

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held by BY MICROSOFT TEAMS on WEDNESDAY, 20 SEPTEMBER 2023**

Present: Councillor Kieron Green (Chair)

Councillor John Armour	Councillor Andrew Kain
Councillor Gordon Blair	Councillor Paul Donald Kennedy
Councillor Jan Brown	Councillor Liz McCabe
Councillor Audrey Forrest	Councillor Luna Martin
Councillor Graham Hardie	Councillor Dougie Philand
Councillor Mark Irvine	Councillor Peter Wallace

Attending: Fergus Murray, Head of Development and Economic Growth
Shona Barton, Governance Manager
Peter Bain, Development Manager
Matt Mulderrig, Development Policy & Housing Manager
Alan Morrison, Regulatory Services & Building Standards Manager
Sandra Davies, Major Applications Team Leader
David Moore, Senior Planning Officer
Fiona Scott, Planning Officer – Oban Lorn and the Isles
Norman Shewan, Planning Officer – Helensburgh and Lomond

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Amanda Hampsey and Daniel Hampsey.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. MINUTES

- a) The Minute of the Planning, Protective Services and Licensing Committee held on 23 August 2023 at 11.00 am was approved as a correct record.
- b) The Minute of the Planning, Protective Services and Licensing Committee held on 23 August 2023 at 2.00 pm was approved as a correct record.
- c) The Minute of the Planning, Protective Services and Licensing Committee held on 23 August 2023 at 2.45 pm was approved as a correct record.
- d) The Minute of the Planning, Protective Services and Licensing Committee held on 29 August 2023 was approved as a correct record.

4. MR SHAUN SINCLAIR: ERECTION OF CAFÉ WITH ASSOCIATED LANDSCAPING INCLUDING A VIEWPOINT, SEATING, INTERPRETIVE SIGN AND PLAY PARK: LAND WEST OF INVERLUSRAGAN, CONNEL (REF: 21/01583/PP)

Before proceeding with his presentation, the Development Manager referred to a late representation received from Councillor Julie McKenzie who is one of the local Members

for this Ward area. He advised that Councillor McKenzie had noted her support for the Applicant and a request for Members to have the application determined at a pre-determination public hearing and he summarised her reasons for this.

Reference was also made to an error within section F of Appendix B which referred to a meeting of the Connel Community Council on 9 May 2022. It has since been noted that this was an independent meeting arranged by the Applicant.

The Development Manager then spoke to the terms of the report. This proposal is seeking to secure planning permission for the erection of a café with incidental 'drive-thru' takeaway plus associated landscaping, including a viewpoint, seating, interpretive sign and play park.

In terms of the Settlement Strategy set out in the adopted Local Development Plan (LDP), the application site is situated within the defined Minor Settlement of Connel where Policies LDP STRAT 1 and LDP DM 1 might ordinarily be expected to give general encouragement to small scale development on appropriate sites subject to compliance with other relevant policies and Supplementary Guidance (SG).

However, this site is within an Open Space Protection Area (OSPA) where Policy SG LDP REC/COM 2 does not permit development on an OSPA unless it satisfies one of the 5 criteria listed in Policy SG LDP REC/COM 2. This OSPA provides visual amenity functions rather than recreation functions and accordingly it is not considered that the proposed development satisfies any of the 5 criteria set out in Policy SG LDP REC/COM 2. The OSPA in this location helps preserve the open aspect of the land on the shore side of the road and along with it the public views. The OSPA forms part of the wider network of OSPAs alongside Loch Etive that, together, provide the wider function of preserving the undeveloped aspect of the shore side of the road.

Whilst the potential economic and community benefit arising from the proposed development is noted, it is not considered that this is sufficient to set aside the detrimental impact that the proposed development will have on the open landscape character of the area and the primary function of the OSPA to protect this together with important public views of Loch Etive which give the settlement of Connel much of its unique character.

It was recommended that planning permission be refused for the reasons stated in the report.

Motion

To agree to refuse planning permission for the reasons detailed in the report.

Moved by Councillor Kieron Green, seconded by Councillor Luna Martin.

Amendment

To agree to hold a discretionary hearing for this application.

Moved by Councillor Audrey Forrest, seconded by Councillor John Armour.

A vote was taken by calling the roll.

Motion

Councillor Green
Councillor McCabe
Councillor Martin

Amendment

Councillor Armour
Councillor Blair
Councillor Brown
Councillor Forrest
Councillor Hardie
Councillor Irvine
Councillor Kain
Councillor Kennedy
Councillor Philand
Councillor Wallace

The Amendment was carried by 10 votes to 3 and the Committee resolved accordingly.

Decision

The Committee agreed:

1. to hold a discretionary pre-determination hearing on a Hybrid basis; and
2. to hold an informal site visit in advance of this hearing.

(Reference: Report by Head of Development and Economic Growth dated 5 September 2023, submitted)

5. **MR D HIGGINS: ERECTION OF DWELLINGHOUSE, FORMATION OF VEHICULAR ACCESS AND ASSOCIATED WORKS: GARDEN GROUND OF TORWOOD HOUSE, TORWOODHILL ROAD, RHU, HELENSBURGH (REF: 22/02523/PP)**

The proposed development comprises the sub-division of a residential curtilage, and the erection of a new detached 4-bedroom house with new access, land engineering works, and installation of a private surface water drainage system.

The site is located within the village of Rhu and lies within Rhu Conservation Area. Both the 'donor property' "Torwood House", and the residential property adjacent to the north, "Carbeth House" are both Category "C" listed buildings.

Before proceeding with his presentation, the Planning Officer summarised the background to this application.

The Committee considered this proposal at a meeting on 21 June 2023 when it was recommended by Officers that planning permission be refused on the sole basis that the private public access was unsuitable to accommodate the resultant intensification of traffic. At the request of the Applicant, the Committee agreed at this meeting to defer determination of this application to allow an opportunity for the Applicant to prepare and submit further details to demonstrate that there were no constraints to the implementation of an agreed scheme of commensurate off-site road improvements.

Reference was made to supplementary report number 2 which advised that further information has been submitted by the Applicant providing detail of proposed road improvements. A revised consultation response was received from the Council's Area

Roads Engineer on the basis of the additional information submitted by the Applicant following the June meeting of the PPSL Committee and concludes that the proposed off-site road improvements (provision of 2 passing places) will address previous concerns regarding the design capacity of the public road to accommodate the intensification of traffic result from the proposed new house. The Applicant has confirmed they have control over the land outwith the application site required for these off-site road improvements.

The Planning Officer summarised a further representation received from one of the original objectors on the basis of the revised drawings submitted by the Applicant, and addressed the concerns that had been expressed. Reference was also made to the other objections which were addressed in the original report of handling and supplementary report number 1.

Officers are satisfied that the Applicant has the necessary control to implement the off-site road improvements and this can be secured by means of a suspensive condition. The provision of off-site road improvements commensurate with the scale and nature of the proposed development complies with the provisions of Policy LDP 11 and SG LDP TRAN 5. It is considered that the application proposal is in accordance with all relevant provisions of the Development Plan and will not give rise to any other planning matters that would warrant a departure from these procedures.

It was recommended that planning permission be approved subject to the conditions set out in supplementary report number 2.

Decision

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

Standard Time Limit Condition (as defined by Regulation)

Standard Condition on Soil Management During Construction

Additional Conditions

1. PP - Approved Details & Standard Notes

The development shall be implemented in accordance with the details specified on the application form dated 12th December 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
Location Plan	807(L)000A	-	25.01.2023
Existing Site Plan	807(L)002A	-	25.01.2023
Proposed Site Plan	807(L)002	Rev. B	09.08.2023
Proposed Plans, Sections and Elevations	807(L)003A	-	25.01.2023

Tree Survey Plan	2016_015/01	-	13.12.2022
Location Plan with Passing Places	807(L)004		

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

- No development in relation to the construction of the dwellinghouse, hereby approved, shall commence until such time as the two passing places identified in drawing no 807(L)004 have been fully formed and surfaced.

Notwithstanding the details shown on the approved plan, construction details for the proposed passing places shall be submitted to and approved in writing by the Planning Authority, in consultation with the Roads Authority, prior to implementation.

Reason: In the interest of road safety.

3. PP - Junction with public road:

Notwithstanding the provisions of Condition 1, the proposed access shall be formed in accordance with the Council's Roads Standard Detail Drawing 08/006 Rev A. and visibility splays of 2.4 metres to point X by 25.0 metres to point Y from the centre line of the proposed access.

The access road shall be a minimum width of 5.5m for the first 10m from the back of the service bay. Thereafter it may be reduced to a private driveway of minimum 3.5m width.

The access shall be surfaced with a bound material in accordance with the stated Standard Detail Drawing for a minimum of 5.0m back from the edge of the carriageway.

Prior to work starting on site the access hereby approved shall be formed to at least 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 access 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.

Note to Applicant:

- A Road Opening Permit under the Roads (Scotland) Act 1984 must be obtained from the Council's Roads Engineers prior to the formation/alteration of a junction with the public road.
- The access shall be constructed and drained to ensure that no surface water is discharged onto the public road.

4. PP - Access Gradient

Notwithstanding the provisions of Condition 1, the gradient of the service bay / access road / driveway shall not exceed 1 in 20 within 5 metres of the edge of the existing carriageway and shall thereafter not be steeper than 1 in 7.

Reason: In the interest of road safety.

5. PP – No Walls, Fences or Hedges Beside the Road

The development shall not include for the provision of walls, fences or hedges within 2.0 metres of the carriageway of the public road, and any gates shall open inwards, away from the public road.

Reason: In the interest of road safety.

6. PP - Parking and Turning Further Details Required

Notwithstanding the provisions of Condition 1, no development shall commence until full details of the layout and surfacing of a parking and turning area to accommodate three vehicles within the application site have been submitted to and approved in writing by the Planning Authority in consultation with the Council's Roads Engineers.

The submitted layout shall demonstrate that adequate manoeuvring space will be provided within the site to allow a vehicle to enter and leave in a forward gear.

The duly approved scheme shall be implemented in full 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.

7. PP – Submission of Details of Materials

Notwithstanding the effect of Condition 1, no development shall commence until written details of the type and colour of materials to be used for the external wall finishes and the roof slate 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.

8. PP – Full Landscaping Scheme

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:

- 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;

- v) A biodiversity statement demonstrating how the proposal will contribute to conservation/restoration/enhancement of biodiversity, and how these benefits will be maintained for the lifetime of the development;
- vi) 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.

The biodiversity statement should refer to Developing with Nature guidance | NatureScot as appropriate.

Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity, and to comply with the requirements of NPF4 Policy 3.

9. PP / PPP / AMSC – Pre-commencement Survey

No development or other work shall be carried out on the site until a pre-commencement survey for the presence of Bats has been carried out by an appropriately qualified person and has been submitted for the written approval of the Planning Authority in consultation with Nature.Scot. 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. 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.

10. PP – Surface Water Drainage – Further detail required

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

Drainage shall be achieved within the site boundary and no water shall discharge onto the public road carriageway.

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.

11.PP – Tree Retention and Protection

No development shall commence until a site plan showing the Root Protection Area for every existing tree proposed to be retained (with reference to the Tree Inspection Report – October 2016) has been submitted to and approved in writing by the Planning Authority.

Tree protection measures shall be implemented for the full duration of construction works in accordance in accordance with BS 5837:2005 “Trees in Relation to Construction” and the Tree Inspection Report – October 2016. No trees shall be lopped, topped or felled other than in accordance with the details of the Tree Inspection Report 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.

(Reference: Report by Head of Development and Economic Growth dated 7 September 2023, submitted)

Councillors Jan Brown and Liz McCabe left the meeting during consideration of the foregoing item.

6. YLEM ENERGY LTD: PROPOSAL OF APPLICATION NOTICE FOR INSTALLATION OF 50MW BATTERY ENERGY STORAGE SYSTEM TO BALANCE THE ELECTRICITY NETWORK AND FACILITATE RENEWABLE ENERGY DEPLOYMENT: ARDENCAPLE FARM, RHU, HELENSBURGH (REF: 23/01276/PAN)

The Senior Planning Officer spoke to the terms of the report. This Proposal of Application Notice (PAN) provides notice of the developer’s intention to submit a planning application for the erection and operation of a 50 Mw battery storage facility. The proposed development will be located in a field north of the West Highland Railway Line and South of existing high voltage overhead lines operated by Scottish Power. The site is located within the Greenbelt. It is not located within either the Duchess Woods or Highlandman’s Wood Local Nature Conservation sites, which are located to the south, east and north of the proposed site.

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

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

Decision

The Committee noted the content of the report and submissions and provided the following feedback to the Applicant:

- As part of the consultation process the Applicant should consider including residents beyond the 750m radius of the proposed site and they should also consult with the MP for Argyll and Bute;
- The application should include justification on why there was a locational need for this development to be within the Greenbelt area;
- The application should address any potential noise issues.

(Reference: Report by Head of Development and Economic Growth dated 5 September 2023, submitted)

7. LOCH LONG SALMON LIMITED: PROPOSAL OF APPLICATION NOTICE FOR THE INSTALLATION AND OPERATION OF LURIGNISH FISH FARM AND ASSOCIATED INFRASTRUCTURE: LURIGNISH FISH FARM, LAND ADJACENT TO LURIGNISH FARM, APPIN (REF: 23/01581/PAN)

The Major Applications Team Leader spoke to the terms of the report. Based upon the description of the development contained within the Proposal of Application Notice (PAN), the forthcoming application is anticipated to comprise a semi closed containment marine fish farm and supporting shore base with associated new access and landscaping. The fish farm will be located in Loch Linnhe with the shore base element being located off the A828 adjacent to the marine element at Lurignish which is located north of Shuna Island and the settlement of Appin. The terrestrial site is located within a countryside zone within an area designated as an Area of Panoramic Quality. The Lynn of Lorn National Scenic Area lies approximately 1.4km to the south of the proposed development.

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

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

Decision

The Committee noted the content of the report and submissions and provided the following feedback to the Applicant:

- The application should include provision of the details of the closed system process and the difference between that and a conventional fish farm; and
- The application should provide details of any impact on wild swimmers in respect of chemicals that will be used.

(Reference: Report by Head of Development and Economic Growth dated 7 September 2023, submitted)

Councillor Liz McCabe returned to the meeting during consideration of the foregoing item.

8. PLANNING POLICY RESPONSE TO ARGYLL AND BUTE'S DECLARED HOUSING EMERGENCY

A report providing an over view of some of the potential planning policy responses in recognition of the housing emergency which was declared at the Environment, Development and Infrastructure Committee in June 2023, was considered.

Decision

The Committee agreed:

1. to note and endorse the content of the report;
2. to explore the options for designating a short-term let control area/s for all, or parts of, the planning authority's area and report findings back to PPSL;
3. that Officers prepare a draft Technical Planning Note in support of NPF4 and LDP2, providing updated guidance on affordable housing delivery including its retention in perpetuity and accommodating key workers for consideration by Members; and
4. that Officers prepare a draft Technical Note in support of NPF4 and LDP2, that will provide guidance on how we ensure housing is delivered to meet the local housing needs as identified by the Housing Needs Demand Analysis (HNDA), including potential occupancy restrictions for consideration by Members.

(Reference: Report by Executive Director with responsibility for Development and Economic Growth dated 23 August 2023, submitted)

9. OCCUPATIONAL HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2023-2025

The Council, as the "enforcing authority" under the Health and Safety at Work etc. Act 1974, is required formally to approve an Occupational Health and Safety Law Enforcement Work Plan under the statutory National Local Authority Enforcement Code.

A report presenting the 2023-25 Work Plan and Enforcement Policy was before the Committee for consideration.

Decision

The Committee agreed to:

1. recognise the work by Regulatory Services to secure, and where appropriate improve, the standards of health and safety across businesses in Argyll and Bute. This directly protects employees and others (eg members of the public etc), supports businesses and indirectly supports the wider economy; and
2. formally endorse the Occupational Health and Safety Law Enforcement Workplan 2023-25 and enforcement policy to be implemented by Regulatory Services.

(Reference: Report by Executive Director with responsibility for Development and Economic Growth dated 20 September 2023, Occupational Health and Safety Law

Enforcement Work Plan 2023-25 Priorities, and Argyll and Bute Council Occupational Health and Safety Law Enforcement Policy, submitted)

10. ANIMAL HEALTH & WELFARE WORK PLAN 2023/25

The Council has a statutory duty under the Animal Health (Scotland) Act 1981/2006 to regulate the provisions of the Act. These responsibilities are to enforce legislative standards and secure compliance relating to animal health.

A report outlining the work and priorities of the animal health and welfare inspectors, within Regulatory Services, and seeking approval of the Animal Health & Welfare Enforcement Work Plan 2023/25 which focuses on preventing the spread of animal diseases and protecting standards of welfare, was considered.

Decision

The Committee noted the nature of this work and agreed to formally endorse the Argyll & Bute Animal Health & Welfare Work Plan 2023/25.

(Reference: Report by Executive Director with responsibility for Development and Economic Growth dated 6 September 2023 and Animal Health and Welfare Service Plan for Argyll and Bute 2023/25, submitted)

*** 11. REVIEW OF ARGYLL AND BUTE COUNCIL'S SHORT-TERM LET LICENSING POLICY**

A report recommending changes to the Council's Short-Term Let Licensing Policy to take account of issues which have arisen following a review of the scheme in the first 11 months and a letter from a solicitor, acting on behalf of the Association of Scottish Self Caterers (ASSC), advising of a possible judicial review against aspects of the policy, was considered.

Decision

The Committee:

1. considered this report and the revised Short-Term Let Licensing Policy detailed in Appendix 1; and
2. recommended to Council approval of the revised Short-Term Let Policy.

(Reference: Report by Executive Director with responsibility for Development and Economic Growth dated 7 September 2023 and Revised Argyll and Bute Short-term Let Licensing Policy, submitted)

Councillor Paul Kennedy left the meeting during consideration of the foregoing item.

12. IMPLICATIONS OF THE INTRODUCTION OF THE FIREWORKS AND PYROTECHNIC ARTICLES (SCOTLAND) ACT 2022 WITH RESPECT TO FIREWORK CONTROL ZONES

Part 6 of the Fireworks and Pyrotechnic Articles (Scotland) Act 2022 was brought into force on 22 June 2023. This part of the Act confers discretionary powers on local

authorities to designate a place within their area as a Firework Control Zone (FCZ) and make provision as to how these powers are to be exercised.

A report setting out the changes to existing legislation, and the new discretionary powers available to the Council, was considered.

Decision

The Committee agreed:

1. to note the provisions of the Fireworks and Pyrotechnic Articles (Scotland) Act 2022 and particularly the matter of Firework Control Zones;
2. that there was, currently, no requirement to designate any area as a Firework Control Zone; and
3. that Officers would look at establishing a portal with supporting information for “Community Requests” for a Firework Control Zone as set out in paragraph 4.10 of the report.

(Reference: Report by Executive Director with responsibility for Legal and Regulatory Support dated 18 August 2023, submitted)

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

A report advising that the review of scales for taxi fares and other charges had now concluded and the fares fixed with effect from 22 October 2023 was before the Committee for information.

Decision

The Committee noted the report and that a further review of the taxi fares would take place within 18 months of 22 October 2023 as required in terms of Section 17 of the Act.

(Reference: Report by Executive Director with responsibility for Legal and Regulatory Support dated 20 September 2023, submitted)