objections to the proposal. National Air Traffic Services Safeguarding (NATS) have advised the ECU that the proposal has been examined from a technical safeguarding aspect and does not conflict with NATS safeguarding criteria.

Accordingly, NATS (En Route) Public Limited Company ("NERL") has no safeguarding objection.

Having due regard to the above it is concluded that subject to the recommended conditions the proposal will not have any adverse impacts on aviation and defence interests and seismological recording and is therefore consistent with the provisions of SG 2 Renewable Energy, Policy LDP 6 – Supporting the Sustainable Growth of Renewables and SG LDP TRAN 7 –Safeguarding of Airports of the Argyll & Bute Local Development Plan, SPP; NPF3; Revised Draft NPF4 and the Onshore Wind Policy Statement in this respect.

Q. IMPACTS ON TELECOMMUNICATIONS, BROADCASTING INSTALLATIONS AND TRANSMISSION LINKS (INCLUDING CUMULATIVE IMPACTS)

Policy LDP 6 – Supporting the Sustainable Growth of Renewables, SG 2 Renewable Energy and SPP require applications for renewable energy developments to be assessed against any impact they may have on telecommunications, broadcasting installations and transmission links. BT have advised the ECU that the Project indicated should not cause interference to BT's current and presently planned radio network and they have not raised any objection to the proposal. The Joint Radio Company Limited has advised the ECU that this proposal is cleared with respect to radio link infrastructure operated by Scottish Hydro (Scottish & Southern Energy) and Scotia Gas Networks, and they have no objection to the proposal.

Having due regard to the above it is concluded that the proposal will not have any adverse impacts on telecommunications, broadcasting installations and transmission links (including cumulative impacts) and is consistent with the provisions of SG 2, Renewable Energy, Policy LDP 6 – Supporting the Sustainable Growth of Renewables of the Argyll & Bute Local Development Plan, SPP; NPF3; Revised Draft NPF4 and the Onshore Wind Policy Statement in this respect.

R. IMPACTS ON ROAD TRAFFIC AND ADJACENT TRUNK ROADS (INCLUDING CUMULATIVE IMPACTS)

Policy LDP 6 – Supporting the Sustainable Growth of Renewables, SG 2 Renewable Energy and SPP require applications for renewable energy developments to be assessed against any impact they may have on road traffic and adjacent trunk roads.

Access to the site will be taken from the Killean Estate junction with the A83, approximately 1km to the north of Muasdale, with the access following the existing Cross-Kintyre Timber Haul Route to the east, then to the south to the site entrance using the existing forestry track. This is the same access as the Consented Development. The access track between the A83 and the main site is approximately 6km in length.

Transport Scotland (TS) – have advised the ECU that, in their most recent response that they have considered the Applicants response to their initial advice and can confirm that they have no objection subject to conditions in the event that consent is granted. These conditions relate to: approval of proposed route for any abnormal loads on the trunk road and any accommodation measure required; during delivery period of construction materials any additional signing or temporary traffic control measures must be undertaken by a recognised QA traffic management consultant, to be approved by Transport Scotland before delivery commences; and Prior to commencement of deliveries to site, a Construction Traffic Management Plan must be submitted to and approved by Transport Scotland to ensure that general construction traffic and abnormal loads can be transported along the trunk road network safely and efficiently.

The Council's Roads & Amenity Services have advised that they have no objection to the proposal. The access to this site is from the A83 Tarbet - Campbeltown Trunk Road, and that the advice of Transport Scotland should be sought by the ECU.

Having due regard to the above, subject to the relevant conditions being attached to any consent granted by the ECU, it is concluded that the proposal will not have any adverse impacts on road traffic and adjacent trunk roads and the proposal is consistent with the provisions of SG2 Renewable Energy, Policy LDP 6 – Supporting the Sustainable Growth of Renewables; SG LDP TRAN 4 – New and Existing, Public Roads and Private Access Regimes of the Argyll & Bute Local Development Plan, SPP; NPF3; Revised Draft NPF4 and the Onshore Wind Policy Statement in this respect.

S. EFFECTS ON HYDROLOGY, THE WATER ENVIRONMENT AND FLOOD RISK (INCLUDING CUMULATIVE IMPACTS)

Policy LDP 6 – Supporting the Sustainable Growth of Renewables, Supplementary Guidance 2: Renewable Energy and SPP require applications for renewable energy developments to be assessed against effects on hydrology, the water environment and flood risk.

SEPA advice on Geology, Hydrology & Hydrogeology – have advised the ECU that they request that a condition is attached to any grant of consent requiring that the Watercourse Crossing Strategy be agreed by relevant parties including SEPA, with amendments as required, and implemented in full.

SEPA advice on Flood Risk – have advised the ECU that they note that the impacts of downstream flooding, particularly on the Clachaig Water, have been raised in connection with surface water run-off. SEPA note that this has been addressed in the report. Due to the minimal areas of hardstanding proposed, it is considered that the proposal would not significantly increase the risk of downstream flooding. SEPA consider that this is a matter for the determining authority to consider in consultation with the Council.

Representations – the ECU is in receipt of 2 representations which raise concern regarding the potential for increased risk of flooding as a result of this proposal. The Councils Flood Risk Assessor was consulted further on the letters of representation which raise concerns in respect to flooding. The Flood Risk Assessor has no objection to the proposal subject to planning conditions to the effects of the following: watercourse crossings not to reduce the cross-sectional area of the channel and ideally be designed to convey the 1:200 year plus climate change flow plus an allowance for freeboard; and drainage to be designed in accordance with CIRIA C753 guidance and post-development surface water runoff should not exceed pre-development surface water runoff.

Having due regard to the above, subject to the relevant conditions being attached to any consent, it is concluded that the water environment and flood risk have been considered and the proposal is consistent with the provisions of SG 2 Renewable Energy, Policy LDP 6 – Supporting the Sustainable Growth of Renewables and SG LDP SERV 7 – Flooding and Land Erosion – The Risk Framework for Development of the Argyll & Bute Local Development Plan, SPP; NPF3; Revised Draft NPF4 and the Onshore Wind Policy Statement in this respect.

T. THE NEED FOR CONDITIONS RELATING TO THE DECOMMISSIONING OF DEVELOPMENTS, INCLUDING ANCILLARY INFRASTRUCTURE, AND SITE RESTORATION (INCLUDING CUMULATIVE IMPACTS)

Policy LDP 6 – Supporting the Sustainable Growth of Renewables, Supplementary Guidance 2: Renewable Energy and SPP require applications for renewable energy developments to be assessed against the need for conditions relating to the decommissioning of developments, including ancillary infrastructure, and site restoration.

Following construction and commissioning, the proposal would be operational and generating electricity for a period of approximately 35 years, after which it would be decommissioned and removed, or alternatively, a further planning application could be made to extend the period of operation. If a further application is not submitted, decommissioning would involve the total removal of above-ground infrastructure. This would involve retention of existing access tracks for forestry operations. Reinstatement of the site would be carried out in accordance with an approved method statement. It is recommended that this matter is covered by planning conditions or a legal agreement consistent with other projects across Argyll & Bute in the event that the proposal obtains consent.

Having due regard to the above it is concluded that the need for conditions relating to the decommissioning of developments, including ancillary infrastructure, and site restoration has been considered and the proposal is therefore consistent/inconsistent with the provisions of SG 2 Renewable Energy, Policy LDP 6 – Supporting the Sustainable Growth of Renewables of the Argyll & Bute Local Development Plan, SPP; NPF3; Revised Draft NPF4 and the Onshore Wind Policy Statement in this respect.

U. OPPORTUNITIES FOR ENERGY STORAGE (INCLUDING CUMULATIVE IMPACTS)

Policy LDP 6 – Supporting the Sustainable Growth of Renewables, Supplementary Guidance 2: Renewable Energy and SPP require applications for renewable energy developments to be assessed against any opportunities for energy storage which exist.

A battery storage facility with an expected upper capacity of 30MW forms part of the proposal alongside the wind farm. The battery storage facility is to be installed in part of the construction compound on completion of most of the construction works. It will comprise 27 containers not exceeding 2.6m high. The maximum dimensions of the facility will be 75m (l) x 60m (w) and it will be surrounded by a 2.5m high security fence. The containers' location within the construction compound (near the completion of the construction of the remainder of the proposal) is advantageous as this area will already be established as suitable for equipment and tree felling completed. Additional land take will therefore not be required for the facility and the surrounding forestry is also not scheduled in the updated Carradale Land Management Plan (FLS, unpublished) for felling until 2041 to 'post-2045', providing some screening of the battery facility.

Whilst, the provision of battery storage meets the requirements of policy, Officers are concerned that no consideration has been given to the Landscape & Visual Impact of this battery storage facility. This is a large facility of 27 shipping containers proposed to be located in a rural landscape. Before a decision is reached on this proposal by the ECU it is the view of Officers that the impacts of this needs to be considered.

Having due regard to the above it is recommended that the Council should not object to the proposal on the grounds of opportunities for energy storage (including cumulative impacts) in accordance with the provisions of SG 2 Renewable Energy, Policy LDP 6 – Supporting the Sustainable Growth of Renewables of the Argyll & Bute Local Development Plan, SPP; NPF3; Revised Draft NPF4 and the Onshore Wind Policy Statement.

V. THE NEED FOR A ROBUST PLANNING OBLIGATION TO ENSURE THAT OPERATORS ACHIEVE SITE RESTORATION (INCLUDING CUMULATIVE IMPACTS)

Policy LDP 6 – Supporting the Sustainable Growth of Renewables, Supplementary Guidance 2: Renewable Energy and SPP require applications for renewable energy developments to be assessed against the need for a robust planning obligation to ensure that operators achieve site restoration.

The operational lifetime of the proposal will be 35 years. A period of approximately 12 months (up to a maximum of 18 months) will be required for any tree felling and subsequent construction and, following the 35-year operational period, a maximum of 12 months is expected to be required for decommissioning. It is possible that a further planning application could be made to extend the period of operation. If a further application is not submitted, decommissioning will involve the removal of the turbines and all above ground infrastructure of the wind farm, except for roads which will be used as forest tracks thereafter for maintenance of the forest and any peatland restoration implemented either by the developer or FLS as part of the Land Management Plan. It is recommended that this matter is covered by planning conditions or a legal agreement consistent with other projects across Argyll & Bute in the event that the proposal obtains consent from the ECU.

Having due regard to the above it is concluded that opportunities for a robust planning obligation to ensure that operators achieve site restoration have been considered and the proposal is therefore consistent with the provisions of SG 2 Renewable Energy, Policy LDP 6 – Supporting the Sustainable Growth of Renewables of the Argyll & Bute Local Development Plan, SPP; NPF4; Revised Draft NPF4 and the Onshore Wind Policy Statement in this respect.

W. NATIONAL PLANNING POLICY & GUIDANCE

SPP, NPF3 and NPF4

Despite now being seven years old, NPF3 and SPP are extant statements of Scottish Government planning policy and will remain in place until such time as NPF4 is adopted. The status of NPF3 and SPP has not changed and they are significant material considerations in the determination of the present application.

SPP

Notwithstanding the overarching context of support, SPP recognises that the need for energy and the need to protect and enhance Scotland's natural and historic environments must be regarded as compatible goals.

Planning Balance, Paragraph 33 of SPP – In respect to SPP, the Applicant's Planning Statement concludes that the 'tilted balance' in favour of sustainable development applies in relation to this proposal, given that the Local Development Plan is greater than 5 years old. SPP Paragraph 33 states:

"Where relevant policies in a development plan are out-of-date or the plan does not contain policies relevant to the proposal, then the presumption in favour of development that contributes to sustainable development will be a significant material consideration. Decision-makers should also take into account any adverse impacts which would significantly and demonstrably outweigh the benefits when assessed against the wider policies in this SPP. The same principle should be applied where a development plan is more than five years old."

Officers note that para 33 states “*where relevant policies in a development plan are out of date*”, however, this is normally applied to policies on housing or industrial land supply, where LDP’s make specific allocations to cover specified periods of time. The policy on renewables in LDP1 and its Supplementary Guidance do not relate to a specific period of time and are consistent with this being the Scottish Governments most up to date expression of planning policy, and therefore it is considered that the relevant policies are not out of date.

Additionally, the proposed replacement Local Development Plan 2 is currently at examination, and it is anticipated that the Reporters’ recommendations will be received in the next few months, the Council could therefore be in a position to Adopt LDP2 in the first quarter of 2023. Policy 30 in pLDP2 – The Sustainable Growth of Renewables, is essentially the same a Policy LDP 6 in the Adopted LDP, and while this policy is subject to examination, it is consistent with SPP 2014.

Officers therefore do not agree that the ‘tilted balance’ in favour of sustainable development applies to this proposal.

There is close alignment between the policy established by the Council’s Local Development Plan and the expression of government policy in SPP. These policies are underpinned by the over-riding imperative to secure sustainable economic development. The Report of Handling provides an assessment of the proposal against each of the key considerations identified in Policy LDP6 and Para 169 of SPP.

Onshore wind is recognised as being a key component in the aim to increase renewable energy generation. However, where the Applicant has failed to adequately demonstrate that there would be no unacceptable significant adverse effects, whether individual or cumulative, including those on landscape character and visual amenity, the proposal will not benefit from support in terms of the presumption in favour of sustainable development afforded by Policy LDP 6, or SPP.

Paragraph 28 of SPP

The SPP introduced a presumption in favour of development that contributes to sustainable development. Paragraph 28 states:

“The planning system should support economically, environmentally, and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost.”

It is considered by Officers that this proposal is not capable of contributing towards ‘sustainable development.’ The significant adverse impacts it poses in terms of landscape and visual impact cannot be considered ‘sustainable.’ It is considered that these adverse effects outweigh any benefits the proposal could bring. Officers therefore submit that there can be no presumption in favour of this development in terms of this paragraph of SPP either. Officers do not consider that the proposal is located in the right place – a view which is supported by the Council’s landscape consultant and the statutory consultation advice of NatureScot.

NPF3

Renewable energy generation targets are supported by NPF3 but that support is qualified as mirrored in SPP. It is stated at paragraph 4.7: *“The pressing challenge of climate change means that our action on the environment must continue to evolve, strengthening our longer-term resilience. A planned approach to development helps to strike the right balance between*

safeguarding assets which are irreplaceable, and facilitating change in a sustainable way.” Paragraph 4.4 of NPF 3 recognises that Scotland’s landscapes are spectacular, contributing to our quality of life, national identity, and visitor economy. Landscape quality is found across Scotland and all landscapes support place-making.

National Planning Framework 4 will supersede the provisions of NPF3, once adopted by Scottish Ministers.

Revised Draft NPF4

SPP and NPF3 will be superseded on adoption of National Planning Framework 4 by Scottish Ministers. The revised draft National Planning Framework 4 was laid before Scottish Parliament in November 2022. Following a period for consideration by Scottish Ministers, it is anticipated that the revised draft will be adopted, subject to any changes made by Ministers agreed through parliamentary processes, as the new principal planning policy and spatial strategy for Scotland. Given the advanced stage of the policy it is considered it should be given weight in the decision making process.

The Spatial Strategy sets out that we are facing unprecedented challenges and that we need to reduce greenhouse gas emissions and adapt to future impacts of climate change. It sets out that Scotland’s environment is a national asset which supports our economy, identity, health, and wellbeing. It sets out that choices need to be made about how we can make sustainable use of our natural assets in a way which benefits communities. The spatial strategy reflects legislation in setting out that decisions require to reflect the long term public interest. However in doing so it is clear that we will need to make the right choices about where development should be located ensuring clarity is provided over the types of infrastructure that needs to be provided and the assets that should be protected to ensure they continue to benefit future generations. The Spatial Priorities support the planning and delivery of sustainable places, where we reduce emissions, restore, and better connect biodiversity; liveable places, where we can all live better, healthier lives; and productive places, where we have a greener, fairer, and more inclusive wellbeing economy.

It is anticipated that national developments, of which Strategic Renewable Electricity Generation (developments of over 50MW) is one, will assist in the delivery of the Spatial Strategy and Spatial Priorities. The Spatial Strategy considers that Argyll & Bute can continue to make a strong contribution toward meeting our ambition for net zero. It considers that the strategy for Argyll & Bute aims to protect environmental assets and stimulate investment in natural and engineered solutions to climate change.

The type of development subject to this application is identified generically as a national development of “Strategic Renewable Electricity Generation” given it has the capacity to generate and store more than 50MW. There is in principle support for national scale developments as they have been identified of national importance in the delivery of Scotland’s Spatial Strategy. However, any project identified as a national development requires to be considered at a project level to ensure all statutory tests are met. This includes consideration against the provisions of the Development Plan, of which National Planning Framework 4 is a part.

NPF4 - Policy 11: Energy supports renewable energy development. NPF4 requires significant weight to be given to the global climate and nature crises. However, a balance still requires to be struck in terms of the impact of development. Policy 11: Energy sets out that development proposals for all forms of renewable energy (including wind farms) will be supported. This policy continues to set out that proposals will only be supported where they maximise net economic impact. Applications are required to demonstrate how, through project design and mitigation, the impact on a range of considerations has been addressed. This allows for

consideration of matters related to: impacts on communities and individual dwellings in relation to amenity; landscape and visual impact; public access; aviation and defence interests; telecommunications; traffic; historic environment; biodiversity (including birds); impacts on trees; decommissioning; site restoration; and cumulative effects.

While the weight to be given to each of the considerations in Policy 11: Energy is a matter for the decision maker, NPF4 is clear that significant weight will require to be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emission reduction targets. In relation to landscape and visual impacts it advises that where impacts are localised and / or appropriate design mitigation has been applied such effects will generally be considered acceptable. However NPF4 must be read as a whole and detailed consideration given to linked policies. Policy 4 (Natural Places) – sets out that development proposals which by virtue of type, location or scale will have an unacceptable impact on the natural environment will not be supported.

The revised draft National Planning Framework 4 provides in principle support for wind energy developments and significant weight must be given to the development that addresses the global climate emergency and nature crises. This is not however blanket support without qualification. In considering the appropriateness of the development, while significant weight has been given to these matters, the significant adverse Landscape & Visual Impact (including cumulative) is considered to outweigh the benefits of the development in relation to contribution towards energy targets, and limited socio-economic benefits.

The Scottish Energy Strategy (SES) (2017) and SES Position Statement (2021) – The SES was published in December 2017 and sets out the Scottish Government’s strategy through to 2050, marking a ‘major transition’ over the next 3 decades in terms of energy management, demand reduction and generation. The SES sets 2 new targets for the Scottish energy system by 2030: The equivalent of 50% of the energy for Scotland’s heat, transport, and electricity consumption to be supplied from renewable sources; and an increase by 30% in the productivity of energy use across the Scottish economy. The SES recognises that reaching the 50% target by 2030 ‘will be challenging’ but the target demonstrates ‘the SG’s commitment to a low carbon energy system and to the continued growth of the renewable energy sector in Scotland’. These energy and climate change goals mean that onshore wind must continue to play a vital role in Scotland’s future – helping to decarbonise our electricity, heat, and transport systems, boosting our economy, and meeting local and national demand. The Statement goes on to state that: *‘This means that Scotland will continue to need more onshore wind development and capacity, in locations across our landscapes “where it can be accommodated”’*. The 2021 Position Statement states that: *“The Scottish Government is committed to supporting the increase of onshore wind in the right places to help meet the target of Net Zero.”*

Onshore wind policy statement (2022) - the Scottish Government published the Onshore Wind Policy Statement 2022 in December 2022. In regard to Landscape & Visual Amenity and National Planning Framework 3 (NPF4) (3.6) this document states that:

“Meeting our climate targets will require a rapid transformation across all sectors of our economy and society. This means ensuring the right development happens in the right place. Meeting the ambition of a minimum installed capacity of 20 GW of onshore wind in Scotland by 2030 will require taller and more efficient turbines. This will change the landscape... We laid our Revised Draft National Planning Framework 4 (NPF4) in the Scottish Parliament on 8 November, signalling support for all forms of renewable, low-carbon and zero emission technologies, and making clear that LDPs (Local Development Plan) should seek to realise their area’s full potential for electricity and heat from renewable, low carbon and zero emission sources. The only areas where wind energy is not supported are National Parks and National Scenic Areas. Outside of these areas, the criteria for assessing proposals have been updated,

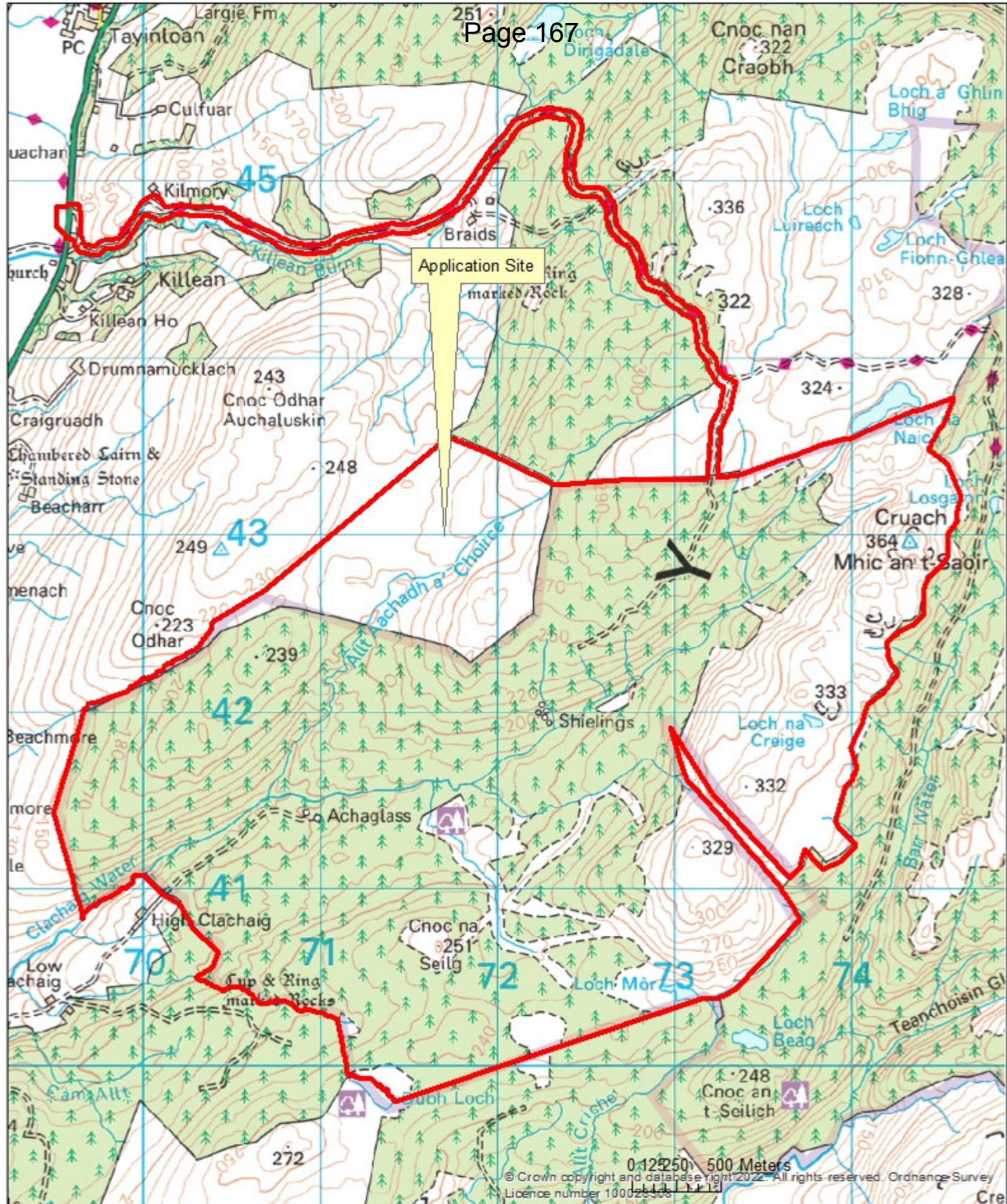
including stronger weight being afforded to the contribution of the development to the climate emergency, as well as community benefits.....Our Revised Draft NPF4 recognises that significant landscape and visual impacts are to be expected for some forms of renewable energy, and makes clear that where impacts are localised and/or appropriate design mitigation has been applied, they will generally be considered to be acceptable....Subject to parliamentary approval, and adoption by Scottish Ministers, NPF4 will form a part of the statutory development plan meaning its provisions will be directly applied in local development planning and decisions on planning applications”

The first paragraph of the conclusion states that: *“Deployment of onshore wind is mission-critical for meeting our climate targets. As an affordable and reliable source of electricity generation, we must continue to maximise our natural resource and deliver net-zero in a way that is fully aligned with, and continues to protect, our natural heritage and native flora and fauna.”*

Having due regard to the above it is considered that the proposal is inconsistent with the provisions of: SPP; NPF3, Revised Draft NPF4; the Scottish Energy Strategy 2017; and Onshore Wind Policy Statement 2017 which represent the Scottish Governments most up to date position on this type of development.

X. CONCLUSION & RECOMMENDATION

The Scottish Government gives considerable commitment to renewable energy and encourages Planning Authorities to support the development of wind farms where they can operate successfully in appropriate locations. This project has the potential to contribute to combating the climate emergency through an additional 90 - 100MW of renewable energy capacity towards Scottish Government targets. In reaching the recommendation to object to this proposal, Officers have had regard to relevant National and Local Policy and guidance; the EIAR and other supporting documents; the advice of key consultees; and the material consideration raised in the representations. It has been concluded that notwithstanding those factors which weigh positively in the balance of considerations, the significant adverse Landscape and Visual Impact (including cumulative) would significantly and demonstrably outweigh the benefits of the development and would therefore be unacceptable. As referred to above *“the aim is to achieve the right development in the right place,”* there is not a policy expectation that an adverse impact on the local environment should be accepted as the price to pay for the ability to satisfy Scotland’s energy needs and UK climate change commitments. The natural environment also requires to be seen as a finite resource worthy of protection. It must be recognised that such support should only be given where justified.



Location Plan Relative to Planning Application: 22/00613/S36



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

**PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE – 21st December
2022**

UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING APPEAL DECISION

A) INTRODUCTION

This report summarises the outcome of a recent appeal decision by The Planning and Environmental Appeals Division (DPEA) relative to the case set out below.

B) RECOMMENDATION

Members are asked to note the contents of the report.

C) DETAILS OF APPEAL DECISIONS

Planning Authority: Argyll and Bute Council

Planning application ref: 19/02544/PP

Planning appeal ref: PPA-130-2084 (Planning Permission Appeal)

Proposal: Construction of wind farm comprising of 9 wind turbines (maximum blade tip height 145M); formation of 5.6km of new access track; erection of substation building; welfare building; temporary construction compound and 2 borrow pits; with rated output up to 4MW, Giving total output of up to 36MW.

Location: Creag Dhubh wind farm, Creag Dubh North East of Strachur Village, Argyll & Bute, PA32 8YH

Date of decision: 07 Nov 2022 (Appeal Allowed)

This application was refused by the Council on 3rd March 2022. An appeal was subsequently submitted to the Department of Environmental and Planning Appeals (DPEA). The Reporter assessed the application in accordance with section 25 of the Town and Country Planning Act (as amended) which requires development to be in accordance with the Local Development Plan unless material considerations indicate otherwise.

The Reporters Decision Notice concludes: *“I have given careful consideration to the environmental information submitted and have identified no additional significant effects. Accordingly, subject to mitigation controlled by means of the conditions attached to this notice, I find that there would be no unacceptable residual impacts in relation to those matters. Therefore, I am satisfied that my reasoned conclusions on the significant effects of the proposed development are up to date....I therefore conclude, for the reasons set out above, that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would justify refusing to grant planning permission”.*

Full details of the appeal decision can be viewed on the DPEA website:

[Scottish Government - DPEA - Case Details \(scotland.gov.uk\)](https://www.scotland.gov.uk/Topics/Planning/Environmental%20Appeals/Case%20Details)

A copy of the Decision Notice is attached at Appendix A.

D) IMPLICATIONS

Policy: None.

Financial: None. Personnel: None

Equal Opportunities: None

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Head of Development and Economic Growth

APPENDIX A: DPEA DECISION NOTICE

Planning and Environmental Appeals Division

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T: 0300 244 6668

**Scottish Government**
Riaghaltas na h-Alba
gov.scot**Appeal Decision Notice – EIA Development**

Decision by Gordon S Reid, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-130-2084
- Site address: Creag Dhubh, North East of Strachur Village, Argyll and Bute, PA32 8YH
- Appeal by Creag Dhubh Renewables LLP against the decision by Argyll and Bute Council
- Application for planning permission 19/02544/PP dated 5 December 2019 refused by notice dated 3 March 2022
- The development proposed: construction of wind farm comprising of nine wind turbines (maximum blade tip height 145 metres), formation of 5.6 km new access track, erection of substation building, welfare building, temporary construction compound and two borrow pits
- Application drawings: listed in schedule 3 below
- Date of site visit by Reporter: 6, 7 and 8 September 2022

Date of appeal decision: 7 November 2022

Decision

I allow the appeal and grant planning permission subject to the 30 conditions listed at the end of the decision notice. Attention is drawn to the five advisory notes at the end of the notice.

Environmental impact assessment

The proposed development is described as above, and at Chapter 5 of the EIA report. It is EIA development. The determination of this appeal is, therefore, subject to the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 (“the 2017 EIA regulations”).

I am required to examine the environmental information, reach a reasoned conclusion on the significant environmental effects of the proposed development and integrate that conclusion into this decision notice. In that respect I have taken the following into account:

- the EIA report submitted on 5 December 2019;
- additional supplementary confidential information on ornithology submitted in March 2020 and May 2020;
- additional supplementary information on peat management submitted in March 2020 and May 2020;
- additional supplementary information of viewpoint 19 - Inveraray Castle Garden Bridge submitted in September 2020;
- additional supplementary information on landscape and visual matters (part 1 and part 2) submitted in December 2020;
- consultation responses from NatureScot, Scottish Environment Protection Agency, Scottish Water, Scottish Forestry, Transport Scotland, Historic Environment Scotland, Ministry of Defence, Loch Lomond and the Trossachs National Park

Authority, The Royal Society for the Protection of Birds, Marine Scotland Science, National Air Traffic Services, Civil Aviation Authority, Glasgow Prestwick Airport, CSS Spectrum Management Services, Ofcom, The Joint Radio Company, Scottish Rights of Way Society, Argyll District Salmon Fishery Board, and Strachur Community Council; and,

- representations from members of the public, Mountaineering Scotland, The Argyll Raptor Study Group and Lochgoil Community Trust.

I am required by the 2017 EIA regulations to include information in this decision notice in regard to opportunities for the public to participate in the decision-making procedure. I set that information out in Schedule 4 below. My conclusions on the significant environmental effects of the proposal are set out at paragraphs 9 to 125 below.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. Having regard to the provisions of the development plan the main issues in this appeal are:

- the acceptability of landscape impacts;
- the acceptability of visual impacts;
- the acceptability of cumulative landscape and visual impacts;
- the impact on tourism and recreation; and,
- the acceptability of other relevant impacts.

The development plan

2. The development plan consists of the Argyll and Bute Local Development Plan 2015 and adopted supplementary guidance.

3. Given that the appeal proposal is for the development of a wind farm, policy LDP 6 (supporting the sustainable growth of renewables) and its associated supplementary guidance SG 2 (renewable energy) are of particular relevance. Policy LDP 6 advises that renewable energy developments will be supported where they are consistent with the principles of sustainable development and it can be adequately demonstrated that there would be no unacceptable significant adverse effects, whether individual or cumulative, on local communities, natural and historic environments, and, landscape character and visual amenity. The policy sets out a comprehensive list of nineteen criteria against which applications for wind turbine developments are to be assessed. I note that these reflect the criteria set out in paragraph 169 of Scottish Planning Policy.

4. SG2 provides further detail on the factors which the council will take into consideration when determining applications for renewable energy related development. It includes a 'spatial framework' for wind farms and wind turbine developments over 50 metres high in line with paragraph 161 and Table 1 (spatial frameworks) of Scottish Planning Policy and identifies areas where wind farms will not be acceptable (group 1); areas of significant protection (group 2); and, areas which may have potential for wind farm development (group 3).

5. The appeal site is located primarily within a group 3 area. I note that the limited area located within the group 2 designation is not required for any of the physical works to accommodate the wind turbines. Furthermore, the Scottish Environment Protection Agency

confirms that there would be no significant effects from the development within the group 2 area.

6. Local development plan policy LDP DM 1 (development within the development management zones) is of relevance and establishes the acceptable scale of development within each 'Development Management Zone'. The Cowal and Bute Area proposals map indicates that the appeal site is situated within the 'very sensitive countryside' development management zone. The policy generally seeks to restrict development within these areas with the exception of renewable energy related developments, which are encouraged on appropriate sites.

7. Policy LDP 3 (supporting the protection, conservation and enhancement of our environment) is of relevance and applies to all development management zones (identified by policy LDP DM 1). This policy requires all planning applications to be assessed with the aim of protecting conserving and where possible enhancing the built, human and natural environment. The associated supplementary guidance sets out additional detail for the specific matters covered by policy LDP 3. The supplementary guidance of relevance is LDP ENV 1 (development impact on habitats, species and our biodiversity); LDP ENV 11 (protection of soil and peat resources); LDP ENV 13 (development impact on areas of panoramic quality); LDP ENV 14 (landscape); LDP ENV 15 (development impact on historic gardens and designed landscapes); LDP ENV 16 (a) (development impact on listed buildings); LDP ENV 19 (development impact on scheduled monuments); and, LDP ENV 20 (development impact on sites of archaeological importance).

8. I have also taken account of the other development plan policies referred to in submissions. These include, policy LDP STRAT 1 (sustainable development) which sets out the specific sustainable development principles (a to k) that all new development proposals should be considered against; policy LDP 9 (development setting, layout and design) which aims to achieve high quality new development that respects the local environment and provides a sense of place; and, supplementary guidance LDP TRAN 1 (access to the outdoors) which seeks to ensure that proposed development does not adversely affect core and other important routes including the Cowal Way long distance route.

Landscape impacts

9. As part of the EIA report a landscape and visual assessment was undertaken to identify whether any significant effects would occur to any landscapes or key views as a consequence of the appeal proposal. A study area comprising a 40 km radius from the appeal site was selected. The extent of the study area was not contended by parties. In terms of valued landscapes, I note that apart from the location of one turbine within the North Argyll Area of Panoramic Quality (APQ) the remainder of the appeal site is not located within any statutory or non-statutory landscape designation.

10. In terms of the potential for indirect effects there are several landscape designations within the study area. The EIA report identifies those landscape designations where there is the potential for significant effects from the appeal proposal. Those designations most likely to be affected are Loch Lomond and the Trossachs National Park, the East and West Loch Fyne (Coast) Areas of Panoramic Quality and Inveraray Castle Garden and Designed Landscape. Based on the EIA report findings I am satisfied that there are no national scenic areas, special landscape areas or wild land areas affected in this case. I consider the effects on each of the identified landscape designations in turn.

North Argyll Area of Panoramic Quality

11. The EIA report predicts that there would be limited theoretical visibility (ZTV) of the appeal proposal across the majority of the North Argyll APQ, which I note extends over a large geography to the north of the appeal site. Accordingly, the report concludes that given the potential effects would be limited in number and localised in extent, there would be no significant adverse impact on the North Argyll APQ. I note that the council did not include the potential impact on this area within its reasons for refusal. Based on the evidence within the EIA report, I am satisfied that the appeal proposal would only be visible from within limited areas in the southernmost part of this APQ. Given the scale of this designation, combined with the limited extent of the theoretical visibility, I am satisfied that the appeal proposal would not have a significant adverse impact on the landscape character of the North Argyll APQ and would not, therefore, undermine its integrity or special qualities.

East Loch Fyne (Coast) APQ

12. The EIA report predicts that there would only be limited theoretical visibility of the appeal proposal across the East Loch Fyne (Coast) APQ given the intervening topography and vegetation. As such, it is concluded that the appeal proposal would not adversely affect the special qualities of this APQ. The council contends that the appeal proposal would affect the special qualities including the views of the dramatic head of Loch Fyne. However, I note in the reasons for refusal that the council's primary concern regarding the head of Loch Fyne appears to relate more to views from the west side of the Loch, which is within the West Loch Fyne (Coast) APQ.

13. This APQ is located along the eastern side of Loch Fyne. I observed during my visit that given the topography and existing vegetation, there would be limited potential for views of the appeal proposal. Where these views would occur they would mainly be of the blade tips, hubs and upper towers of only two of the wind turbines, with no full view of all nine turbines from any location. In addition, given the intervening topography and location to the north east, I do not consider that the appeal proposal would significantly interrupt views of the head of Loch Fyne. Accordingly, I am satisfied that the scale of any potential adverse effect on the landscape character would not be significant and as such would not undermine the integrity or special qualities of the East Loch Fyne (Coast) APQ.

West Loch Fyne (Coast) APQ

14. For this APQ the EIA report predicts that there would be theoretical visibility of the appeal proposal from various locations. However, it is contended that given the perceived scale of the proposed turbines, when combined with their location behind the containing slopes of Creag Dhubh, they would not adversely affect the overall integrity or special qualities of this APQ. The council considers that the appeal proposal would affect the special quality relating to the dramatic head of Loch Fyne and in particular from more distant intermittent views from the north-western side of Loch Fyne (VPs 10, 11 and 16) and from the open waters on Loch Fyne. In addition, the council, contend that it would adversely affect the presently open and uncluttered hills along Loch Fyne as viewed from elevated locations, such as Dun na Cuaiche.

15. I am satisfied on the basis of the submitted viewpoints and observations during my visit that only blade tips and some of the hubs of the wind turbines would be visible from locations within this APQ, due to their location behind Creag Dhubh ridge. Given the size of the visible elements of the turbines, in comparison to the vertical and horizontal scale of the

topography on the east side of Loch Fyne, I do not consider that they would present a particularly dominant visual feature. In addition, given that the appeal proposal would be located to the southeast of this APQ, I consider that it would not be likely to interrupt the views of the Head of Loch Fyne or the more prominent Arrochar Alps to the northeast. Furthermore, the appeal site is also separated from this APQ by Loch Fyne which is a particularly strong defining landscape feature.

16. In terms of more elevated areas such as Dun na Cuaiche, I note the council acknowledges that the views most affected are the least dramatic, being to the southeast rather than towards the settlement of Inveraray or the Head of Loch Fyne and the Arrochar Alps beyond. Although some of the hubs in addition to the blades of the turbines would be visible from this location, I am satisfied for the reasons already stated in relation to scale and setting above and from observations during my visit, that the appeal proposal would not form a particularly dominant feature when viewed from this location.

17. Accordingly, I am satisfied that the appeal proposal would not have a significant effect on the character of the landscape of the West Loch Fyne (Coast) APQ and would not undermine its integrity or special qualities.

Inveraray Castle Garden and Designed Landscape

18. The Inveraray Castle Garden and Designed Landscape is located on the western shore of Loch Fyne, to the north of Inveraray, and some 6 km from the appeal site. The EIA report acknowledges that the appeal proposal would be partially visible from within the designated area with views of the blade tips from lower levels and views of blade tips and some hubs from the higher vantage points. The EIA report concludes that any adverse effects on the designation overall would not be significant due to the limited extent of visibility, the expansiveness of the ridgeline and the effects of woodland screening.

19. I note that Historic Environment Scotland (HES) confirms that whilst there would be some adverse effect from the proposed development on the setting of this designated asset it would not be to a level which would raise issues of national interest and, therefore, raises no objection to the appeal proposal. In addition, I note that the West of Scotland Archaeology Service on behalf of the council raises no objection to the proposal regarding any indirect effects on the designation.

20. The main effect on this designation would be on some of the views from within the area whilst looking outwards over Loch Fyne towards the southeast. I acknowledge that the views would be more significant from one or two more elevated areas, but overall views are limited by the topography and existing vegetation. However, even the more prominent views would still be limited to blade tips and some hubs. Overall, I am satisfied that there would be no significant effect on the landscape that would undermine the integrity or special qualities of this designation.

General landscape character types

21. In terms of landscape character types, the EIA report predicts that there would be some level of effect to localised areas of six of the 33 assessed landscape character types within the study area. Of these, it concludes that only Landscape Character Type 34 (1): Steep Ridges and Mountains, within which the appeal site is located, would experience any significant effects. I note that whilst the council generally agrees with this conclusion, it contends that significant landscape impacts would also be experienced within Landscape Character Type 53 (1): Rocky Coastland at Strachur due to the introduction of new

large-scale infrastructure. Having considered the assessment set out in the EIA report and taking into account my observations during my visit, I am satisfied that these two landscape character types are the ones most likely to experience significant landscape effects.

22. I note that the spatial framework for wind turbines, contained within supplementary guidance 2, identifies the appeal site as being within a group 3 area, where there is potential for wind turbine development. In addition, my attention has been drawn to the Argyll and Bute Landscape Wind Energy Capacity Study 2017 (LWECS). This study gives this LCT a 'high' overall sensitivity rating indicating that the key landscape characteristics are vulnerable to change. The study concludes that there is no scope for larger typologies (turbines >50 metres) within this landscape without significant effects occurring on a number of key sensitivity criteria. However, it highlights that this sensitivity is reduced within the interior of this landscape type where the dramatic juxtaposition of water and mountains is less evident.

23. Notwithstanding the above, I am of the view that the guidance in both documents is of a strategic nature. Accordingly, it does not replace the need for a detailed assessment to be carried out of site-specific proposals, as is the case in respect of the appeal proposal. Therefore, I consider the potential effects of the appeal proposal on LCT 34 (1) and LCT 53 (1) in turn.

Steep Ridges and Mountains LCT 34 (1)

24. The appeal proposal would be located within Succoth Glen, which lies within the central area of this expansive Steep Ridges and Mountains LCT. I observed at my visit that Succoth Glen is effectively an enclosed glen. To the west lies the Creag Dhubh ridgeline which extends for some 7 km from Strachur in the south to a high point at Cruach nan Capull in the north. To the north, east and south-east, Succoth Glen is enclosed by a series of taller and more prominent hills extending in an arc from Cruach nam Muilt in the north, through Beinn Lochain around to Beinn Lagan in the south. The western side of the Glen, where the appeal proposal would be located, contains large areas of commercial forestry. The proposed turbines and associated infrastructure would be sited below the Creag Dhubh ridgeline in a linear form over a distance of some 3 km.

25. The EIA report states that given the topography of the area approximately half of the Steep Ridges and Mountains unit to the north and much of the area to the west, would have no theoretical visibility of the appeal proposal, and consequently no significant effects. The report concludes that the most significant effects would be primarily to the east and southeast areas due to the substantial magnitude of change within these areas, which are of medium to high sensitivity. The appellant contends that the appeal proposal can be absorbed within the landscape at this location without undermining the integrity of the Steep Ridges and Mountains LCT. However, the council contends that the proposed turbines would dominate the narrow extent and intimate scale of Succoth Glen and detract from the sharp ridges and open tops, which are key characteristics of this LCT.

26. Based on my visit and taking account of the findings of the landscape assessment and visualisations, I find that the areas affected by the appeal proposal would be those to the east and south east as stated in the EIA report. Although Succoth Glen is enclosed by the surrounding topography, I found that it is a relatively wide glen with high hills to either side. Accordingly, I do not consider it to be of a small scale and am not persuaded that it is characterised as being 'intimate' as suggested by the council.

27. Although there would be the loss of some small areas of commercial forestry to accommodate the appeal proposal, the main effect on the landscape would be the introduction of the nine wind turbines. I note that the appeal proposal has been designed to site the turbines below the Creag Dhubh ridgeline and take a linear form following the prevailing topography and the upper edge of the commercial forestry. Notwithstanding this, the introduction of the proposed turbines would result in a significant change to the landscape at this location. I acknowledge that the siting of the appeal proposal is within the interior area of this LCT and would avoid the impact of significant effects on the more sensitive features of the sharp ridges and open tops identified within this LCT.

28. Accordingly, given the scale and siting of the appeal proposal; the scale and enclosed nature of Succoth Glen; the limited visibility within the overall designation; and, the presence of human influences in terms of the commercial forestry, I consider that it would not become a dominating feature within the landscape. Overall, I am satisfied that there is capacity to accommodate the appeal proposal at this location without undermining the overall integrity or special qualities of LCT 34 (1).

Rocky Coastland Landscape Character Type 53 (1)

29. The council contend that there would be a significant adverse effect on the Rocky Coastland Landscape Character Type 53 (1) in the Strachur area from the introduction of the wind turbines. It is argued by the council that whilst the appeal proposal is not located within this LCT it is in close proximity to it and as such would dominate the scale of the settlement and detract from the setting of this small area of the Rocky Coastland LCT. The EIA report predicts that there would be no significant effects to this LCT unit with only a slight magnitude of change to an area of medium sensitivity producing a minor-moderate significance of effect.

30. The Rocky Coastland LCT is located to the southwest of the appeal site and is described in the council's LWECS as a small-scale, settled landscape highly sensitive to large wind turbines. The submitted Zone of Theoretical Visibility (ZTV) drawings predict that two turbines would be partly visible (blades, hubs and upper parts of the towers) from within some areas around Strachur. From my visit I confirmed that the predicted views of parts of two turbines would occur but only from a limited number of locations due to the topography of the area and surrounding vegetation. Therefore, whilst there would be effects to some areas within this LCT, I am satisfied that the appeal proposal would not introduce a feature into the landscape that would dominate the scale or setting of Strachur. Accordingly, I find that the appeal proposal would not undermine the overall integrity of the Rocky Coastland LCT.

31. The EIA report highlights that four other LCT areas would potentially be affected by the appeal proposal. Some of these are located within the western parts of the national park at more elevated locations. However, given the limited extent of any adverse effect on these areas predicted within the EIA report, I am satisfied that they would not be significant in this instance.

32. Overall, I am satisfied that the appeal proposal could be accommodated without it becoming an overly dominant feature within landscape character type 34 (1) or adversely affecting the character of surrounding landscape character types, including LCT 53(1) or the integrity and special qualities of designated landscape areas.

Visual impact

33. With the inclusion of additional viewpoints (VPs 19 to 23) as supplementary information, I note that parties agree the selected viewpoints provide an appropriate basis upon which to assess the visual impact of the appeal proposal. From my observations during my visit, I am satisfied that the selected viewpoints are sufficient in this instance.

34. The EIA report predicts that significant visual effects would occur at four of the eighteen selected viewpoints, including Strachurmore (VP1), Beinn Bheula (VP5), Dun na Cuaiche (VP7) and Ben Donich (VP8). The visual effects on surrounding settlements in the study area, including Strachur, Minard and Inveraray, and the main transport routes (A83, A819 and A815) were predicted to be of limited magnitude and, therefore, not significant. Finally, the visual effects to the Cowal Way were predicted to be limited with only a few very short sections expected to experience significant effects on visual amenity.

35. The council contends that significant visual effects would occur at the head and middle sections of Upper Loch Fyne and within the Loch Lomond and the Trossachs National Park (national park). In particular, it considers that the appeal proposal would have significant effects on the experience of residents, travellers, tourists, walkers and watercraft users in these areas. I address the potential visual effects for each of the areas of concern under the headings used by the council in its reasons for refusal.

A83 tourist route

36. During my visit I drove the A83 route in both directions between Minard in the south and Garron Bridge in the north. During my journey, I stopped at the various viewpoints (VPs 4, 10, 12, 15, 16, 21, 22 and 23) along this route. I observed that woodland and the topography of the area screened the appeal site for much of the journey with only intermittent views for relatively short durations along limited sections of the route. Travelling in both a northeast and southwest direction the views, where they occur, are primarily perpendicular to the road on the east side of the A83.

37. The views of the turbines where they occur would be distant (across Loch Fyne) and limited to primarily the tips of the turbine blades, some hubs and associated movement along part of the skyline above Creag Dhubh ridge. Given the limited scale and extent of the visible elements of the turbines over the much more expansive geography of the ridgeline, I am of the view that the magnitude of change from this route would be slight and the effect would not be significant. Even at viewpoint 10 where the turbines would be most visible these views would be distant and only for a brief duration. In addition, I observed that there is no formal viewpoint at this location (VP10) and that Loch Fyne does not form part of the view due to the topography of the area. Overall, I found that the appeal proposal would not directly influence or detract from the more sensitive views of either the head of Loch Fyne or the setting of any settlements, including Inveraray, when travelling on this route.

38. Accordingly, I am satisfied that the appeal proposal would not adversely affect the experience of those various road users, including tourists, travelling along the A83. In addition, I found that when travelling along the A819 into Inveraray the views of the appeal proposal would be limited due to topography and vegetation and, therefore, would not result in any significant adverse effects for travellers.

Settlements on the north-western shores of Loch Fyne

39. Representative viewpoints are provided at Inveraray (VP4), Furnace (VP12) and Minard (VP16). I agree with the conclusions of the appellant and the council that the likely visual effects at Furnace would not be significant due to screening by the topography and vegetation in the area.

40. The EIA report predicts that the effect on views from Inveraray would not be significant. However, the council contends that views from Shore Walk (VP4), which it highlights is popular with visitors, would experience a significant visual effect given its high sensitivity and that the appeal proposal would have a medium magnitude of change.

41. I note that it is only the blade tips of the nine turbines that would be visible above Creag Dhubh ridgeline from Shore Walk and the other viewpoints within and around Inveraray (including from Inveraray Castle GDL). At a distance of some 5.4 km from Inveraray (VP4) I consider that the visible elements of the appeal proposal would appear as relatively small features when viewed in relation to the scale and expansiveness of the Creag Dhubh ridgeline and Loch Fyne. In addition, the west facing slopes of Creag Dhubh are already characterised by large areas of commercial forestry with settlements along the shore edge. As such, I do not consider that the appeal proposal would form a dominant or defining feature from any of the viewpoints within Inveraray or the Inveraray Castle GDL when looking to the southeast.

42. In terms of the views from Inveraray to the northeast towards the head of Loch Fyne and the Arrochar Alps beyond, I observed at my visit that given the location of the appeal site it would not interrupt these views to any significant extent. Similarly, it would not interrupt the views of Loch Fyne to the south. Overall, I am satisfied that the appeal proposal would not form a dominant feature in the landscape when viewed from Inveraray. Therefore, I find that it would not adversely impact the key scenic qualities in this area or reduce the ability of visitors and residents to appreciate them.

43. Whilst the council accepts that residential properties in Minard (VP16) are unlikely to be affected by the appeal proposal due to their easterly facing orientation, it contends that views to the Arrochar Alps within the national park would be interrupted for walkers and watercraft users in this area.

44. The settlement of Minard is located some 16 km to the southwest of the appeal site and I observed at my visit that the majority of properties face eastwards with no direct views towards the appeal site. In addition, the topography and vegetation in the area further reduces the potential of any views. I acknowledge that blades and hubs of the turbines would be visible by walkers and watercraft users in the area. However, given the scale of the visible elements of the turbines taken in the context of the intervening distance and when combined with the expansive nature of the views and landscape, I find that they would not result in visually prominent features.

45. Overall, I consider that the visual effects would not be to such an extent as to significantly interrupt or detract from the view towards the Arrochar Alps. Accordingly, I am satisfied that the appeal proposal would not have a significant adverse visual effect on the experience of walkers or watercraft users within or around Minard.

Strachur area

46. The EIA report predicts that effects of the appeal proposal at Strachur would not be significant, due to the limited extent of visibility, the large scale of the containing landform and the reduced naturalness of the surrounding landscape. The council contends that the two southern turbines would be intrusive in views from the A815, the Cowal Way and Strachur Bay, adversely affecting the experience of walkers, residents, drivers and watercraft users. In addition, the council states that the turbines would appear visually 'precarious' in some close views due to their location on very steep slopes.

47. I confirmed at my visit that the appeal proposal would only be visible from a limited number of vantage points to the south of the settlement of Strachur, which accords with the findings of the appellant's ZTV findings. I acknowledge that the upper towers, blades and hubs of two of the nine wind turbines would be visible to varying degrees. In terms of residential amenity, I observed that given the orientation of the properties, topography and surrounding vegetation there would be very few locations where any element of the two turbines would be directly visible. Therefore, I am satisfied that the visible elements of the two turbines would not form dominant visual features that would adversely impact the amenity of residents within the settlement of Strachur.

48. Whilst driving along the A815, the A866 and other minor roads around Strachur, I observed that views of the two turbines would be limited in both extent and duration given the prevailing topography and vegetation. The most prominent views for road users would be from the A815 at Balliemanoch (VP2) where parts of the towers and the blades/hubs of the two turbines would be visible. I found that as the appeal proposal is located to the north east of the A815 the views would be at an oblique angle to the direction of travel. I found that the views from the A866 where they occurred (only travelling towards Strachur) were less prominent and more distant than those from the A815. Therefore, given the scale of the turbines in the context of the wider landscape, which is already defined by commercial forestry, I am satisfied that they would not form dominant visual features when viewed by travellers on the A815, A866 or any of the other minor roads in the area.

49. The most prominent views of the two turbines for walkers would be on the Cowal Way at Glen Sluain (VP3), to a lesser extent at Strachurmore (VP1) and only when heading in a north easterly direction. I found that the views of the turbines would be limited to relatively short sections of the walk due to screening by large areas of woodland and the prevailing topography. Although the turbines would be partly visible at these locations, they would be viewed in the context of the much larger ridgeline of Creag Dhubh and the more expansive landscape to the northeast. I note that these views are already very much characterised by large areas of commercial forestry. When taken in the context of the wider views to the northeast, I am satisfied that the turbines would not form an overly dominant visual feature on this landscape and as such would not undermine the overall quality of experience for walkers using the Cowal Way.

50. In relation to watercraft users, I am satisfied that having considered the submitted ZTV any views from on the loch at Strachur Bay would be more limited than those from the land based viewpoints due to the topography and vegetation and would not, therefore, be significant.

51. Finally, the council raises a concern that the turbines would appear to be 'precariously' sited. No detailed explanation is provided as to what the council means by this term in a visual context. I assume the council is concerned that the position of the turbines would give the impression that they lack stability in some manner. However, I have

no substantive evidence before me to justify this conclusion. Based on the submitted evidence, visualisations and my observations of the topography surrounding the appeal site, I am not persuaded by the council's contention that the turbines would appear to be 'precarious'.

52. Overall, I am satisfied that the visual effects of the appeal proposal would not significantly impact on the visual amenity of residents or detract from the experience of travellers, walkers or watercraft users in the Strachur area.

Dun na Cuaiche

53. The EIA report predicts that the effect of the appeal proposal on the views experienced by walkers and tourists from Dun na Cuaiche (VP7) towards Creag Dhubh would be visually significant, due to the proposed development's wide extent and the movement of the wind turbines.

54. During my visit, I observed that once on the path to Dun na Cuaiche there would be no views of the appeal proposal along the steep walk, due to the topography and woodland, until reaching the summit at some 225 metres above Loch Fyne. A watchtower is located on the summit and has two window openings one facing southwest towards the settlement of Inveraray and the other facing southeast towards Creag Dhubh ridge. I observed that there was no public access to the watchtower at the time of my visit, with a locked gate in place across the entrance.

55. I note that there is no dispute between parties that the blades of all nine turbines and some six hubs would be visible from the summit of Dun na Cuaiche. However, I observed that the appeal proposal would be seen in the least dramatic part of the view from Dun na Cuaiche, that is, away from the settlement of Inveraray and the Castle to the southwest and, away from the mountains within the Loch Lomond & the Trossachs National Park to the northeast. I note that the council does not dispute this conclusion.

56. Whilst the views of the appeal proposal may be visually significant, I am satisfied that given the scale of the visible elements in comparison with the extensive geography of the Creag Dhubh ridgeline (which is partly characterised by commercial forestry) and Loch Fyne, the appeal proposal would not introduce a dominant or over bearing visual feature into the landscape. I note that HES did not object to the appeal proposal in relation to the impact on the Inveraray Castle GDL which Dun na Cuaiche forms part.

57. Overall, I am satisfied that as the appeal proposal is situated in the least dramatic part of the view from Dun na Cuaiche, the appreciation of the key scenic attractions of Inveraray and the Castle; Loch Fyne; and, the Arrochar Alps by walkers and tourists, would not be significantly undermined.

Loch Lomond and the Trossachs National Park (national park)

58. The National Park Authority, NatureScot and the council consider that the appeal proposal would have significant visual effects when seen from some popular elevated routes and viewpoints within the national park. It is contended that the visual effects would adversely affect the experience of walkers and tourists within these areas. Concern is also raised in relation to the visual impact on the section of the Cowal Way long distance walking route within the national park. Mountaineering Scotland also objected to the appeal proposal on similar grounds.

59. The EIA ZTV predicts that all nine turbines would be visible from within the national park but only to a very limited extent and only from a small number of locations (3.1% of one or more blade tips and 1.2% of hubs). Based on the evidence submitted, I am satisfied that the viewpoints at Beinn Bheula (VP5) and Ben Donich (VP8), given their proximity to the appeal site, represent the locations where the proposed turbines would be viewed to their fullest extent and that the visual effects would be most significant. There would also be views from Ben Arthur (VP13) which the EIA predicts would be less significant given the increased distance from the appeal site and intervening topography. Whilst I acknowledge that the turbines would be less prominent from this viewpoint, I still consider that the visual effects would be significant.

60. I acknowledge that there would be some limited views of the blade tips and hubs of a number of the turbines from other locations within the national park. However, based on the findings of the EIA ZTV, I am satisfied that these would be very limited in extent and number and, therefore, would not result in significant visual effects at these locations.

61. I note that the nine turbines would be located at a lower level than the viewpoint locations (VP5, 8 and 13) and, therefore, looked down upon within Succoth Glen. The appellant highlights that the turbines have been arranged in a linear form and are positioned to follow the topography and undulating character of the ridgeline and also align with the edge of the area of commercial forestry. I find that this provides for a simple visual form respecting the landscape character of the area.

62. Given that the position of the wind turbines within Succoth Glen would at a lower level than the viewpoints, I acknowledge, as illustrated in the visualisations, that they would not appear as being on or above the horizon. In addition, the linear form of the layout of the turbines would also follow the undulating topography of Creag Dhuhb ridge. Therefore, I find that the wind turbines would not form a dominant feature within the landscape that would significantly interrupt the existing panoramic or distant views of Argyll and Bute to the west. In addition, the turbines would be viewed within a landscape already containing existing and consented wind farms, albeit at greater distances than the appeal site. As noted above the landscape to the west is already characterised by large areas of commercial forestry plantations. Therefore, there are already external human influences that affect these views.

63. Accordingly, I consider that whilst the turbines would be visually prominent they would not present as dominant features within the wider expansive landscape when viewed from these locations (VP5, 8 and 13) or associated elevated routes. In addition, I consider that the more natural and scenic views from these particular locations are those to the east and north looking out across the scenery within the national park including towards the Arrochar Alps. These panoramic views would not be significantly interrupted by the appeal proposal. Therefore, while there would be some visual impact at these viewpoints and on some elevated routes I am satisfied that the overall adverse visual impact on the experience of walkers and tourists would not be significant.

64. I have already considered the potential of the visual impact on the experience for walkers on the Cowal Way when approaching the national park from Strachur. During my visit I noted that the turbines would also be visible from short sections of the Cowal Way from within the national park when heading in a south westerly direction. Whilst these views, where they occur, would be visually significant I am satisfied that they would be limited in extent and duration when walking the overall route due to the prevailing topography and existing tree cover. Overall, I am satisfied that the appeal proposal would not undermine

the integrity of the Cowal Way long distance route or have a significant adverse visual impact on the overall experience of walkers.

65. Taking account of the above considerations, I find that significant visual effects would occur from a limited number of locations around Loch Fyne and from elevated locations within the national park. However, given the siting and scale of the appeal proposal, I am satisfied that it would not form a particularly dominant feature when viewed within the wider expansive landscape and, therefore, would not have a significant adverse visual impact on the experience of residents, travellers, walkers, tourists and watercraft users.

Cumulative landscape and visual effect

66. The EIA report assesses whether significant cumulative landscape and visual effects would occur from the appeal proposal in conjunction with operational, consented and proposed commercial scale wind farm developments within a 40 km study area. The identified wind farms lie to the northeast, west and southwest of the appeal site. Based on the submitted evidence, I am satisfied that given the distance and topography there are no wind farms to the east that would result in any significant cumulative effects. Parties did not dispute the approach or selected study area of the EIA report.

67. The EIA report predicts that, based on the cumulative ZTV maps, the appeal proposal would maintain the existing pattern of separation between wind farms, including the closest operational wind farms at Clachan Flats, An Suidhe, A'Cruach and Cruach Mhor and as a result cumulative effects would be limited across the study area. The council contends that the appeal proposal in combination with the operational Clachan Flats wind farm would interrupt and distract the dramatic views from elevated locations (Dun na Cuaiche) looking northeast towards the head of Loch Fyne and the mountains within the national park.

68. I note from the cumulative ZTV that, when the appeal proposal is considered along with Clachan Flats wind farm there is only combined cumulative visibility from a limited number of locations around the shoreline of Loch Fyne. In addition, the cumulative visibility at Dun na Cuaiche is also predicted to be very limited. Given the limited visibility of the appeal proposal from around Loch Fyne (which I have established above) and the distance of separation between it and Clachan Flats wind farm (8 km to the northeast), I am satisfied that it would not result in wind farms becoming a prevailing or principle characteristic within the landscape of the area or when viewed from sensitive viewpoints (including Dun na Cuaiche) around Loch Fyne. Therefore, I find that the appeal proposal would not have a significant cumulative landscape or visual effect with Clachan Flats wind farm when viewed from sensitive locations towards the head of Loch Fyne and the mountains within the national park.

69. The cumulative ZTV predicts that the wind farm influence experienced from within the national park as a whole is limited to elevated peaks and routes. I note from the submitted evidence that a number of existing, consented and proposed wind farms would be visible to varying degrees from the selected viewpoints (VP5, 8 and 13). These wind farms are generally well separated across a large geography and located at significant distances from the viewpoints. As such, I find that they do not form a dominant feature in the landscape and, therefore, do not interrupt the appreciation of panoramic views to the west. Therefore, I am satisfied that the overall visual influence from existing, consented and proposed wind farms is relatively limited.

70. Although the appeal proposal would bring wind farm development closer to viewpoints within the national park, I find that it has been positioned to attempt to maintain the horizontal spacing of wind farm development across the wider panoramic view. Whilst a slight cumulative magnitude of change would occur, I do not consider that it would result in wind farms becoming the principal or prevailing characteristic in the landscape or dominate the views to the west from within this part of the national park. Therefore, I am satisfied that the appeal proposal would not have a significant cumulative visual impact or result in a wind turbine defined landscape.

71. Overall, I find in terms of the landscape, visual and cumulative impacts that the appeal proposal would accord with policy LDP 6 and SG 2.

Tourism and recreation impacts

72. Chapter 16 of the EIA report recognises that the tourism profile of the locality is potentially sensitive given its importance to the local economy. Reference is made in the report to a number of recent studies including the 'Biggar Report' which consider the impact of wind farms on tourism within Scotland. These reports conclude that generally tourists are not deterred from visiting areas due to the presence of wind farms. In addition, the appellant highlights that these studies have suggested that increased investment (including tourism infrastructure) in the local and regional economy can occur as a result of a wind farm development. Overall the appellant concludes that the appeal proposal would not deter tourists/visitors from coming to the area and as such would have no significant adverse impact on the local economy.

73. The council refused the appeal proposal on the grounds that 'given the presence of adverse landscape and visual impacts on the Loch Lomond and the Trossachs National Park (national park) the development may influence public attitudes to a point where tourists might become dissuaded from visiting'. Representations also raise similar concerns for the local area, including around Strachur. However, support for the potential socio-economic benefits has been received from local residents and the Lochgoil Community Trust.

74. Whilst the appeal site is not located within the national park, I have established above that some significant landscape and visual effects would occur from a limited number of hills and elevated routes within western areas of the national park. However, I have concluded that the appeal proposal is capable of being accommodated within the landscape without it becoming a dominant or prevailing feature. Therefore, I am satisfied that it would not have a significant adverse impact on the experience of tourists or visitors within the national park. No substantive evidence has been submitted by parties to quantify the level of any potential adverse impact that the appeal proposal would have on tourism or recreation and as such on the local economy. Therefore, I am not persuaded that there would be a significant adverse impact on tourism or recreation within the national park.

75. Whilst concerns have been raised in representations regarding the potential for an adverse impact on tourism and recreation within the Argyll and Bute area (particularly at Strachur), no substantive evidence has been provided to allow me to quantify the scale of any potential impact. Representations have also been made on the grounds that some economic benefit to the local economy may accrue as a result of the appeal proposal. As I have concluded above that any adverse visual and landscape impacts within Argyll and Bute (including at Strachur) would not adversely affect the experience of tourists or visitors within this area, I am not convinced that there would be any significant detrimental impact on tourism and recreation within Argyll and Bute.

76. Overall, on the basis of the evidence before me, including the findings of the EIA report, I am satisfied that the appeal proposal would have no significant adverse impact on either tourism or recreation within Argyll and Bute or the national park.

Other impacts

77. The EIA report assesses a wide range of other impacts: forestry; noise; shadow flicker; ecology; ornithology; communications infrastructure; hydrology; cultural heritage; traffic and transport; and, socio-economic. The council has not founded its refusal on any of these impacts and I note in this regard that there are no outstanding concerns on the part of key agencies and consultees, subject to the imposition of appropriate conditions. The EIA report and additional information submitted by the appellant acknowledged the following residual significant environmental effects, in addition to those relating to landscape and visual impacts and tourism/recreation impacts which are considered above.

Forestry

78. The appeal proposal would result in the loss of some 20 hectares of Sitka Spruce woodland within a privately owned and managed commercial forestry plantation extending to some 1,373 hectares. Given the nature of the woodland affected, the EIA report does not consider forestry as a sensitive receptor. However, consideration is given in chapter 6 of the EIA report to the plans for felling and restocking and ongoing forest management practices.

79. Whilst Scottish Forestry agree with the appellant's conclusion in the EIA report, it highlights that in order to comply with the criteria of the Scottish Government's Control of Woodland Removal Policy, off-site compensatory planting totalling 20.1 hectares would be required. Scottish Forestry has provided a condition to ensure that appropriate compensatory planting is delivered and to which the appellant raises no objection. I find that the wording of the suggested condition is appropriate and have attached it to this decision. Overall I am satisfied that sufficient consideration has been given to the potential effects on forestry.

80. Scottish Forestry highlights that an amendment to the Long Term Forestry Plan for the wider area would be required as a result of the appeal proposal. I am satisfied that this matter can be appropriately addressed under the provisions of the Forestry and Land Management (Scotland) Act 2018.

Noise

81. The potential impact from both construction and operational noise was assessed with the findings set out in chapter 8 of the EIA report. Some objections were raised in representations to the potential of disturbance from noise on residential properties.

82. Operational noise was assessed using ETSU-R-97 (methodology and noise limits). From this assessment it is concluded that once operational, the appeal proposal would not exceed the relevant noise limits at each of the nearby residential properties. The assessment of predicted construction noise was undertaken in accordance with BS5228:2009. Overall, it is concluded that when mitigation is implemented and good practice site management measures followed, noise levels would be below the appropriate limits at properties closest to construction activities.

83. The council raises no objection in terms of the potential of disturbance from noise subject to the imposition of appropriate conditions in relation to the required mitigation for both the construction and operational phases of the appeal proposal. I find that subject to the requested conditions there would be no significant adverse impact from noise on nearby residential properties. I have included conditions relating to noise as part of this decision.

Shadow flicker

84. An assessment, following accepted best practice and guidance, of the potential for effects from shadow flicker on nearby properties was carried out, with the findings set out in chapter 9 of the EIA report. It was established that there were no properties within a radius of 11 rotor diameters (1012 metres) and 130 degrees either side of north of the proposed turbines. On this basis I am satisfied that there is no likelihood of shadow flicker adversely affecting the amenity of nearby residential properties.

Ecology

85. Chapter 10 of the EIA report considers the potential for impacts during the construction, operational and decommissioning phases on the ecology present within the area. The appeal site is not located within or in close proximity to any statutory or non-statutory designated environmental sites. In addition, no protected species or flora were identified from the habitat survey of the site. Therefore, it is concluded that the main impacts would be from direct habitat loss through the removal of vegetation to facilitate the appeal proposal.

86. The appellant's assessment concludes that the layout of the development, including the routing of tracks and roads, has been designed to minimise any loss of habitat in any sensitive areas within the appeal site. Consequently, it is contended that there would be no residual adverse significant effects on any ecological features. No concerns were raised by any consultee or the council to the findings of the EIA report on this matter. Overall, I am satisfied that a thorough assessment has been carried out in relation to the potential for any significant adverse effects on the ecology of the area. To ensure the site is developed in accordance with the EIA report recommendations, I have included a condition requiring an Ecological Clerk of Works to monitor the phases of the development.

Ornithology

87. The potential for any significant impact on ornithology is considered in chapter 11 of the EIA report. It is established that the proposed development is not located within or in close proximity to any statutory or non-statutory sites designated for ornithological interest. Flight activity surveys were undertaken to monitor activity levels of particular species, and to assess the potential for bird collisions with turbines and other interactions. Species noted included Golden Eagles, Hen Harriers and Merlins. The predicted collision mortality for the hen harriers and merlin was considered not to be significant. This conclusion was not contended by either NatureScot or the Royal Society for the Protection of Birds (RSPB).

88. In terms of Golden Eagles, it was established that there are no active eyries within 2 km of any proposed turbine. A Predicting Aquila Territories (PAT) model was undertaken by the appellant, which concludes that only one of two known Golden Eagle territories is predicted to overlap with the wind farm location. In addition, a model of the impact of potential wind farm collision mortality on the Golden Eagle population was undertaken. From this it is predicted that there would be a minor adverse effect on the

Golden Eagle population from potential loss of habitat through displacement and a minor adverse effect of collision risk.

89. NatureScot and RSPB initially raised concerns that the assessment did not properly demonstrate that the effects on the Golden Eagle population would not be significant. Further confidential supplementary information was submitted by the appellant providing additional satellite tagging data. On the basis of the additional information NatureScot advised that it is unlikely that any adverse effect would create a natural heritage zone population level risk and removed its objection on this matter. RSPB also withdrew its objection. However, both parties sought the imposition of a condition requiring a habitat management plan to improve the condition of the area and supported the proposed mitigation measure of post construction monitoring. I have included conditions covering these requirements.

90. The Argyll Raptor Study Group also objected on similar grounds to NatureScot and RSPB. I note that this group were not provided with the additional supplementary information due its confidential status. The group has, therefore, retained its concern due to the lack of further information. Whilst, I note the continued objection by the Argyll Raptor Group, NatureScot and RSPB having had the benefit of reviewing the additional supplementary confidential information, conclude that there would be no significant adverse effects in this instance. Overall, I am satisfied that on the basis of the evidence in the additional supplementary information and the comments from NatureScot and RSPB, there would be no significant adverse effects on ornithology.

Communications infrastructure

91. It is highlighted within chapter 12 of the EIA report that following consultation with the relevant communication operators it was established that given its location, no telecommunication links would be affected by the appeal proposal. In addition, it is highlighted that in the event television reception at local households is impacted upon, any issues would be dealt with by the developer and appropriate mitigation measures carried out.

92. The Ministry of Defence in its consultation response advised that it had no objection subject to conditions relating to accredited aviation safety lighting, timing of the construction phase, height of construction equipment and the exact location (latitude and longitude) of each of the proposed turbines. No further concerns were raised by any of the other relevant consultees or the council. Therefore, I am satisfied that subject to the conditions requested by the Ministry of Defence being imposed, no significant adverse effects are likely in this instance.

Hydrology, hydrogeology, and soils

93. The magnitude and significance of potential effects on hydrology, hydrogeology, and soils were assessed with the findings set out in chapter 13 of the EIA report. It was established that without additional mitigation, over and above best practice techniques, there would be the potential for effects of a low to moderate significance to occur in regard to peat hydrology, peat resource and potential ground water dependent terrestrial ecosystems. To reduce these effects a number of additional mitigation measures and management plans are recommended in the EIA report. These include more detailed site investigations, a peat management plan, drainage design, construction method statement and construction environmental management plan. On this basis it is concluded that the residual effects can be reduced to minor.

94. Further supplementary information was submitted in relation to the proposed peat management plan at the request of SEPA. On the basis of the further information SEPA confirmed it had no objection in terms of the potential impact on hydrology, hydrogeology, and soils. In addition, NatureScot raised no concerns given the area of peatland affected would not be considered to be of national interest for its peatland habitat. The council, subject to the proposed mitigation measures, raised no concerns. Overall, I am satisfied that a satisfactory assessment has been carried out and that subject to conditions ensuring the identified mitigation measures are undertaken, there would only be the potential for minor effects.

Cultural heritage

95. Chapter 14 of the EIA report advises that an assessment was undertaken of all known cultural heritage features within a 10 km radius of the appeal site. It established that apart from some limited areas of archaeological interest there were no cultural heritage features of national or local importance within the site. It was concluded that no direct impacts would occur on any heritage assets within the appeal site.

96. Within the 10 km study area the most significant heritage assets were considered to be Inveraray Castle Inventory Garden and Designed Landscape and the category A-listed Aray Bridge. Given the potential for indirect effects on the setting of these features HES requested additional viewpoints from these locations. On the basis of the visualisations provided as supplementary information, HES confirmed that whilst there would be some adverse effect from the appeal proposal on the setting of these designated assets, it would not be to a level which would raise issues of national interest. The West of Scotland Archaeology Service agreed with the findings in the cultural heritage section of the EIA report and raised no concerns in terms of direct or indirect archaeological issues.

97. Accordingly, I consider that a satisfactory assessment has been carried out. Whilst there may be some adverse indirect visual and landscape effects from the appeal proposal on the setting of designated heritage assets, I am satisfied that the scale of any impact would not be significant in this instance.

Access, transport and traffic

98. The potential for impact on transport routes, traffic and access during the construction, operation and decommissioning stages has been considered within chapter 15 of the EIA report. The assessment of the potential impacts concludes that subject to appropriate mitigation measures, including the routing and timing of deliveries to the appeal site, no significant adverse impacts on the surrounding road network would occur.

99. Transport Scotland advises that it has no objection to the appeal proposal subject to conditions ensuring that the transportation of abnormal loads would have no detrimental effect on the trunk road network. In addition, the council raises no objection subject to conditions requiring improvements to the existing access; a video record of the road corridor (A815 to site including junction); traffic management measures being put in place (including for abnormal loads); the timing of deliveries; and, the avoidance of peak travel times for the transportation of abnormal loads. ScotWays whilst not objecting to the appeal proposal requests that a condition be attached to ensure that right of way SA32 remains open at all times.

100. Overall, I find that subject to the conditions requested by parties being imposed, there would be no significant adverse impact on the surrounding road network or formal walking routes.

Socio-economics benefits

101. It is highlighted in chapter 16 of the EIA report that direct economic benefits would include 91-man year equivalent jobs created during the construction stage within the Argyll and Bute area and 36-man year equivalent jobs in Scotland. During the operational stage, eight-man year equivalent jobs would be created within the Argyll and Bute area and seven-man year equivalent jobs in Scotland. In addition, the EIA report concludes that whilst a slight magnitude of impact is predicted there would be no significant adverse effect on tourism and recreation in the area. I have concluded above that there would be no significant adverse impacts from the appeal proposal on either tourism or recreation in the area, including within the national park. Therefore, I am satisfied that overall the appeal proposal would introduce socio-economic benefits to the local area and wider economy. The appellant also highlights that an annual benefit would be paid to the local community, whereby, it can choose what the money should be spent on within the local area.

Representations

102. Of the five community council's concerns were only received from Strachur Community Council. In its representation it set out both matters of concern but also matters in support of the appeal proposal. There were also 14 individual letters of objection received and 2 letters in support of the appeal proposal. The concerns raised were in relation to the scale of development; landscape and visual impacts; proximity to the national park; impact on tourism; impact on the Cowal Way walking route; adverse impacts in relation to noise, shadow flicker, ornithology; and, traffic and house prices. Support for the proposal in terms of its sustainability and financial community benefit were raised in representations.

103. Taking into account my assessment as set out above and after careful consideration of the matters raised in both the consultation responses and the letters of representation, I am satisfied that there are no outstanding issues which lead to any apparent inconsistencies with the policies of the local development plan.

Compliance with the development plan

104. I acknowledge that the appeal proposal would have significant landscape and visual effects within some localised areas of Argyll and Bute and the national park. However, given the scale and siting of the appeal proposal, I am satisfied that it would not result in a dominant or prevailing visual feature. Therefore, I find that the appeal proposal is capable of being accommodated at this location without having a significant adverse landscape, visual or cumulative impact or resulting in a wind turbine defined landscape. In addition, I consider that for the reasons set out above the appeal proposal would not have a significant adverse impact on tourism or recreation in the area.

105. Accordingly, I am satisfied that the appeal proposal would accord with the relevant policies and supplementary guidance of the local development plan in terms of landscape and visual impact, cumulative landscape and visual impact, and, impacts on tourism and recreation. In addition, I have also established that there are no other potential impacts that would adversely affect the quality of the surrounding built and natural environment.

106. Therefore, I find that the appeal proposal would accord with policy LDP DM 1, policy LDP 6 and SG 2, policy LDP 3 and associated SG, policy STRAT 1, policy LDP 9, and, SG LDP Tran 1. I have not been made aware of any other relevant impacts that would lead me to conclude that the appeal proposal would not accord with other detailed policies of the local development plan.

107. Overall, I am satisfied that the appeal proposal accords with the provisions of the local development plan.

Other material considerations

Loch Lomond and the Trossachs National Park (national park)

108. Paragraph 212 of SPP advises that development that affects a national park should only be permitted where 'the objectives of designation and the overall integrity of the area would not be compromised'.

109. The appeal site is located outwith the national park. Whilst there are no provisions for buffer zones around national parks within SPP, I acknowledge that the proximity and scale of a development may have an influence on the overall level of impact on some of the identified special landscape qualities. I note that parties agree that the appeal proposal given its location would not adversely affect any of the National Scenic Areas within the national park.

110. The council, the National Park Authority and NatureScot have objected to the appeal proposal on the grounds that it would adversely affect four special landscape qualities (SLQ). These are the Arrochar's mountainous and distinctive peaks; a remote area of high hills and deep glens; tranquillity; and, the easily accessible landscape splendour. I note that Mountaineering Scotland also raised concerns regarding the impact on the national park.

111. Therefore, it is necessary for me to establish the extent of any significant adverse effects on the four special landscape qualities and whether the objectives of the designation would be undermined or the overall integrity of the national park compromised. I have considered the other special landscape qualities, as set out in commissioned report No 376 (The Special Landscape Qualities of the Loch Lomond and the Trossachs National Park - 2010) and am satisfied that the appeal proposal does not raise any significant concerns in relation to these qualities.

112. I have established above that the appeal proposal would have significant landscape and visual effects which would affect areas within the western edge of the national park. However, I have concluded that given its scale and location the appeal proposal could be accommodated within the prevailing landscape without it becoming a dominant visual feature or resulting in a wind farm defined landscape. Taking account of my findings on these matters, I do not consider that the appeal proposal would, therefore, adversely affect the Arrochar's mountainous and distinctive peaks or the remote area of high hills and deep glens SLQs.

113. In relation to the effects on tranquillity, I acknowledge that the appeal proposal would introduce a measure of slow movement from the blades of the nine turbines which could potentially affect the experience of walkers/tourists in some elevated locations. I have already established that no adverse effects from noise would be experienced by the closest residential properties. Given the greater intervening distance from where the appeal

proposal would be visible from within the national park (VP 5, 8 and 13), I am satisfied that there is unlikely to be any audible intrusion of significance.

114. Whilst, there may be some degree of adverse impact from the movement of the blades on the sense of peace in the landscape, I do not consider that it would be overly significant given the distance from the viewpoints and the limited extent it would occupy within the wider panoramic view. I note that the presence of wind farms is already a discernible characteristic in views to the west, in addition to the presence of large areas of commercial forestry. I consider that this does not represent the type of natural landscape that would necessarily contribute to a sense of tranquillity. In addition, the views across the national park to the north and east from these viewpoints are likely to provide a much greater sense of tranquillity given the lack of human presence in these landscapes. Therefore, I am satisfied that any likely impact on the special quality of tranquillity would be limited in both significance and extent. Accordingly, I find that the appeal proposal would not undermine this special landscape quality.

115. Concerns are raised by parties regarding the potential impact on the special landscape quality regarding 'easily accessible landscape splendour'. Given its location the appeal site would not be visible from the majority of the national park area or from any of the main vehicular routes into or through it. Accordingly, users of main roads and other routes to access the various attractions within the national park would not be affected.

116. Whilst I acknowledge that the appeal proposal would be visible from some parts of the Cowal Way, I have concluded above that the impact on this route would not be so significant as to undermine its overall integrity or the experience enjoyed by walkers. In addition, I have already concluded that there would be no significant impact on tourism or recreation within the national park. Accordingly, on the basis of the submitted evidence, I am not persuaded that any significant impact would occur on this particular special landscape quality.

117. Overall, I am satisfied that the nine turbines can be accommodated within the appeal site without significantly undermining any of the four SLQs. Therefore, I consider that the appeal proposal would not undermine the 'objectives of designation' or compromise the 'overall integrity' of the national park.

Other guidance

118. NPF3 and SPP both seek to support the development of renewable energy developments, including wind farms, subject to the potential impacts on the built and natural environment being acceptable. Paragraph 169 of SPP sets out a range of factors that require to be taken into account when considering wind farms and I note that these are similar to those included within policy LDP 6 of the adopted plan. Having concluded that the appeal proposal accords with policy LDP 6, I am satisfied that it would also be acceptable in terms of the factors set out in paragraph 169. In addition, the spatial framework for onshore wind that is set out in SPP (table 1 on page 39) is consistent with the approach set out in the council's supplementary guidance 2.

119. I note that the adopted local development plan 2015 is out of date and as such paragraph 33 of SPP advises that the presumption in favour of development that contributes to sustainable development will be a significant material consideration. In considering this, decision makers are required to take into account any adverse impacts which would significantly and demonstrably outweigh the benefits when assessed against

the wider policies in the SPP. Paragraph 29 of SPP sets out the principles for establishing whether a development would contribute to sustainable development.

120. Given the nature of the appeal proposal I am satisfied that it would contribute to net economic development and support climate change mitigation. On the basis of the detailed information set out in the EIA report and further submitted evidence, I consider that the appeal proposal would be consistent with the other principles, in so far as they are relevant, as set out within paragraph 29 of SPP. I am also satisfied based on my findings as set out above, that there would be no adverse impacts which would significantly or demonstrably outweigh the benefits. Overall, I find that the appeal proposal would contribute to sustainable development and meet the wider objectives of SPP including the delivery of Outcome 1 (a successful, sustainable place) and Outcome 2 (a low carbon place).

121. Other government policy documents have been referred to by parties including draft NPF4; the Scottish Energy Strategy 2017; Scottish Energy Strategy Position Statement 2021; the Onshore Wind Policy Statement 2017; and, the Onshore Wind Policy Statement Refresh 2021. These documents seek to encourage and support the development of onshore wind turbines, including larger scale turbines, in sustainable locations similar to the guidance in NPF3 and SPP. Therefore, I am satisfied that there are no additional matters raised in this guidance that requires to be considered in this instance.

122. Reference is also made to SNH Siting and Designing Wind Farms in the Landscape Guidance August 2017 and the council's non-statutory guidance - Landscape Wind Energy Capacity Study 2017. I am satisfied on the basis of the evidence submitted in the EIA report and through my considerations as set out above, that the appeal proposal would generally accord with the guidance in these documents.

Proposed plan

123. The proposed Argyll and Bute Local Development Plan 2 (November 2019) sets out the council's settled position in terms of the strategy and policies for future development and is currently at examination. The proposed plan generally restates the policies from the adopted local development plan in relation to wind farm proposals. The council has not referred to the policies of the proposed plan in its reasons for refusal or brought any particular proposed changes of policy to my attention. Therefore, I am satisfied that there are no proposed changes to the strategy or relevant policies that would alter my conclusions in relation to the appeal proposal.

Overall conclusion

124. I have given careful consideration to the environmental information submitted and have identified no additional significant effects. Accordingly, subject to mitigation controlled by means of the conditions attached to this notice, I find that there would be no unacceptable residual impacts in relation to those matters. Therefore, I am satisfied that my reasoned conclusions on the significant effects of the proposed development are up to date.

125. I therefore conclude, for the reasons set out above, that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would justify refusing to grant planning permission.

Planning conditions

126. The council has submitted a schedule of 30 conditions which it considers should be attached to planning permission, if granted. The appellant has provided comments on the submitted conditions which I have taken into consideration.

127. I have amended condition 2 to reflect the amendment to section 58 of the Town and Country Planning (Scotland) Act 1997 which now requires a condition to be attached to permission limiting its duration. To provide for consistency, I have amended the titles of the list of approved drawings at condition 3 (c) to accord with the descriptions as set out in the EIA report.

128. I have included the appointment of an Ecological Clerk of Works under condition (8). Given the scale of the development and its location I do not consider it is reasonable to also require the appointment of a Planning Monitoring Officer as requested by the council in this instance. Therefore, I have not included this as a condition to this permission.

129. Finally, I have reworded condition 17 to reflect the requirements sought by Scottish Forestry in relation to the appellant's Forest Plan and added a condition (18) to ensure that appropriate compensatory woodland planting is provided.

130. The attached conditions also provide for monitoring measures where appropriate. In condition 8 I require the appointment of an Ecological Clerk of Works, who would have responsibility for monitoring ecological mitigation measures relating to the proposed development. I have also included monitoring measures in condition 11 (trunk and local road management); condition 15 (post construction monitoring); condition 16 (habitat management plan); and, condition 19 (peat landslide management). There is no evidence to suggest that any other monitoring measures are required.

131. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

Gordon S Reid

Reporter

Schedule 1: Conditions**Duration of the permission**

1. The permission is for a period of 25 years from the date of final commissioning. Written confirmation of the date of first commissioning shall be provided to the planning authority no later than one calendar month after that date.

Reason: to define the duration of the permission.

Commencement of development

2. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of grant of this permission.

Reason: section 58 of the Town and Country Planning (Scotland) Act 1997 requires a condition to be attached to permission limiting its duration. Three years is the default period set by law and there is no material reason indicating that a different period should be set.

Implementation in accordance with approved plans and requirements of this permission.

3. Except as otherwise required by the terms of this permission, or as agreed in writing by the planning authority, the development shall be undertaken in accordance with:

a) the application form dated 4th December 2019;

b) the EIA Report dated October 2019 (as supplemented or amended by any further or additional environmental information); and,

c) the approved drawings EIA Report:

- 5.1. Site location
 - 5.2. Site layout
 - 5.3. Access design
 - 5.4. Candidate turbine elevations
 - 5.5. Indicative turbine foundations
 - 5.6. Indicative access track designs
 - 5.7. Indicative watercourse crossing design
 - 5.8. Cable trench sections
 - 5.9. Indicative crane hardstanding
 - 5.10. Indicative substation layout
 - 5.11. Indicative substation elevations
- Site Plan with Turbine IDs

Reason: to ensure that the development is carried out in accordance with the approved details.

Design and operation of turbines

4. There shall be no commencement of development unless full details of the proposed wind turbines (including, but not limited to, the power rating and sound power levels, the size, type, external finish and colour which should be non-reflective pale grey semi-matt), any anemometry masts and all associated apparatus have been submitted to and approved in writing by the planning authority. The turbines shall be consistent with the candidate turbine or range assessed in the environmental statement, and the maximum tip height shall not exceed 145 metres above ground level. The development shall be constructed and operated in accordance with the approved details and maintained in the approved colour, free from external rust, staining or discolouration, until such time as the wind farm is decommissioned.

All wind turbine blades shall rotate in the same direction.

None of the wind turbines, anemometers, power performance masts, switching stations or transformer buildings/enclosures, ancillary buildings or above ground fixed plant shall display any name, logo, sign or other advertisement (other than health and safety signage) unless otherwise approved in advance in writing by the planning authority.

Reason: to ensure that the environmental impacts of the turbines forming part of the development conform to the impacts of the candidate turbine assessed in the environmental statement and in the interests of the visual amenity of the area.

Design of sub-station and ancillary development

5. There shall be no commencement of development unless final details of the external appearance, dimensions, and surface materials of the substation building, associated compounds, any construction compound boundary fencing, external lighting and parking areas have been submitted to and approved in writing by the planning authority. The substation building, associated compounds, fencing, external lighting and parking areas shall be constructed in accordance with the approved details.

Reason: to ensure that the environmental impacts of the sub-station and ancillary development forming part of the development conform to the impacts assessed in the environmental statement and in the interests of the visual amenity of the area.

Micro-siting

6. All wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the location shown on plan reference site layout with turbine ID's (6th February 2020) wind turbines, buildings, masts, areas of hardstanding and tracks may be adjusted by micro-siting within the site. However, unless otherwise approved in advance in writing by the planning authority, micro-siting is subject to the following restrictions:

- a) no wind turbine foundation shall be positioned higher, when measured in metres above ordinance datum (Newlyn), than the position shown on plan reference site layout with turbine ID's (6th February 2020);
- b) no wind turbine, building, mast or hardstanding shall be moved more than 50 metres from the position shown on the original approved plans;
- c) no access track shall be moved more than 50 metres from the position shown on the original approved plans;
- d) no micro-siting shall take place within areas of peat of greater depth than the original location;
- e) no micro-siting shall take place within areas hosting ground water dependent terrestrial ecosystems; and,
- f) all micro-siting permissible under this condition must be approved in advance in writing by the Ecological Clerk of Works (ECoW).

No later than one month after the date of first commissioning, an updated site plan must be submitted to the planning authority showing the final position of all wind turbines, masts, areas of hardstanding, tracks and associated infrastructure forming part of the development. The plan should also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of the ECoW or planning authority's approval, as applicable.

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

Borrow pits – scheme of works

7. There shall be no commencement of development unless a site specific scheme for the working and restoration of each borrow pit forming part of the development has been submitted to and approved in writing by the planning authority. The scheme shall include:

- a) a detailed working method statement based on site survey information and ground investigations;
- b) details of the handling of any overburden (including peat, soil and rock);
- c) drainage, including measures to prevent surrounding areas of peatland, water dependant sensitive habitats and ground water dependant terrestrial ecosystems (GWDTE) from drying out;
- d) a programme of implementation of the works described in the scheme; and,
- e) full details of the reinstatement, restoration and aftercare of the borrow pit(s) at the end of the construction period, to include topographic surveys of pre-construction profiles, and details of topographical surveys to be undertaken of the restored borrow pit profiles.

The approved scheme shall thereafter be implemented in full.

Reason: to ensure that excavation of materials from the borrow pit(s) is carried out in a manner that minimises the impact on road safety, amenity and the environment, and that the mitigation measures contained in the Environmental Statement accompanying the application, or as otherwise agreed, are fully implemented. To secure the restoration of borrow pit(s) at the end of the construction period.

Ecological Clerk of Works

8. There shall be no commencement of development unless the planning authority has approved in writing the terms of appointment by the developer of an independent Ecological Clerk of Works (ECoW). The terms of appointment shall:

- a) impose a duty to monitor compliance with the ecological and hydrological commitments provided in the environmental statement and other information lodged in support of the application, the Construction and Environmental Management Plan, the Habitat Management Plan approved in accordance with condition 16, and other plans approved in terms of condition 9 (“the ECoW works”);
- b) require the ECoW to report to the developer’s nominated construction project manager any incidences of non-compliance with the ECoW works at the earliest practical opportunity;
- c) require the ECoW to submit a monthly report to the planning authority summarising works undertaken on site; and,
- d) require the ECoW to report to the planning authority any incidences of non-compliance of works at the earliest practical opportunity.

The ECoW shall be appointed on the approved terms throughout the period from commencement of development, throughout any period of construction activity and during any period of post construction restoration works approved in terms of condition 9.

No later than 18 months prior to decommissioning of the development or the expiration of this consent (whichever is the earlier), the developer shall submit details of the terms of appointment of an independent ECoW throughout the decommissioning, restoration and aftercare phases of the development to the planning authority for approval. The ECoW shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the development.

Reason: to secure effective monitoring of and compliance with the environmental mitigation and management measures associated with the development during the construction, decommissioning, restoration and aftercare phases.

Construction and environmental management plan

9. There shall be no commencement of development unless a Construction and Environmental Management Plan (“CEMP”) outlining site specific details of all on-site construction works, post-construction reinstatement, drainage and mitigation, together with details of their timetabling, has been submitted to and approved in writing by the planning authority. The CEMP shall include (but shall not be limited to) the following:

- a) a site waste management plan (dealing with all aspects of waste produced during the construction period other than peat), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment;
- 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) site specific details for management and operation of any concrete batching plant (including disposal of pH rich waste water and substances);
- e) 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;
- f) a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
- g) soil storage and management;
- h) a peat management plan, to include details of vegetated turf stripping and storage, peat excavation (including volumes), handling, storage and re-use;
- i) a drainage management strategy, demonstrating how all surface and waste water arising during and after development will be managed and prevented from polluting any watercourses or sources; surface water drainage to be designed in accordance with CIRIA C753 and be in operation prior to the start of construction;
- j) 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;

- k) sewage disposal and treatment;
- l) temporary site illumination;
- m) the construction of the access into the site and the creation and maintenance of associated visibility splays;
- n) the method of construction of the crane pads;
- o) the method of construction of the turbine foundations;
- p) the method of working cable trenches;
- q) the method of construction and erection of the wind turbines and meteorological masts;
- r) details of watercourse crossings which shall be designed to pass the 1 in 200 year plus climate change (56% allowance) flood event;
- s) post-construction restoration/reinstatement of the working areas not required during the operation of the development, including construction access tracks, borrow pits, construction compound, storage areas, laydown areas, access tracks, passing places and other construction areas. Wherever possible, reinstatement is to be achieved by the careful use of turfs removed prior to construction works. Details should include all seed mixes to be used for the reinstatement of vegetation;
- t) a wetland ecosystems survey and mitigation plan; and,
- u) a felling and tree management plan.

The development shall be implemented thereafter in accordance with the approved CEMP unless otherwise approved in advance in writing by the planning authority.

Reason: to ensure that all construction operations are carried out in a manner that minimises their impact on road safety, amenity and the environment, and that the mitigation measures contained in the Environmental Statement accompanying the application, or as otherwise agreed, are fully implemented.

Construction hours

10. Construction work which is audible from any noise-sensitive receptor shall only take place on the site between the hours of 07:00 to 19:00 on Monday to Friday inclusive and 07:00 and 18:00 on Saturdays, with no such work taking place on a Sunday or Public Holiday. Outwith these specified hours, development on the site must be limited to turbine erection, maintenance, emergency works, dust suppression, and the testing of plant and equipment, unless otherwise approved in advance in writing by the planning authority.

HGV movements to and from the site (excluding abnormal loads) during construction of the wind farm shall be limited to 07.00 to 19.00 Monday to Friday, and 07.00 to 16.00 on Saturdays, with no HGV movements to or from site taking place on a Sunday or Public Holiday, unless previously approved in writing by the planning authority.

Reason: in the interests of amenity to restrict noise impact and the protection of the local environment.

Trunk and local road network

11. There shall be no commencement of development, including deliveries to the site, unless and until a Traffic Management Plan ("TMP") has been submitted to, and approved in writing by the planning authority. The TMP shall include (but is not limited to):

- a) the proposed routing for all traffic (including abnormal loads) associated with the development on the local and trunk road networks;
- b) measures to ensure that the specified routes are adhered to, including monitoring procedures;
- c) the accommodation measures required including the removal of street furniture, junction/bend widening and traffic management undertaken by a recognised traffic management consultant and all signs poles and other street furniture to be removed and replaced after each movement where feasible to maintain road safety for other road users;
- d) details of materials, plant, equipment and labour required during the construction period;
- e) details of any temporary diversions of access routes and associated signage;
- f) detailed junction design to include construction specification, swept path analysis, kerbing, drainage and visibility splays;
- g) details of any verge strengthening and carriageway widening, which shall be reinstated once delivery is completed and remain the responsibility of the developer; and,
- h) details of delivery programme, which shall ensure no other large loads movements are scheduled to occur within the same timeframe, and that transportation of abnormal loads will not coincide with peak travel times including the start and finish of nearby Strachur Primary School.

The approved traffic management plan shall thereafter be implemented in full, unless and until otherwise agreed in advance in writing with the planning authority.

Reason: in the interests of road safety and to ensure that the transportation of abnormal loads will not have any detrimental effect on the trunk or local road network.

Video record, access construction & visibility splays

12. Prior to commencement of the development a video record of the road corridor from the A815 to the site, including the junction at the A815 and the detailed design of the proposed access junction with the A815 shall be submitted for the further written approval of the planning authority. The proposed access junction design with the public road shall:

- a) be surfaced with a bound material for a distance of 10 metres from the edge of the public road;
- b) have positive surface water drainage installed to deal with both runoff from the site and the roadside ditch; and,

c) the carriageway shall be a minimum width of 5.5 metres across the bell-mouth.

Prior to work starting on site the approved access junction design shall be formed in accordance with the agreed details and maintained to the satisfaction of the planning authority.

Reason: in the interests of road safety and to ensure that the existing access onto the site is improved to accommodate the components required to construct the wind turbines.

Right of way SA32

13. Right of way SA32 shall remain open and free from obstruction to the satisfaction of the planning authority during and after any proposed construction works.

Reason: in the interests of maintaining and safeguarding access rights.

Pre-construction survey

14. No development or other work shall be carried out on the site until a pre-commencement survey for the presence of salmon and the quality of their baseline habitat has been carried out by an appropriately qualified person and has been submitted for the written approval of the planning authority.

In circumstances where species of interest are identified as being present, or at risk from construction works, the survey shall further provide suggested avoidance and or mitigation measures, including timing constraints, to address such presence or risk, as well as an appropriate programme of post construction survey work.

The development shall be implemented in accordance with the measures identified in the duly approved scheme.

Reason: in order to establish that the circumstances of the site have not changed significantly between approval and implementation of the development for the purpose of protecting natural heritage assets in the interest of nature conservation.

Post-construction monitoring

15. No development shall commence unless and until an appropriate programme of post construction monitoring as proposed in EIA Chapter 11 Ornithology, Section 11.12.2 Mitigation During Operation Phase is submitted to and approved in writing by the planning authority.

Reason: to ensure the predicted impacts on important bird populations and success of proposed mitigation, as outlined in the EIA Report can be monitored.

Habitat Management Plan

16. There shall be no commencement of development unless and until a Habitat Management Plan ("HMP") has been submitted to, and approved in writing by the planning authority.

The HMP shall set out proposed habitat management of the wind farm site during the period of construction, operation, decommissioning, restoration and aftercare of the site, and shall seek to improve the condition of the G/LG3 range habitat on site.

The approved HMP will include provision for regular monitoring and review to be undertaken to consider whether amendments are needed to better meet the HMP objectives. In particular, the approved HMP will be updated to reflect ground condition surveys undertaken following construction and prior to the date of final commissioning and submitted to the planning authority for written approval. Unless otherwise agreed in advance in writing with the planning authority, the approved HMP shall be implemented in full throughout the life time of the development, including decommissioning.

Reason: in the interests of good land management and the protection of habitats.

Wind Farm Forest Design Plan

17. No development shall commence until a finalised Long Term Forest Plan for the Forestry Study Area (as shown on Figure 6.1 in Volume 3 of the EIA Report) has been submitted to and approved in writing by the planning authority. The approved Long Term Forest Plan shall thereafter be implemented in full, unless otherwise agreed in advance and in writing by the planning authority.

Reason: to ensure forestry works approved by the consent are carried out in accordance with UK Forestry Standard.

Compensatory forestry planting

18. No forestry works, associated with the construction and operation of the development, shall commence until a Compensatory Planting Plan ("CPP") has been submitted to and approved by the planning authority (in consultation with Scottish Forestry as required). The CPP shall provide for the planting of woodland commensurate with the level of woodland lost (anticipated to be 20.1 ha).

The CPP shall comply with the requirements set out in the UK Forestry Standard and the guidelines to which it refers, or such other replacement standard agreed by the planning authority. The CPP shall include:

- a) details of the location of the area to be planted;
- b) the nature, design and specification of the proposed woodland to be planted;
- c) the phasing and associated timescales for implementing the replanting scheme;
- d) proposals for the maintenance of the replanting scheme, including annual checks, replacement planting, fencing, ground preparation and drainage; and,
- e) proposals for reporting to the planning authority on compliance with timescales for obtaining the necessary consents and implementation of the replanting scheme.

The approved replanting scheme shall be implemented in full, unless otherwise agreed in writing by the planning authority.

Reason: to secure compensatory planting to mitigate against effects of deforestation arising from the development.

Peat landslide management

19. There shall be no commencement of the development until a detailed peat landslide risk assessment, addressing construction phase of the development and post-construction monitoring, has been approved in writing by the planning authority.

The peat landslide risk assessment shall comply with best practice contained in “Peat Landslide Hazard and Risk Assessments: Best Practice Guide for Proposed Electricity Generation Developments” published by the Scottish Government in January 2007, or such replacement standard as may be in place at the time of submission of the peat landslide risk assessment for approval. The peat landslide risk assessment shall include a scaled plan and details of any mitigation measures to be put in place.

The approved peat landslide risk assessment shall thereafter be undertaken in full prior to commencement of development.

Prior to commencement of development, the developer shall appoint and pay for an independent and suitably qualified geotechnical engineer acceptable to the planning authority, the terms of whose appointment (including specification of duties and duration of appointment) shall be approved by the planning authority.

The developer shall undertake continuous monitoring of ground conditions during the construction and deforestation phases of the development. Continuous analysis and call out services shall be provided by the geotechnical engineer throughout the construction phase of the development. If a risk of peat failure is identified, the developer shall install such geotechnical instrumentation to monitor ground conditions as is recommended by the geotechnical engineer and shall monitor ground conditions. Any remediation work considered necessary by the geotechnical engineer shall be implemented by the developer to the satisfaction of the geotechnical engineer. Monitoring results shall be fed into risk analysis reports to be submitted to the planning authority on a quarterly basis during the construction and deforestation phases of the development.

Reason: to minimise the risk of peat failure arising from the development.

Noise

20. The level of noise emissions from the combined effects of the wind turbines at Creag Dhubh wind farm (including the application of any tonal penalty) when calculated in accordance with a procedure agreed with the planning authority, shall not exceed the values set out in Tables 1 to 2 as appropriate. Noise limits for dwellings which lawfully exist or have planning permission for construction at the date of this permission but are not listed in the tables below shall be those of the physically closest location listed in the tables unless otherwise agreed by the planning authority.

Table 1 – LA_{90,10min} dB Wind Turbine Noise Level between 07:00 and 23:00 hours

Location	Standardised wind speed (m/s) at 10m height within the site averaged over 10 minute periods									
	4	5	6	7	8	9	10	11	12	
Islay Cottage	35	35	35	35	35	35	35	35	35	35
Succothmore Farm	35	35	35	36	36	36	36	36	36	36
Succothmore (Fearnoch)	35	35	35	36	36	36	36	36	36	36
Succothmore Cottage	35	35	35	35	35	35	35	35	35	35
Ardchyline Farm	35	35	35	35	35	35	35	35	35	35
Laglingarten	35	35	35	35	35	35	35	35	35	35

Table 2 – LA_{90,10min} dB Wind Turbine Noise Level between 23:00 and 07:00 hours

Location	Standardised wind speed (m/s) at 10m height within the site averaged over 10 minute periods									
	4	5	6	7	8	9	10	11	12	
Islay Cottage	43	43	43	43	43	43	43	43	43	43
Succothmore Farm	43	43	43	43	43	43	43	43	43	43
Succothmore (Fearnoch)	43	43	43	43	43	43	43	43	43	43
Succothmore Cottage	43	43	43	43	43	43	43	43	43	43
Ardchyline Farm	43	43	43	43	43	43	43	43	43	43
Laglingarten	43	43	43	43	43	43	43	43	43	43

Table 3 – Coordinates of properties listed in tables 1 and 2

Location	Eastings	Northings
Islay Cottage	210635	700910
Succothmore Farm	212459	701796
Succothmore (Fearnoch)	212488	701778
Succothmore Cottage	212370	701641
Ardchyline Farm	211203	706000
Laglingarten	214448	707961

Reason: to minimise the adverse impact of noise generated by the operations on the local community.

21. Prior to the installation of any turbines the developer shall submit a report for approval by the planning authority which demonstrates compliance with the noise limits in condition 20 above. The report shall include details of any proposed noise reduction measures and be prepared with reference to the Institute of Acoustics Good Practice Guide to the Application of ETSU-R-97 and associated supplementary guidance notes.

Reason: to minimise the adverse impact of noise generated by the operations on the local community.

22. Within 21 days from the receipt of a written request from the planning authority or following a complaint to the planning authority from the occupant of a dwelling the wind turbine operator shall, at the wind turbine operator's expense, employ an independent consultant approved by the planning authority to assess the level of noise emissions from the wind turbines at the complainant's property following procedures to be agreed with the planning authority.

Reason: to minimise the adverse impact of noise generated by the operations on the local community.

23. The wind turbine operator shall provide to the planning authority the independent consultant's assessment and conclusions regarding the said request or noise complaint, including all calculations, audio recordings and the raw data upon which those assessments and conclusions are based. Such information shall be provided within 2 months of the date of the written request of the planning authority unless otherwise extended in writing by the planning authority. The wind turbine operator shall take such remedial action required to the satisfaction of the planning authority.

Reason: to minimise the adverse impact of noise generated by the operations on the local community.

24. Wind speed, wind direction and power generation data shall be continuously logged and provided to the planning authority in a format to be agreed at its request and within 28 days of such a request. Such data shall be retained by the operator for a period of not less than 12 months.

Reason: to minimise the adverse impact of noise generated by the operations on the local community.

25. No development shall commence until there has been submitted to the planning authority details of a nominated representative for the development to act as a point of contact for local residents (in connection with conditions 20 – 24) together with the arrangements for notifying and approving any subsequent change in the nominated representative. The nominated representative shall have responsibility for liaison with the planning authority in connection with any noise complaints made during the construction, operation and decommissioning of the wind turbines.

Reason: to minimise the adverse impact of noise generated by the operations on the local community.

Aviation safety

26. There shall be no commencement of development until the developer has provided the planning authority and Defence Infrastructure Organisation (Ministry of Defence) with the following information:

- a) the date of expected commencement and completion of construction works;
- b) the maximum extension height of any construction equipment; and,
- c) the position of the wind turbines in latitude and longitude.

Reason: in the interests of aviation safeguarding.

Aviation lighting

27. Prior to the erection of the first wind turbine, the developer shall submit a scheme for aviation lighting for the wind farm to the planning authority for written approval. The scheme shall include details of infra-red aviation lighting to be applied. No lighting other than that described in the scheme may be applied at the site, other than as required for health and safety, unless otherwise agreed in advance and in writing by the planning authority.

No turbines shall be erected on site until the scheme has been approved in writing. The development shall thereafter be operated fully in accordance with the approved scheme.

Reason: in the interests of aviation safety.

Site decommissioning, restoration and aftercare

28. The development will be decommissioned and will cease to generate electricity by no later than the date falling twenty-five years from the date of final commissioning. The total period for restoration of the site in accordance with this condition shall not exceed three years from the date of final decommissioning without prior written approval of the planning authority.

There shall be no commencement of development unless a decommissioning, restoration and aftercare strategy has been submitted to and approved in writing by the planning authority. 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 or the expiration of this consent (whichever is the earlier) 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. 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 (but is not limited to):

- 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) details of measures for 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) details of measures for 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) a traffic management plan (“TMP”) which provides for the arrangements in respect of traffic associated with the decommissioning of the development which mirrors the relevant provisions approved in the TMP for the construction of the development;
- l) details of watercourse crossings; and,
- m) 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, the site restored and aftercare thereafter undertaken in accordance with the approved plan, unless otherwise agreed in writing in advance with the planning authority.

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.

Financial guarantee

29. There shall be no commencement of development unless the developer has delivered a bond or other form of financial guarantee in terms acceptable to the planning authority which secures the cost of performance of all decommissioning, restoration and aftercare obligations contained in condition 28 to the planning authority. The financial guarantee shall thereafter be maintained in favour of the planning authority until the date of completion of all restoration and aftercare obligations.

The value of the financial guarantee shall be determined by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations contained in condition 28. The value of the financial guarantee shall be reviewed by a suitably qualified independent professional no less than every five years and increased or decreased to take account of any variation in costs of compliance with restoration and aftercare obligations and best practice prevailing at the time of each review.

Reason: to ensure that there are sufficient funds to secure performance of the decommissioning, restoration and aftercare conditions attached to this deemed planning permission in the event of default by the developer.

Redundant wind turbines

30. If any of the wind turbines hereby permitted cease to export electricity to the grid for a continuous period of 12 months following the first export date, not due to it being under repair or replacement, then on the written request of the planning authority, within 1 month a partial decommissioning scheme or a scheme for repair shall be submitted to the planning authority for its written approval. If the scheme is for decommissioning, then it shall include a method statement and timetable for the dismantling and removal of the relevant turbine and associated above ground works and foundations to a depth of at least 1 metre below ground together with a Traffic Management Plan to address likely traffic impact issues during the decommissioning period and restoration measures for the land from which the

relevant turbine and any ancillary equipment and structures have been removed. The scheme shall thereafter be implemented as approved.

Reason: to ensure that appropriate provision is made for turbine decommissioning or repairs.

Schedule 2: Advisory notes

1. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
2. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).
3. **Display of notice:** A notice must be displayed on or near the site while work is being carried out. The planning authority can provide more information about the form of that notice and where to display it (See section 27C of the Town and Country Planning (Scotland) Act 1997 Act (as amended) and Schedule 7 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013
4. **Right to challenge this decision:** This decision is final, subject to the right of any person aggrieved by this decision to question its validity by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision. Your local Citizens' Advice Bureau or your solicitor will be able to advise you about the applicable procedures.
5. **Notification of this decision by the planning authority:** The planning authority is required (a) to inform the public and bodies consulted in respect of the EIA report of this decision by publishing a notice on the application website or newspaper circulating the in locality of the proposed development or by other reasonable means and (b) to make a copy of the decision available for public inspection in an office of the planning authority where its planning register may be inspected and on the application website.

Schedule 3: Application drawings:

EIA Report

- 5.1. Site location
- 5.2. Site layout
- 5.3. Access design
- 5.4. Candidate turbine elevations
- 5.5. Indicative turbine foundations
- 5.6. Indicative access track designs
- 5.7. Indicative watercourse crossing design
- 5.8. Cable trench sections
- 5.9. Indicative crane hardstanding
- 5.10. Indicative substation layout
- 5.11. Indicative substation elevations

Site Plan with Turbine IDs

Schedule 4: Opportunities for public participation in decision-making

There is the following evidence before me of opportunities the public had to take part in decision-making procedures on the application before I was appointed to this appeal:

- the appellant has provided a report on pre-application consultation. Two public meetings were held with Strachur Community Council on the 11 October 2017 and 13 June 2018. During this period informal discussions were also held with members of Lochgoil Community Trust. Two public exhibitions were held at Strachur Memorial Hall on the 9 November 2017 and 10 April 2019. At these events the public had an opportunity to comment to the appellant on the proposed development;
- an advertisement of the application in the Dunoon Observer; Argyllshire Advertiser; Campbeltown Courier and The Edinburgh Gazette on the 7 February, 24 April, 11 September 2020 and the 12 February 2021 has been provided. The advertisements advised the public of the opportunity to make representations upon the proposal for the development and the accompanying EIA report;
- the planning authority received 16 public representations in respect of the application. The main points raised in those representations are summarised in this decision notice at paragraph 102; and,
- additional information was submitted to the planning authority and the public had an opportunity to comment on that information.

Those who made representations upon the application have been treated as interested parties in the appeal. They have had the opportunity to make representations on matters that they raised, by written response to the appeal.