

Public Document Pack

Argyll and Bute Council

Comhairle Earra-Ghàidheal Agus Bhòid

Executive Director: Douglas Hendry



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13 September 2023

NOTICE OF MEETING

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held **BY MICROSOFT TEAMS** on **WEDNESDAY, 20 SEPTEMBER 2023** at **10:30 AM**, which you are requested to attend.

Douglas Hendry
Executive Director

BUSINESS

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST**
3. **MINUTES**
 - (a) Planning, Protective Services and Licensing Committee held on 23 August 2023 at 11.00 am (Pages 5 - 10)
 - (b) Planning, Protective Services and Licensing Committee held on 23 August 2023 at 2.00 pm (Pages 11 - 12)
 - (c) Planning, Protective Services and Licensing Committee held on 23 August 2023 at 2.45 pm (Pages 13 - 16)
 - (d) Planning, Protective Services and Licensing Committee held on 29 August 2023 (Pages 17 - 18)
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)** (Pages 19 - 60)

Report by Head of Development and Economic Growth
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)** (Pages 61 - 100)

Report by Head of Development and Economic Growth

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)** (Pages 101 - 108)

Report by Head of Development and Economic Growth

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)** (Pages 109 - 116)

Report by Head of Development and Economic Growth

8. **PLANNING POLICY RESPONSE TO ARGYLL AND BUTE'S DECLARED HOUSING EMERGENCY** (Pages 117 - 126)

Report by Executive Director with responsibility for Development and Economic Growth

9. **OCCUPATIONAL HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2023-2025** (Pages 127 - 140)

Report by Executive Director with responsibility for Development and Economic Growth

10. **ANIMAL HEALTH & WELFARE WORK PLAN 2023/25** (Pages 141 - 158)

Report by Executive Director with responsibility for Development and Economic Growth

- * 11. **REVIEW OF ARGYLL AND BUTE COUNCIL'S SHORT-TERM LET LICENSING POLICY** (Pages 159 - 202)

Report by Executive Director with responsibility for Development and Economic Growth

12. **IMPLICATIONS OF THE INTRODUCTION OF THE FIREWORKS AND PYROTECHNIC ARTICLES (SCOTLAND) ACT 2022 WITH RESPECT TO FIREWORK CONTROL ZONES** (Pages 203 - 208)

Report by Executive Director with responsibility for Legal and Regulatory Support
REPORT FOR NOTING

13. **CIVIC GOVERNMENT (SCOTLAND) ACT 1982: TAXI FARE SCALE REVIEW** (Pages 209 - 212)

Report by Executive Director with responsibility for Legal and Regulatory Support

Items marked with an "asterisk" are items, on the basis of information available at the time this Agenda is published, on which the Committee may not have delegated powers to act, and which may therefore require to be referred to the Council or another Committee, and that referral may depend on the decision reached at the meeting.

Planning, Protective Services and Licensing Committee

Councillor John Armour
Councillor Jan Brown
Councillor Kieron Green (Chair)
Councillor Daniel Hampsey

Councillor Gordon Blair
Councillor Audrey Forrest
Councillor Amanda Hampsey (Vice-Chair)
Councillor Graham Hardie

Councillor Mark Irvine
Councillor Paul Donald Kennedy
Councillor Luna Martin
Councillor Peter Wallace

Councillor Andrew Kain
Councillor Liz McCabe
Councillor Dougie Philand

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held BY MICROSOFT TEAMS on WEDNESDAY, 23 AUGUST 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 Amanda Hampsey	Councillor Luna Martin
Councillor Graham Hardie	Councillor Peter Wallace
Councillor Mark Irvine	

Attending: Stuart McLean, Committee Manager
Peter Bain, Development Manager
Sandra Davies, Major Applications Team Leader
Bryn Bowker, Area Team Leader – Mid Argyll, Kintyre and the Islands
Stephanie Wade, Senior Planning Officer
Sybil Johnson, Senior Planning and & Strategies Officer
Sheila MacFadyen, Senior Solicitor

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Audrey Forrest, Daniel Hampsey and Dougie Philand.

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 21 June 2023 was approved as a correct record.
- b) The Minute of the Planning, Protective Services and Licensing Committee held on 28 June 2023 at 2.00 pm was approved as a correct record.
- c) The Minute of the Planning, Protective Services and Licensing Committee held on 28 June 2023 at 2.30 pm was approved as a correct record.
- d) The Minute of the Planning, Protective Services and Licensing Committee held on 28 June 2023 at 3.00 pm was approved as a correct record.

4. PROTECTION OF CHILDREN AT WORK - EMPLOYMENT OF CHILDREN BYELAWS

Argyll and Bute Council made byelaws on 14 August 2002 in relation to the employment of children at work. These byelaws were confirmed by the Scottish Executive on 24 June 2003 and came into force on 29 August 2003. In terms of Section 201 of the Local Government (Scotland) Act 1973, byelaws require to be renewed not later than 10 years from coming into force. The byelaws were last reviewed in May 2013 and were before the Committee for consideration.

Decision

The Committee agreed that no change be made to the current byelaws at this time.

(Reference: Report by Executive Director with responsibility for Legal and Regulatory Support dated 9 August 2023, submitted)

* **5. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: SHORT-TERM LETS LICENSING POLICY HEARING PROCEDURE**

Consideration was given to a report proposing amendments to Argyll and Bute Council's current Short-term Lets Policy Hearing Procedure.

Decision

The Committee:-

1. considered the content of this report; and
2. agreed to recommend to Council approval of the proposed revisals to Argyll and Bute Council's Short-term Lets Policy Hearing Procedure as set out in Appendix 1 of the report.

(Reference: Report by Executive Director with responsibility for Legal and Regulatory Support dated 4 August 2023, submitted)

6. MR & MRS D KELLY: DEMOLITION OF EXISTING CONSERVATORY, ERECTION OF REAR EXTENSION, ERECTION OF FRONT PORCH AND ALTERATIONS TO PRINCIPAL ELEVATION: STRATHMORE, DRUMLEMBLE, CAMPBELTOWN (REF: 23/01069/PP)

The Area Team Leader spoke to the terms of the report. This application was before the Committee as the Applicant was an elected Member of the Council. Planning permission is sought for the erection of a front porch, the demolition of an existing rear conservatory and the erection of a single storey rear extension. It is also proposed to extend the lounge area to the front of the detached property.

The proposal is considered to be consistent with the relevant provisions of the Development Plan, and there are no other material considerations of sufficient significance to indicate that it would be appropriate to withhold planning permission.

It was recommended that planning permission be granted subject to one standard condition and reason as detailed in the report of handling.

Decision

1. The Committee agreed to grant planning permission subject to the following condition and reason:

PP - Approved Details & Standard Notes – Non EIA Development

The development shall be implemented in accordance with the details specified on the application form dated 31.05.23; 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
Existing Location Plan/elevations/floor plan	Kelly-21/100-01	REV A	01.06.23
Proposed site plan/elevations/floor plan	Kelly-21/100-02	REV A	01.06.23

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

(Reference: Report by Head of Development and Economic Growth dated 4 August 2023, submitted)

7. SAULMORE BAY RESORT LTD: PROPOSAL OF APPLICATION NOTICE FOR MARINA; BOATYARD (INCLUDING ANCILLARY OFFICES (CLASS 4) AND STORE (CLASS 6)); LEISURE RESORT (INCLUDING BUILDINGS FOR LEISURE USE (CLASS 11), RETAIL (CLASS 1) AND RESTAURANT/CAFE (CLASS 3)); HOLIDAY LODGES (SUI GENERIS); AND OTHER HOLIDAY ACCOMMODATION TYPES (SUI GENERIS); NEW ROADS, WALKWAYS/CYCLEWAYS; AND RELATED DRAINAGE AND OTHER INFRASTRUCTURE: CAMUS BRUAICH, RUAIDHE, CONNEL (REF: 23/01040/PAN)

The Senior Planning Officer spoke to the terms of the report. The site of the proposed development which is subject to the Proposal of Application Notice (PAN) is located within open countryside adjacent to the western settlement boundary of Connel and to the north of the A85, around Camus Bruaich Bay (Loch Etive).

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 with no further feedback being provided.

(Reference: Report by Head of Development and Economic Growth dated 8 August 2023, submitted)

8. INTELLIGENT LAND INVESTMENTS: PROPOSAL OF APPLICATION NOTICE FOR PROPOSED PUMPED STORAGE HYDRO SCHEME: LAND EAST OF BALLIEMEANOCH, DALMALLY (REF: 23/01212/PAN)

The Senior Planning Officer spoke to the terms of the report. The development which is subject to the Proposal of Application Notice (PAN) is of a scale which will be an application to the Scottish Ministers under the Electricity Act 1989. Therefore the submission of this PAN is voluntary and no public events are required under the provisions of the Act. This may form the basis of subsequent application to Scottish Ministers and Argyll and Bute Council will be a consultee on the application.

The proposal comprises a Pumped Storage Hydro Electric Scheme close to Lochan Airigh approximately 4.4 km to the south of the village of Portsonachan and 9 km north west of Inveraray. The site is located within the North Argyll Area of Panoramic Quality as defined in the Local Development Plan and would be located around 13 km to the south of the Loch Etive Mountains Wild Land Area and around 9 km to the west of Ben Lui Wild Land area as identified by NatureScot.

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 with no further feedback being provided.

(Reference: Report by Head of Development and Economic Growth dated 8 August 2023, submitted)

9. SCOTTISH GOVERNMENT CONSULTATION: EFFECTIVE COMMUNITY ENGAGEMENT IN LOCAL DEVELOPMENT PLANNING GUIDANCE

A report advising the Committee of the Scottish Government consultation on Effective Community Engagement in Local Development Planning Guidance and seeking approval for the proposed response to this consultation was before the Committee for consideration.

Decision

The Committee agreed to:-

1. note this report and the implications of the proposed guidance for the planning service and the wider council; and
2. approve the proposed response to the consultation to the Scottish Government set out in Appendix 1 of the report.

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

10. DEVELOPMENT MANAGEMENT PERFORMANCE UPDATE - FQ1 2023/24

A report providing an update on the performance of the Development Management Service for the reporting period FQ1 2023/24 was considered.

The document attached at Appendix 1 of the report provides an overview of the current demands upon the Development Management Service, its output during this period, the handling of the current backlog of casework, and the average time taken to determine planning applications.

Decision

The Committee considered and noted the content of the report.

(Reference: Report by Executive Director with responsibility for Development and Economic Growth dated 9 August 2023, submitted)

11. UPDATE ON RECENT SCOTTISH MINISTERS SECTION 36 WIND FARM DECISION

A report summarising the recent decision by Scottish Ministers to refuse section 36 consent and deemed planning permission for Sheirdrim Renewable Energy Development 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 19 July 2023, submitted)

12. PLANNING PERFORMANCE FRAMEWORK 2022/23

A report introducing the 2022/23 Planning Performance Report Framework (PPF) Annual report as required by the Scottish Government Planning Reform Agenda was before the Committee for information.

Decision

The Committee noted:

1. the content of the Planning Performance Framework 2022/23; and
2. that an update report would be submitted detailing Scottish Government feedback at the appropriate time later in 2023/24.

(Reference: Report by Executive Director with responsibility for Development and Economic Growth dated 8 August 2023 and Planning Performance Framework 2022/23, submitted)

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held BY MICROSOFT TEAMS on WEDNESDAY, 23 AUGUST 2023**

Present: Councillor Kieron Green (Chair)

Councillor John Armour	Councillor Mark Irvine
Councillor Gordon Blair	Councillor Andrew Kain
Councillor Jan Brown	Councillor Liz McCabe
Councillor Amanda Hampsey	Councillor Luna Martin
Councillor Graham Hardie	Councillor Peter Wallace

Attending: Stuart McLean, Committee Manager
Fiona Macdonald, Solicitor
William Currie, Applicant

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Audrey Forrest, Daniel Hampsey, Paul Kennedy and Dougie Philand.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF TAXI CAR LICENCE (CURRIE TAXIS, ALEXANDRIA)

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

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

APPLICANT

Mr Currie advised that he has been driving taxis in the Helensburgh area for 4 years in someone else's car. The contract is a 50:50 split with 50% of everything he earns going to the owner of the car. He said that he understood that the car owner had no plans to replace him as a taxi driver so in theory the taxi fleet would be down one car before he started out on his own.

Mr Currie advised that he knew Helensburgh well and that he enjoyed working there and got on well with his customers. He said that he would like the security of having his own taxi plate and car.

MEMBERS' QUESTIONS

Councillor Green asked Mr Currie if he knew if the person that owned the car he currently drove would be surrendering his taxi plate. Mr Currie said he did not think so. He

explained that the owner held his own taxi licence so could drive the car if he wanted to. He advised that the owner had other full time employment but may retire from that job and work as a taxi driver at that point.

Councillor Green sought and received confirmation from the Council's Solicitor, Ms Macdonald, that there were currently 46 taxi cars in the Helensburgh and Lomond area compared to 48 when the LVSA survey was carried out.

Mr Currie referred to demand for taxis at the weekend and commented that 46 taxis were never out at the same time. He advised that his customers complained that it was difficult to get taxis at certain times. He advised that having worked in Helensburgh for 4 years he knew when the busy and quiet times were. He said that he tended to work at night when people found it difficult to get a taxi. He said there were only so many taxis from the Trident Office, where he currently worked, that came out at night.

Councillor Hardie sought and received confirmation from Mr Currie that he believed there was a lack of taxis in the town at certain times. He said it tended to be quieter during the week, during the day. He advised that there tended to be more taxis available during the day compared to at night as there were limited drivers working at night. He said that it was very difficult to get a taxi after 1 or 2 am as most taxis stopped at that time when the licenced premises closed.

SUMMING UP

Applicant

Mr Currie said it was his intention that this would be full time employment for him and that he planned to work 6 or 7 nights per week as opposed to others that only worked 2 or 3 nights per week. He said that he knew when the busy times were and that he would make himself available at those times. He said he would like to do this, not only to make money, but to provide a service to the public.

Mr Currie confirmed that he had received a fair hearing.

DEBATE

Councillor Green referred to the number of taxis in the Helensburgh and Lomond area being less than when the LVSA survey was carried out and that to his mind that would indicate that he would be in favour of granting this licence as there appeared to still be demand there.

Councillor Blair agreed. He commented that Mr Currie had been working for 4 years and knew the area well and he hoped that he would provide an excellent service to his customers.

DECISION

The Committee unanimously agreed to grant a Taxi Car Licence to Mr Currie and noted that he would receive written confirmation of this within 7 days.

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

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held BY MICROSOFT TEAMS on WEDNESDAY, 23 AUGUST 2023**

Present: Councillor Kieron Green (Chair)

Councillor John Armour	Councillor Mark Irvine
Councillor Gordon Blair	Councillor Andrew Kain
Councillor Jan Brown	Councillor Liz McCabe
Councillor Amanda Hampsey	Councillor Luna Martin
Councillor Graham Hardie	Councillor Peter Wallace

Attending: Stuart McLean, Committee Manager
Fiona Macdonald, Solicitor
Applicant
Sergeant David Holmes, Police Scotland

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Audrey Forrest, Daniel Hampsey, Paul Kennedy and Dougie Philand.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

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

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

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

Police Scotland also opted to proceed by way of audio call and Sergeant David Holmes joined the meeting by telephone.

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

APPLICANT

The Applicant spoke in support of his application.

QUESTIONS FROM POLICE SCOTLAND

Sergeant Holmes was given the opportunity to ask the Applicant questions. He confirmed he had no questions.

POLICE SCOTLAND

Sergeant Holmes spoke in support of the Chief Constable's objection.

QUESTIONS FROM APPLICANT

The Applicant was given the opportunity to ask Police Scotland questions.

MEMBERS' QUESTIONS

The Members were given the opportunity to ask the Applicant and Police Scotland questions.

SUMMING UP

Police Scotland

Sergeant Holmes advised that he had nothing further to add.

Applicant

The Applicant advised that he had nothing further to add.

When asked, both parties confirmed that they had received a fair hearing.

DEBATE

The Members debated the application for a Street Trader Licence.

Motion

To agree to refuse the application for a Street Trader's Licence on the grounds that the Applicant was not a fit and proper person to be the holder of the Licence.

Moved by Councillor Kieron Green, seconded by Councillor Graham Hardie.

Amendment

To agree to continue consideration of this application until the conclusion of the pending court case on 9 October 2023 and to bring the matter back to the PPSL Committee on 18 October 2023.

Moved by Councillor John Armour, seconded by Councillor Gordon Blair

A vote was taken by calling the roll.

Motion

Councillor Green
Councillor A Hampsey
Councillor Hardie
Councillor Irvine
Councillor Kain
Councillor McCabe
Councillor Martin
Councillor Wallace

Amendment

Councillor Armour
Councillor Blair
Councillor Brown

The Motion was carried by 8 votes to 3 and the Committee resolved accordingly.

DECISION

The Committee agreed to refuse the application for grant of a Street Trader's Licence on the grounds that the Applicant was not a fit and proper person to be the holder of the Licence and noted that the Applicant would receive written confirmation of this decision within 7 days.

(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 ON A HYBRID BASIS IN THE COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD AND BY
MICROSOFT TEAMS on TUESDAY, 29 AUGUST 2023**

Present: Councillor Kieron Green (Chair)

Councillor John Armour	Councillor Andrew Kain
Councillor Gordon Blair	Councillor Liz McCabe
Councillor Jan Brown	Councillor Douglas Philand
Councillor Graham Hardie	Councillor Peter Wallace

Attending: Iain Jackson, Governance, Risk and Safety Manager
Peter Bain, Development Manager - Planning
Sandra Davies, Major Applications Team Leader - Planning
Stephen MacIntyre, MOWI – Applicant
Ben Hadfield, MOWI – Applicant
Philip Gillibrand, MOWI – Applicant
Lorraine Holdstock, Marine & Coastal Development Policy Officer – Consultee
Elaine Whyte, Clyde Fishermen’s Association – Consultee
Tavish Scott, Salmon Scotland – Supporter
Derek Keir, Camanachd Association – Supporter
Roddy McCuish, Camanachd Association – Supporter
Warren Harvey – Supporter
Craig Graham, Gael Force Group – Supporter
John Ford, Objector
Harry Nickerson, Cour Ltd - Objector
Rachel Mulrenan, Wildfish Scotland – Objector

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Audrey Forrest, Daniel Hampsey, Mark Irvine and Paul Kennedy.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. MOWI SCOTLAND LTD: FORMATION OF FISH FARM (ATLANTIC SALMON) INCORPORATING TWELVE 120M CIRCUMFERENCE CIRCULAR CAGES AND SITING OF FEED BARGE: NORTH KILBRANNAN FISH FARM, NORTH OF COUR BAY, KILBRANNAN SOUND, EAST KINTYRE (REF: 20/01345/MFF)

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.

Before proceeding further, the Chair addressed a preliminary matter and invited Planning to speak to the contents of supplementary report number 3 issued on 28 August 2023.

The Major Applications Team Leader referred to supplementary report number 3 and, in particular, to a communication from NatureScot which Planning Officers believed was a

material consideration in the determination of this application. It is considered that the proposal may have likely significant effects on the Atlantic Salmon Qualifying Interests of the Endrick Water Special Area of Conservation (SAC). This is a European site and the competent authority, in this case, Argyll and Bute Council, must undertake an Appropriate Assessment. This has been carried out and is contained as an Appendix to the main planning report. The conclusions of this Appropriate Assessment have been formed based upon the advice of NatureScot. However, yesterday morning Officers received a letter from NatureScot advising that they were aware of new information which may change the advice that Planning Officers have been given. A competent authority cannot approve planning applications unless it is shown beyond reasonable scientific doubt through an Appropriate Assessment that the proposal would not adversely affect the integrity of a European site. If Members were to proceed to determine this application on the basis of the existing Appropriate Assessment it could result in a legal challenge. It is understood that NatureScot should be in a position to respond within the normal statutory timeframe of 20 working days. Officers are aware that Members of the Committee have been copied into a letter from MOWI but the contents of this letter do not change the revised recommendation set out in supplementary report number 3 to adjourn the hearing to allow NatureScot time to respond and to allow the Planning Authority to consider if this changes the Appropriate Assessment.

DECISION

The Committee agreed not to commence with the Hearing today and that it be adjourned to allow time for NatureScot to update their advice to the Planning Authority in light of the new information received.

(Reference: Report by Head of Development and Economic Growth dated 12 May 2023, supplementary reports 1 dated and 2 dated 23 May 2023 and supplementary report number 3 dated 28 August 2023, submitted)

Argyll and Bute Council
Development & Economic Growth

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: 21/01583/PP
Planning Hierarchy: Local
Applicant: Mr Shaun Sinclair
Proposal: Erection of Café with Associated Landscaping including a Viewpoint, Seating, Interpretive Sign and Play Park
Site Address: Land West of Inverlusragan, Connel

DECISION ROUTE

- Delegated - Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997
- Committee - Local Government Scotland Act 1973
-

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of café building with incidental 'drive-thru' takeaway
- Installation of viewpoint
- Installation of seating
- Installation of interpretive sign
- Installation of private drainage system

(ii) Other specified operations

- Formation of vehicular access
 - Connection to public water infrastructure
 - Proposed landscaping
-

(B) RECOMMENDATION:

It is recommended that planning permission be **REFUSED** for the reasons appended to this report.

(C) CONSULTATIONS:

Transport Scotland

Finalised response dated 13/01/23 advising no objection to the proposed development subject to conditions being imposed on the grant of permission to

secure the appropriate construction of the access at the junction with the Trunk Road and the clearance of the associated visibility splays.

Argyll and Bute Council – Roads Authority

Report dated 16/11/21 advising no objection to the proposed development subject to a condition being imposed on the grant of permission to secure a suitable parking and turning area to serve the development.

Argyll and Bute Council – Environmental Health Service (EHS)

Memo dated 17/02/23 advising no objection to the proposed development subject to conditions being imposed on the grant of permission to secure a site traffic management plan for the development, a noise limiting condition, and a condition to regarding the specification for external lighting.

Argyll and Bute Council – Biodiversity Officer (BDO)

Letter dated 08/06/22 requesting the submission of an Otter Survey and Ornithological Survey in support of the proposed development. Such surveys were undertaken and submitted for consideration. In an e-mail dated 02/08/22 the BDO noted the contents of the reports including taking account of seasonality concerning ornithological interest along with advice and mitigation for Otter and Bat species. The BDO concurred with the recommendations to protect and enhance habitats and species such pre-start checks for bird species, the provision of bat boxes and landscaping with native trees and shrubs. The BDO advised that, if permission is granted, planting of Ash- *Fraxinus excelsior* should be avoided due to Ash Die Back being present in the area and the difficulty in purchasing this species. The BDO noted that Japanese Knotweed is evident and accordingly requests that a watching brief is undertaken for the site.

A further Otter and Breeding Bird Assessment, separate from that originally prepared for the site, by another firm, was submitted to the Planning Authority. In her response to the further report, the BDO noted the contents, advising that the survey was carried out on 1st December, outwith the optimum time of year, whereas the original ecological report surveys were carried out over a 4 day period in early July. The BDO noted that the conclusions of the report are not unexpected and the recommendations follow best practice including additional advice on the contribution landscape planning (both planting and bird boxes) and implementation can make to provide habitat for a variety of species. The BDO recommended that both ecological reports (July and January) are implemented in combination should planning permission be granted.

Argyll and Bute Council – Development Policy Team (DPT)

Memo dated 14/01/22 advising that in terms of the adopted LDP Proposals Maps the site is situated within an Open Space Protection Area (OSPA) which provides visual amenity functions by helping preserve the open aspect on the seaward side of the A85 and with it, public views across Loch Etive.

Policy SG LDP REC/COM 2 sets out that the development of OSPAs will not be permitted except where one of the five clauses set out in the policy are met. The DPT advise that they do not consider that the proposal satisfies any of the five clauses and as such the proposal is considered to be contrary to Policy SG LDP REC/COM 2.

The DPT further state that the OSPA has been carried forward into pLDP2, which was not objected to.

In light of the comments from the DPT, the Agent submitted a report on the OSPA which is discussed in more detail in the assessment of the application at Appendix A where the further comments of the DPT in a memo dated 25/05/22 are detailed.

Scottish Water

Letter dated 16/11/21 advising no objection to the proposed development which would be serviced from the Tullich Water Treatment Works. Scottish Water do however advise that further investigations may be required once an application for formal connection is submitted to them for consideration.

JBA Consulting Ltd (JBA)

Report dated 01/12/21 advising no objection to the proposed development.

Connel Community Council (CCC)

Letter dated 01/12/21 advising, in summary, that the Local Development Plan (LDP) allocates the site as an Open Space Protection Area and any decision to reverse this for financial benefit of an individual landowner is not one that should be made. If the application is successful, it would seriously undermine the LDP going forward. The rules relating to these areas are set out in the LDP and there is nothing in the application, in the opinion of the CCC, that remotely meets the criteria that would enable the development to be supported.

(D) HISTORY:

03/01550/DET

Construction of new pumping station, septicity building, access road and ancillary works (SPS 2) – Withdrawn: 31/12/03

(E) PUBLICITY:

The proposal has been advertised in terms of Regulation 20 and Neighbour Notification procedures, overall closing date 16/12/01.

(F) REPRESENTATIONS:

At the time of writing, representations have been received by the Planning Authority from 165 respondents in relation to this planning application. 44 respondents raise objection, 120 provide support and 1 submits a representation.

Of the 120 expressions of support, 51 of these comprise a pro-forma letter completed with the respondents names and addresses with 66 comprising a pro-forma slip submitted to the Applicant during a Community Council Meeting held on 09/05/22 and then passed to the Planning Authority.

In addition to the above, a screenshot from Facebook with names and 'likes' for the development on the Applicant's personal Facebook page has been submitted.

The names and addresses of those contributing to the application are contained within Appendix B of this report with full copies of the representations published on the planning application file available to view via the [Public Access](#) section of the Council's website.

(i) **Summary of issues raised – Objection**

Validity of Application

- Comments regarding the validity of the planning application in relation to the Heads of Planning Scotland (HOPS) – Validation Guidance Note (the submission provides extracts from the HOPS guidance along with correspondence from various Scottish Public Services Ombudsman cases in support of the comments provided).

Officer Comment: *With regards to the above, it should be noted that the HOPS National Validation Standards document is an advisory as opposed to a statutory requirement in the validation of planning applications. The HOPS document is endorsed by the Council as Planning Authority as an example of good practice and published on the Council's website to assist prospective applicants on the preparation of their planning applications, and is utilised to inform the standards sought by the Central Validation Team when registering new applications.*

The content of the HOPS document is, however, provided as guidance to assist applicants with the preparation of documentation that first and foremost meets minimum Regulatory requirements, but also provides that information within a consistent format to assist the Council with the processing of the application, it is noted that the HOPS guidance promotes an enhanced level of information that exceeds minimum Regulatory standards. The HOPS document is advisory and accordingly is applied at the sole discretion of the Council as Planning Authority in its validation of applications submitted for consideration.

Notwithstanding the above, it is considered that the information supplied with the application and subsequently assessed by the Planning Authority is sufficient in its scope, detail and accuracy so as to present an appropriately clear description of the development proposed without being wilfully misleading or ambiguous.

Compliance with National and Local Policy

- The proposal conflicts with NPF4 and LDP Policies

Officer Comment: *The proposal is fully assessed against the relevant NPF4 and LDP Policies in the assessment contained within Appendix A of this report. It is recommended that planning permission be refused.*

Open Space Protection Area (OSPA)

- The village of Connel's character and amenity is significantly enhanced by its visual relationship with both the sea and also, importantly, with Connel Bridge which is reflected in the designation of the site in the Local Development Plan as an OSPA, put in place to protect the character of Connel and provide both amenity space and protection of vistas from the village to both the sea and the bridge for residents and visitors.

- The Community Council worked hard to ensure that all of the undeveloped shoreline between the main road and sea, including the application site, was covered by the OSPA designation.
- The proposed development will be highly visible from the northern end of Connel Bridge and also highly visible from the water of Loch Etive under Connel Bridge, Connel Bridge and the North Connel/Bonawe road.
- The application should be carefully considered, as, should permission be granted, it will set a precedent for future development within the OSPA and other OSPAs.
- The loss of the OSPA to the proposed development will have a profound impact on the character of Connel and its appeal as a place to live and for tourists.
- Policies contained within the Local Plan, specifically Policy LDP 8 and Policy SG LDP REC/COM 2 preclude the development of OSPAs.

Officer Comment: *The proposed development, and its impact on the OSPA, is fully considered in the assessment of the application within Appendix A of this report. It is recommended that planning permission be refused.*

Critiquing the Agents Report on the OSPA

- The stretch of shoreline to the West of Connel Bridge is not the only area of shoreline of active open space as indicated in the report. The wooded area of shoreline to the east of Connel Bridge, between the site and Connel Surgery and the foreshore of the application site are already used by the community and tourists alike for walking, fishing, observing wildlife, watersports, dog walking, and photography. Contrary to the report, the wooded foreshore is very accessible and, contrary to the report, there is a very accessible access road to the foreshore from the main road to the east of the site.
- There are significant concerns regarding the proposed playpark being located within the site with young children having to cross the main A85 trunk road. The play park is situated near the Lusragan Burn estuary with a steep embankment beside a tidal loch with strong currents, tidal surges and flooding which will potentially lead to drowning fatalities.

The existing playpark at Powell Place is available to all children in Connel and can be accessed via a safe pedestrian route away from the A85. The proposed playpark cannot be compared the existing one at Powell Place.

- Connel already has numerous options available for the community to gather. Permission has been granted to the Applicant for a café; there is the community playing field at Achaleven, the Village and Church Halls. There are also outdoor and indoor eating facilities at the Oyster Inn and Falls of Lora Hotel. The Connel Surgery has a community café with disabled access and extensive parking with Connel Village Shop providing a takeaway food and drink service.

- The report highlights the advantages of siting the café to the east of the site, however, it does not highlight that there will be a prominent car-park and vehicles affecting the visual amenity from the west, particularly at the higher part of the A85, at Connel village loop road junction.
- Visual amenity does not just apply to views merely from the A85, there are other important viewpoints that need to be considered in this application. It is crucial to consider the wider panoramic views to Muchairn, Ben Cruachan and the Kilmaronaig Islands, which will be adversely affected by elevated views into the site.
- Contrary to the report, there are no existing buildings adjacent to the west of the site until you reach Connel Surgery and the doctor's house. The site is not an infill opportunity as set out in the report.
- Any mention of EPS in the report is conspicuous by its absence as is any mention of mitigating measures to protect the bats, herons, seals, herring gulls and shags from the detrimental effects of traffic noise, light pollution and other associated café/car park disturbances.

The area is well known for Otter, video evidence of which has previously been submitted, furthermore, there are nesting swans adjacent to the site and bats are in abundance using the site as a feeding ground. The engineering and landscaping works will adversely affect the river bank and loch shore line with light pollution and vehicle noise impact on this sensitive biodiversity site.

Officer Comment: *This critique of the report on the OSPA submitted by the Agent is noted by the Planning Authority. The proposed development, and its impact on the OSPA, is fully considered within Appendix A of this report. It is recommended that planning permission be refused.*

History of Shoreside Planning Applications

- The issue of development on the shore side of the A85 has already been the subject of previous planning applications as follows.

05/00697/DET, 05/00698/DET and 05/00699/DET for three dwellinghouses between the application site and Connel Surgery were refused at appeal (non-determination) on 22/09/05

In their determination to the three dwellinghouses, the Scottish Government appointed Report recommended that the south shore of Connel with views from North Connel, Connel Bridge, from leisure boats and water sports enthusiasts in the loch should also be protected, by way of an OSPA designation in the up and coming Local Plan at that time. This recommendation was supported by Argyll and Bute Council, Connel Community Council, Visit Scotland and many Connel residents.

Argyll and Bute Council Planning recommendation to the Report was that 'the proposal would if approved set a precedent for further development on this rural strip which the Council would find difficult to refuse'. The Council should adhere to their previous permission and preserve and

protect the natural wildlife and scent environment by keeping it as an OSPA and refusing planning permission.

05/00523/OUT and 11/00536/PPP for the site for erection of a dwellinghouse on land opposite Ards Guest House were withdrawn on 20/06/06 and 10/11/11 respectively.

Officer Comment: *These comments are noted by the Planning Authority as an accurate summary of the relevant planning history. It is recommended that planning permission be refused.*

Impact on Wildlife, Biodiversity and Habitats

- The application site is extensively used by local wildlife including otter, water vole, bats and many different bird species, some of these being European Protected Species (EPS).
- The proposed development will have a significant adverse impact on the species detailed above as well as the wider biodiversity of the site.
- No independent Environmental Impact Assessment has been carried out in relation to the application and accordingly a video survey was submitted by third parties.
- Concerns regarding the validity of the Ecological Reports submitted in support of the application.
- The so called 'Environmental Survey' is not, as it claims, an Environmental Impact Assessment (EIA).
- The impact of the development on the tree and hedgerow on the eastern boundary of the site has not been addressed.

Officer Comment: *Two separate Otter and Breeding Bird Surveys have been submitted in support of the application, details of which have been considered by the BDO and which are discussed in more detail in the assessment of the proposal in the full report within Appendix A of this report.*

The reports have been prepared by suitably qualified ecologists and the Planning Authority has no reason to doubt their validity.

The application does not constitute EIA development requiring the submission of an Environmental Impact Assessment.

As the Planning Authority is not supporting the principle of the proposed development, details of landscaping, hedgerow retention/protection and biodiversity enhancement measures were not sought. Should permission be granted, such details could be secured by a suitably worded condition imposed on the grant of permission.

Existing Use of Site

- The details provided in the planning application are erroneous, the area of ground has not had grazing animals on it for approximately 5 years.

Officer Comment: *This comment is noted by the Planning Authority.*

Existing Planning Permission/Alternative Sites

- Permission for a café in the village has already been granted and therefore there is no need to intrude on the valuable OSPA.
- It is puzzling why the Applicant is applying for planning permission for this site when permission has already been granted for a café elsewhere in the village.
- There are less obtrusive and damaging sites available.

Officer Comment: *Whilst these comments are noted by the Planning Authority, every planning application is considered on its own merits. The application is assessed in full in Appendix A of this report.*

Flood Risk

- The site is at risk of flooding and therefore the development if approved will be at risk of flooding.

Officer Comment: *The application site is outwith the coastal and river flood zones necessitating consultation with SEPA. In their response to the application, the Council's flood advisors, JBA Consulting Ltd, raised no objection.*

Road and Pedestrian Safety Issues

- The access will affect the site's flooding and visual impact, with illustrations submitted by third parties showing the impact.
- Over the years, traffic in the village has become heavier, with a further access onto the road, there is the potential of accidents happening, perhaps fatal.
- The road network is unable to cope with the increased demand in Connel, North Connel and Oban.
- The building of a play park, on the opposite site of a busy main road, without a crossing point, would encourage children to cross the road unsupervised.
- This stretch of road is increasingly being used to overtake slower vehicles despite the 30mph signs being in place.
- The Applicant is applying for a 'departure' from Transport Scotland regarding access specifications. If there are to be shoreline defences, re-contouring or natural coastline features and/or landraising Are these all yet more acceptable 'departures' from planning policy that can be justified in an OSPA.

- A further junction onto the A85 could be very hazardous.
- The development will require a seawall of some form with railings for safety and an assessment will have to be made as to how these measures will affect the flood risk elsewhere.
- The drive thru element will likely increase the use of private car trips to the site.
- The proposal makes no provision for low or zero-emission vehicle and cycle charging points and there is no safe, secure and convenience cycle parking to meet the needs of users.
- The layout has not been designed in a way to incorporate safety measures for safe crossing/walking/wheeling within the site.
- The drive through aspect of the development will not make good use of the site with customers sitting in their cars instead of using the space effectively.
- Car engines idling, releasing carbon, is not environmentally friendly given the current emphasis and focus being placed on climate change.

Officer Comment: *The Agent has worked closely with Transport Scotland to agree a suitable access regime to serve the proposed development and has agreed a regime that does not raise any road or pedestrian safety issues.*

With regards to pedestrian safety relating to the play park, the Planning Authority sought comments from Transport Scotland who advised that:

“The associated viewpoint with play area would appear to be of a small scale. Consequently, while it may be the intention to allow its use by the wider community, it is more likely to be used by the children of visiting patrons of the proposed development. We are also aware that there is existing development on the same side of this 30mph section of A85 trunk road such as the Connel Surgery and Pharmacy and Achaleven Primary School.

Based on the above, and having discussed this matter further internally, we do not have any specific road and pedestrian safety concerns with this aspect of the proposal”.

The Council’s EHS advised that, should permission be granted, a condition be imposed to secure a site traffic management plan for the proposed development.

With regards to the drive through aspect of the development, this is an ancillary part of the main development which is a sit in café facility.

As the Planning Authority is not supporting the principle of the proposed development, details of cycle parking etc. were not sought. Should permission be granted, such details could be secured by a suitably worded condition imposed on the grant of permission.

Noise/Odour

- The proposed development will result in a substantial increase in noise to the detriment of residential properties.
- No details of the proposed kitchen ventilation has been provided, this could have an adverse impact on the neighbouring dwellinghouse.

Officer Comment: *The Council's EHS raised no objection to the proposed development subject to a noise limiting condition and a condition to regarding the specification for external lighting being imposed on any permission granted. The EHS will deal directly with the Applicant regarding the kitchen specification should permission be granted.*

Public Gathering

- The Applicant organised a gathering of people to discuss the planning application, however, the opinions voiced at this gathering reported in the press are not representative of the village of Connel. For example, the press article and the gathering failed to mention that the Applicant already had planning permission for a café elsewhere in the village.

Officer Comment: *Whilst this comment is noted by the Planning Authority, this public gathering was not part of the planning process relating to the planning application.*

General

- The proposed café would have an adverse impact on the viability of the local shop.
- Access to the foreshore must not be restricted by the proposed development should it proceed.
- The proposed development will undermine the neighbouring land

Officer Comment: *Business competition is not a material planning consideration.*

Should access to the foreshore become an issue should the development proceed, this would be a matter for the Council's Access Officer.

Structural stability will be addressed at Building Warrant stage should the proposed development proceed.

Mr and Mrs Pat Howe – Specific Objections

- Specific comments submitted from Pat and Cheryl Howe relating to concerns over inconsistencies in the drawings submitted to Transport Scotland with regards to the access and visibility splay arrangements and the proximity of the development to their boundary.

Officer Comment: *As a result of these specific access comments, the Agent and Transport Scotland were consulted who clarified the situation*

between them advising that “Mr and Mrs Howe appear to have misinterpreted the site plan (Dwg. Ref. 20100 01 J). The plan has been plotted using Ordnance Survey base maps and have been plotted according to the boundary fence marked thereon. The trees on the plan that Mr and Mrs Howe claim that are existing within their property are actually proposed landscaping to provide screening to the adjacent property and are not yet planted. These are proposed entirely within the Applicant’s property.

The Application Boundary therefore reflects the ownership certificate submitted and no amendment to either the Application Boundary or the Ownership Certificates is required.

Following Mr Howe's initial objection and discussions with Transport Scotland, we procured and received a topographical survey which highlights that the height of the bridge parapet is below that of the 1.05m as shown on drawing 0425-013-P03 [attached]. We would also note that this has been scrutinised by Transport Scotland in line with CD-123, an additional requirement was requested that a full visibility splay of between 0.26m and 2.0m from ground level at the extent of the visibility splay is to be required. Which confirms that the bridge parapet is at a suitable height to comply with both requirements”.

(ii) Summary of issues raised – Support

- Pro-forma letter of support

Noting that the current application is proposed to replace the planning permission approved for the café on the opposite side of the road with the current proposal addressing concerns previously raised by the Community Council and local residents regarding road safety, parking and congestion as well as privacy and amenity issues. The current proposal addresses all of these matters.

The proposed development will bring significant benefits to Connel, without any of the potential adverse impacts of the other site. The village lacks a café facility of this kind, which will act as a social hub for local residents. It will allow locals to access café facilities without travelling outwith the village, thereby promoting sustainable travel patterns and supports social inclusion.

The proposed café will also have wider economic benefits to the village by supporting the visitor economy. The new lochside location will be a far more attractive destination for both locals and visitors than the original scheme, making the most of the village’s scenic location.

It is understood that the site is part of an OSPA in the LDP, which aims to preserve amenity, in particular views across Loch Etive from the A85. It appears that the development will not impact on views from the A85 due to the position of the building. It will in fact benefit the village’s amenity by providing a play park and seating area by the loch shore, for use by locals and visitors. There is currently no access to the seaward site of the A85 in this part of Connel.

The Council are urged to support the application to secure these positive benefits from Connel.

- A café and community hub is sorely lacking in the village and will contribute to the revival of a community which should be as vibrant and thriving as others in North Argyll.
- The proposal will create jobs in the village which has very few job openings given the lack of business.
- Although the community is hugely in favour of the development, the Community Council's stance is disappointing, which ignores the views of the people they are supposed to represent.
- A playpark which is not contained within a housing estate will surely be an asset for families.
- It would be good to see a disused piece of land used for the good of many people rather than a few.

Officer Comment: *These expressions of support are noted by the Planning Authority. The impact of the proposed development on the landscape and its economic benefit are assessed in the full report in Appendix A. It is recommended that planning permission be refused and it is not considered that any limited community and economic benefit is sufficient to outweigh the landscape and settlement strategy harm caused by development within the OSPA.*

(iii) Summary of issues raised – Representation

- While the ODAP is broadly supportive of the principle of this proposal, there are a number of concerns that need to be addressed if the proposal is to be “inclusive” and meet the requirements of the Scottish Government’s Planning Advice Note 78 which contains an expectation that new developments should be designed so that they can be used by everyone, regardless of age, gender or disability. The issues that need clarification are:

Provision of at least one dedicated disabled parking bay 5 x 3.7m located with 40m of the entrance to the café and surfaced in a bound non-slip material.

Provision of a 2m wide pathway, again of a bound non-slip material linking the said parking bay to the main entrance to the café.

Confirmation that the path linking the car park to the viewpoint will be a minimum of 2m wide and finished in a bound non-slip surfacing material.

The “accessible toilet” shown on the floorplan would be inaccessible to wheelchair users. It should be a minimum of 1700mm x 2200mm. (BS8300).

Confirmation that the café and decking areas will include flexible (as opposed to fixed) seating to enable their use by wheelchair users and others with mobility difficulties.

The main entrance is only 750mm wide and the lobby between it and the secondary entrance has insufficient length (taking account of the inner door swing) for an assisted wheelchair user to comfortably enter and exit the building (see BS8300 – 8.2.5.2). This should be addressed now as it will have implications on the appearance of the building. Ideally the main entrance should have 1m clear effective opening width.

While the Panel is happy to support the principle of this exciting proposal we strongly recommend that consideration be deferred until these issues have been addressed and resolved.

Officer Comment: *These comments are noted and will be brought to the attention of the Applicant should planning permission be granted against officer recommendation.*

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) **Environmental Impact Assessment Report:** Yes No
- (ii) **An Appropriate Assessment under the Conservation (Natural Habitats) Regulations 1994:** Yes No
- (iii) **A Design or Design/Access statement:** Yes No A Supporting Statement has been submitted in support of the application which is discussed in more detail in the assessment of the application within Appendix A of this report.
- (iv) **A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** Yes No Two Ecological Assessments have been submitted in support of the application which are discussed in more detail in the assessment of the application within Appendix A of this report

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: Yes No

(I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: Yes 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.**

[National Planning Framework 4 \(Adopted 13th February 2023\)](#)

Part 2 – National Planning Policy

Sustainable Places

NPF4 Policy 1 – Tackling the Climate and Nature Crises

NPF4 Policy 2 – Climate Mitigation and Adaption

NPF4 Policy 3 – Biodiversity

NPF4 Policy 4 – Natural Places

NPF4 Policy 9 – Brownfield, Vacant and Derelict Land and Empty Buildings (*includes provisions relevant to Greenfield Sites*)

NPF4 Policy 12 – Zero Waste

NPF4 Policy 13 – Sustainable Transport

Liveable Places

NPF4 Policy 14 – Design, Quality and Place

NPF4 Policy 18 – Infrastructure First

NPF4 Policy 22 – Flood Risk and Water Management

NPF4 Policy 23 – Health and Safety

Productive Places

NPF4 Policy 28 – Retail

NPF4 Policy 29 – Rural Development

[‘Argyll and Bute Local Development Plan’ Adopted March 2015](#)

LDP STRAT 1 – Sustainable Development

LDP DM 1 – Development within the Development Management Zones

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

LDP 5 – Supporting the Sustainable Growth of our Economy

LDP 7 – Supporting our Town Centres and Retail

LDP 8 – Supporting the Strength of our Communities

LDP 9 – Development Setting, Layout and Design

LDP 10 – Maximising our Resources and Reducing our Consumption

LDP 11 – Improving our Connectivity and Infrastructure

[‘Supplementary Guidance to the Argyll and Bute Local Plan 2015’ \(Adopted March 2016 & December 2016\)](#)

Natural Environment

SG LDP ENV 1 – Impact on Habitats, Species and our Biodiversity

Landscape and Design

SG LDP ENV 14 – Landscape

Retail Developments (Including COU to and from Shops)

SG LDP RET 3 – Retail Development in the Key Rural Settlements, Villages and Minor Settlements

Bad Neighbour Development

SG LDP BAD 1 – Bad Neighbour Development

Sustainable Siting and Design

SG LDP Sustainable – Sustainable Siting and Design Principles

Resources and Consumption

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

SG LDP SERV 2 – Incorporation of Natural Features / SuDS

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

Addressing Climate Change

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

Transport (Including Core Paths)

SG LDP TRAN 2 – Development and Public Transport Accessibility

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

SG LDP TRAN 6 – Vehicle Parking Provision

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

- Third Party Representations
- Consultation Responses
- [ABC Technical Note – Biodiversity \(Feb 2017\)](#)

[Argyll and Bute proposed Local Development Plan 2 \(November 2019\)](#) – The Examination by Scottish Government Reporters to the Argyll and Bute Local Development Plan 2 has now concluded and the [Examination Report](#) has been published (13th June 2023). The Examination Report is a material consideration of significant weight and may be used as such until the conclusion of the LDP2 Adoption Process. Consequently, the Proposed Local Development Plan 2 as recommended to be modified by the Examination Report and the published Non Notifiable Modifications is a material consideration in the determination of all planning and related applications.

Spatial and Settlement Strategy

Policy 01 – Settlement Areas

Policy 04 – Sustainable Development

High Quality Places

- Policy 05 – Design and Placemaking
- Policy 08 – Sustainable Siting
- Policy 09 – Sustainable Design
- Policy 10 – Design – All Development
- Policy 14 – Bad Neighbour Development

Diverse and Sustainable Economy

- Policy 22 – Economic Development

Connected Places

- Policy 35 – Design of New and Existing, Public Roads and Private Access Regimes
- Policy 36 – New Private Accesses
- Policy 39 – Construction Standards for Private Accesses
- Policy 40 – Vehicle Parking Provision

Sustainable Communities

- Policy 46 – Retail Development – The Sequential Approach
- Policy 55 – Flooding
- Policy 60 – Private Sewage Treatment Plants and Wastewater Drainage Systems
- Policy 61 – Sustainable Urban Drainage Systems (SUDS)
- Policy 63 – Waste Related Development and Waste Management

High Quality Environment

- Policy 73 – Development Impact on Habitats, Species and Biodiversity
- Policy 81 – Open Space Protection Areas

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

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

(M) Has a Sustainability Checklist been submitted: Yes No

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

(O) Requirement for a pre-determination hearing: Yes No (if Yes insert details below)

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

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

At the time of writing, representations have been received by the Planning Authority from 165 respondents in relation to this planning application. 44 respondents raise objection, 120 provide support and 1 submits a representation.

Of the 120 expressions of support, 66 of these were submitted to the Applicant during a Community Council Meeting held on 09/05/22 and then passed to the Planning Authority.

In addition to the above, a screenshot from Facebook with names and 'likes' for the development on the Applicant's personal Facebook page has been submitted.

NPF4 was adopted on 13/02/23 which now represents the main policy background against which proposed developments are assessed underpinned by the Policy and Supplementary Guidance contained within the adopted 'Argyll and Bute Local Development Plan' 2015 (LDP)

NPF4 Policy 9(b) states that proposals on greenfield sites will not be supported unless the site has been allocated for development or the proposal is explicitly supported in the LDP.

The site has been designated as an OSPA in the adopted LDP and emerging pLDP2 where Policies SG LDP REC/COM 2 and Policy 81, respectively, do not permit development on OSPAs except in a number of very specific circumstances details of which are discussed in more detail in the full report contained in Appendix A.

The proposed development within the OSPA conflicts with both National and Local Policy and therefore, in this instance, the proposal represents a clear policy refusal and it is not considered that a hearing would add anything to the planning process.

(P)(i) Key Constraints/Designations Affected by the Development:

- Open Space Protection Area

(P)(ii) Soils

[Agricultural Land Classification:](#)

Unclassified Land

[Peatland/Carbon Rich Soils Classification:](#)

Class 1

Class 2

- Class 3
- N/A
- N/A

Peat Depth Classification:

- Does the development relate to croft land? Yes No
- Would the development restrict access to croft or better quality agricultural land? Yes No N/A
- Would the development result in fragmentation of croft / better quality agricultural land? Yes No N/A

(P)(iii) Woodland

- Will the proposal result in loss of trees/woodland? Yes No
(If yes, detail in summary assessment)
- Does the proposal include any replacement or compensatory planting? Yes No details to be secured by condition N/A

(P)(iv) Land Status / LDP Settlement Strategy

- Status of Land within the Application Brownfield Brownfield Reclaimed by Nature Greenfield
(tick all relevant boxes)

ABC LDP 2015 Settlement Strategy
LDP DM 1 (tick all relevant boxes)

- Main Town Settlement Area
- Key Rural Settlement Area
- Village/Minor Settlement Area
- Rural Opportunity Area
- Countryside Zone
- Very Sensitive Countryside Zone
- Greenbelt

ABC LDP 2015 Allocations/PDAs/AF As etc:

N/A

ABC pLDP2 Settlement Strategy
(tick all relevant boxes)

- Settlement Area
- Countryside Area
- Remote Countryside Area
- Helensburgh & Lomond Greenbelt

ABC pLDP2 Allocations/PDAs/AF As etc:

N/A

(P)(v) Summary assessment and summary of determining issues and material considerations

The proposal the subject of this application is seeking to secure planning permission for the erection of a cafe 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 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, the site the subject of this application 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/COM2.

The OSPA the subject of this planning application 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/COM2 and accordingly the proposal is considered contrary to the provisions of this policy.

The application site is situated within the minor settlement of Connel comprising an area of deliberately undeveloped and open land situated between the A85 Trunk Road and the shores of Loch Etive.

The site is bounded along its eastern boundary by Inverlusragan, a residential dwellinghouse. The site slopes down gently from the A85 to the shores of Loch Etive.

The application proposes a contemporary designed, single storey flat roofed structure sited along the western boundary of the site finished in natural stone cladding with a dark grey coloured metal roofing. The application shows the proposed café oriented with its main elevation and external seating area north to take advantage of views out towards Loch Etive. The application shows the café dug into the sloping site to help minimise its visual impact.

An existing vehicular access is to be upgraded to serve the proposed development with water supply via connection to the public water main and foul drainage by way of a new private system due to the lack of public infrastructure within the vicinity of the site.

The proposed parking area is shown to the west of the proposed café building with a turning circle adjacent to the building to facilitate the proposed 'drive through'. The play park and view point are proposed to the north of the proposed café building between the building and the shores of Loch Etive.

The proposal has elicited representations from 165 respondents. 44 respondents raise objection, 120 provide support and 1 submits a representation.

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. It should be recognised that 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. Development within this OSPA with the proposal subject of this planning application would represent the piecemeal erosion of the wider OSPA network and would potentially lead to pressure for development within other designated OSPAs either side of Loch Etive, thereby undermining their functions.

The development the subject of this application would introduce built development and infrastructure into a greenfield site which has been designated as an OSPA for its visual amenity functions as detailed above.

The proposed development would result in an adverse environmental impact eroding the open aspect of the site and the associated public views across it thereby undermining the OSPA designation of the site.

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.

In light of the above it is recommended that planning permission is refused.

A full report is provided in Appendix A of this report.

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

(R) Reasons why Planning Permission should be Refused

See reasons for refusal below.

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

N/A

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

Author of Report: Fiona Scott **Date:** 04/09/23

Reviewing Officer: Tim Williams **Date:** 05/09/23

Fergus Murray
Head of Development & Economic Growth

REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO. 23/01583/PP

1. NPF4 Policy 9(b) states that proposals on greenfield sites will not be supported unless the site has been allocated for development or the proposal is explicitly supported in the adopted 'Argyll and Bute Local Development Plan' (LDP) 2015.

In terms of the LDP, development of the site is not supported as the site is within an adopted Open Space Protection Area (OSPA) where Policies LDP DM 8 and SG LDP REC/COM 2 do not permit development unless it accords with five specific criteria.

The OSPA in question is an area of land which is considered to provide visual amenity functions rather than recreational functions and therefore the proposal does not satisfy any of the criteria set out in SG LDP REC/COM 2.

The OSPA has been designated to provide visual amenity functions by helping preserve the open aspect on the seaward side of the A85 and with it, public views across Loch Etive. 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.

The development the subject of this application would introduce built development and infrastructure into a greenfield site which has been designated as an OSPA for its visual amenity functions which would result in an adverse environmental impact eroding the open aspect of the site and the associated public views across it thereby undermining the OSPA designation of the site contrary to the provisions of NPF4 Policy 9 as underpinned by LDP Policies LDP8 and SG LDP REC/COM 2 and Policy 81 of the emerging LDP2.

It is not considered that the proposed development would constitute an appropriate departure to National or Local Planning Policy.

COMMITTEE REPORT	
APPENDIX A – RELATIVE TO APPLICATION NUMBER:	21/01583/PP
PLANNING LAND USE AND POLICY ASSESSMENT	

1. Introduction

- 1.1. The proposal the subject of this application is seeking to secure planning permission for the erection of a café with an incidental 'drive-thru' takeaway plus associated landscaping including a viewpoint, seating, interpretive sign and play park.

As a background to the current application, Members should note that planning permission, reference 20/00038/PP, was granted to the Applicant in January 2021 for a café on a site to the west of Dalrannoch, on the opposite side of the public road to the current application.

The Supporting Statement (SS) submitted with the application details that the proposal is effectively for a replacement café on greenfield land located by the shore of Loch Etive.

The SS details that, after careful consideration, the Applicant has decided that the location of the proposed café approved under the aforementioned permission is not the best proposal for Connel or its future business prospects. Since permission was granted the Applicant has obtained control of the site subject of the current application.

The SS details that the Applicant is now of the opinion that this proposed site is a better location for the proposed café venture. As well as business reasons, the change in location takes into account the feedback from neighbours and the Community Council during the processing of the previous application in relation to access, parking, noise and amenity issues.

Officers do not accept that there is any good reason why the previous café permission cannot be implemented and therefore rejects the claim that the current development is somehow a 'replacement' café.

2. Location of Development

- 2.1. The application site is situated within the minor settlement of Connel comprising an area of deliberately undeveloped and open land situated between the A85 Trunk Road and the shores of Loch Etive.

The site is bounded along its eastern boundary by Inverlusragan, a residential dwellinghouse. The site slopes down gently from the A85 to the shores of Loch Etive.

3. Settlement Strategy

- 3.1 In terms of the Settlement Strategy set out in the adopted 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, the site the subject of this application is within an Open Space Protection Area (OSPA) where Policy SG LDP REC/COM2 does not permit development on an OSPA unless it satisfies one of the 5 criteria listed in the Policy and discussed below.

The OSPA the subject of this planning application 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 above and therefore the proposal is considered to be contrary to the provisions of Policy SG LDP REC/COM 2.

It is considered that there is sufficient alignment in the assessment of the proposal against both provisions of the current LDP and the pLDP2 (as modified) that a decision can be made under the current development plan without giving rise to fundamental conflict with pLDP2 (as modified).

In order to address the determining issues, the key considerations in this application are:

- 3.1.1. Compliance with the Development Plan and other relevant planning policy
- 3.1.2. Any other material considerations.

4. Proposal

- 4.1. The application is seeking to secure planning permission for the erection of a cafe with incidental 'drive-thru' takeaway plus associated landscaping including a viewpoint, seating, interpretive sign and play park.

The application proposes a contemporary designed, single storey flat roofed structure sited along the western boundary of the site finished in natural stone cladding with a dark grey coloured metal roofing. The application shows the proposed café oriented with its main elevation and external seating area north to take advantage of views out towards Loch Etive. The application shows the café dug into the sloping site to help minimise its visual impact.

The Supporting Statement (SS) submitted with the application details that the proposed café will provide seating inside for 24 covers with a further 24 covers available on the outdoor seating area. The kitchen will be contained to the rear of the building along the southern boundary of the site with the servery situated in the south western corner of the building where an external servery hatch is proposed to serve drive through customers.

The SS details that the proposed café will serve hot and cold food which will be for consumption on the premises and also off the premises via the drive through facility incorporated into the building.

The proposed parking area is shown to the west of the proposed café building with a turning circle adjacent to the building to facilitate the proposed 'drive through'. The play park and view point are proposed to the north of the proposed café building between the building and the shores of Loch Etive.

An existing vehicular access is to be upgraded to serve the proposed development with water supply via connection to the public water main and foul drainage by way of a new private system due to the lack of public infrastructure within the vicinity of the site.

5. Compliance with National Policy

NPF4 was adopted on 13 February 2023 which now represents the main policy background against which proposed developments are assessed underpinned by the Policy and Supplementary Guidance contained within the adopted 'Argyll and Bute Local Development Plan' 2015 (LDP).

The relevant NPF4 Policies are detailed below and grouped into topic areas.

5.1. NPF4 Policy 1 – Tackling the Climate and Nature Crises

NPF4 Policy 1 seeks to prioritise the climate and nature crises in all decisions; it requires to be applied together with other policies in NPF4.

Guidance from the Scottish Government advises that it is for the decision maker to determine whether the significant weight to be applied tips the balance in favour for, or against a proposal on the basis of its positive or negative contribution to climate and nature crises.

5.2. NPF4 Policy 2 – Climate, Mitigation and Adaption

NPF4 Policy 2 seeks to ensure that new development proposals will be sited to minimise lifecycle greenhouse gas emissions as far as possible, and that proposals will be sited and designed to adapt to current and future risks from climate change.

Guidance from the Scottish Government confirms that at present there is no single accepted methodology for calculating and / or minimising emissions. The emphasis is on minimising emissions as far as possible, rather than eliminating emissions. It is noted that the provisions of the Settlement Strategy set out within Policy LDP DM 1 of the 'Argyll and Bute Local Development Plan' 2015 (LDP) 1 promotes sustainable levels of growth by steering significant development to our Main Towns and Settlements, rural growth is supported through identification of Key Rural Settlements and safeguards more sensitive and vulnerable areas within its various countryside designations.

5.3. NPF4 Policy 3 – Biodiversity

NPF4 Policy 3 seeks to protect biodiversity, reverse biodiversity loss and deliver positive effects from development and strengthen nature networks.

The application is accompanied by an Otter and Nesting Bird Survey Report undertaken by Transtech Ltd dated 05/07/22.

It should be noted that the Dr Garret Macfarlane and Barbara Macfarlane of Transtech Ltd submitted expressions of support to the proposed development prior to being contracted to undertake the Otter and Nesting Bird Survey Report sought by the Council's BDO.

Third parties raised concerns regarding a potential conflict of interest in this regard and accordingly the Planning Authority sought a comment from the Agent. Barbara Macfarlane of Transtech Ltd advised "*As a company we are bound by a strict code of conduct and it is our duty to report findings accurately. All our work is carried out to the highest standard and we have never had our professional integrity questioned.*"

As a qualified and experienced ecologist with a special interest in otters, including membership of the International Union on the Conservation of Natures Otter Specialist Group in recognition of my work to help conserve otters in Scotland and a holder of a NatureScot licence in respect of otters, I will always do my utmost to ensure the protection of the species and indeed any species, if it is apparent that it may be under threat. If it has been suggested otherwise, this would be calling into question my professional integrity.

In summary, I do not believe that there is a conflict of interest in this case as our findings strictly followed ecological survey protocol and we reported the facts entirely truthfully”.

Notwithstanding the foregoing, the Agent commissioned a further Otter and Breeding Bird Assessment prepared by JDC Ecology Limited dated December 2022 in support of the proposed development.

Both reports are summarised as follows.

Transtech Ltd (July 2022)

In summary, the report detailed that “An ecological field survey was undertaken to establish the potential for the presence of otters within 250 m of the development site. It was concluded that, while the habitat within the survey radius has moderate potential to support otters, despite intensive searching no evidence of otter use, holts or resting places was found.

As such, it is unlikely that any work to the site will have any detrimental effect on otters. Nor is it felt that the day-to-day operation of the café and playpark will impact upon any otters which forage along the shoreline. Therefore, this work does not require a species protection plan and no European Protected Species Licence in respect of otters need be sought.

However, given the known presence of foraging otters along the stretch of coastline adjacent to the site, recommended mitigation measures and an emergency procedure for otters is contained in the report.

A targeted ground nesting bird survey was also carried out to establish the presence/absence of ground nesting birds within the proposed development site, while tree and scrub nesting birds were also considered.

Several bird species were found to be nesting within the site or within 10 m of its boundary and it is therefore recommended that no works, including site preparation and ground clearance, be undertaken during the breeding bird season (March to August inclusive).

It is recommended that a site walkover be conducted by a qualified ecologist, immediately prior to works commencing and that a toolbox talk be given to site workers at that stage, in order that all species are considered during the development stage of the proposal”.

The report concluded that “given the evidence of the presence of nesting birds on the site, it is the conclusion of this survey that there are nests which would be at risk of disturbance if work was to be undertaken between March and August. Therefore, it is recommended that works be undertaken only out with this period.

Should this not be possible, checks will need to be made for nesting birds immediately prior to works commencing and mitigation measures put in place should nests be identified at that time.

The report also set out opportunities for biodiversity gain within the proposed development.

JDC Ecology Ltd (December 2022)

In summary, the report detailed that “While otters are present in the area, moving along the adjacent burn corridor to and from the loch, there is no evidence for use of the Site by

otter and little suitability for this species to shelter on the Site due to proximity to human disturbance. There were no holts or lying up places found on the surveyed stretch of the adjacent burn or loch shores.

Otters are not regarded as an issue for development of the Site, although a pre-start check is recommended and a visual buffer between the adjacent burn and the west end of the Site.

The Site presents opportunity for a few bird species to nest although the number of nesting pairs of any given species would be low given the size of the Site. If landscaping provides some nesting opportunity in due course, and any vegetation removal either avoids the nesting season or ensures that nesting birds are protected until nesting is finished, breeding birds are not an issue in relation to any significant impact on local, regional or national populations.

While areas of Loch Etive are regarded as sensitive or notable for biodiversity reasons, including waders and breeding seabirds, the area around Connel has no designations or points of interest as noted on the Loch Etive Integrated Coastal Zone Management Plan. Birds that are known to use the Loch are less likely at or around the Site either for feeding or nesting due to various factors mainly proximity disturbance and lack of suitable shore habitat”.

The report set out a number of recommendations for development of the site as follows.

- 1. “Pre-start otter check to ensure that no holts or resting places have established within licensable distance since the original survey.*
- 2. Undertake vegetation clearance between October and February if possible. If vegetation removal cannot be completed by the end of February, bird nest checks will be needed from March to August. If a nest is found, or a bird building a nest, then this area will need to be avoided until the nest or nests are no longer. Avoidance distance would depend on species and location.*
- 3. Design in bird nesting features around the Site whether on buildings or in landscaping, and consider a visual buffer (shrub, tree etc) to the west end to buffer the burn (otter passage).*
- 4. All construction and operational lighting to be directed into the site, away from adjacent habitats, and at as low-level spill and intensity as possible.*
- 5. All landscaping should use native species or ornamentals that have a positive biodiversity influence i.e. they are nectar, pollen or berry bearing as far as possible”.*

In her response to the Transtech report, the BDO noted the content of the report including taking account of seasonality concerning ornithological interest along with advice and mitigation for Otter and Bat species. The BDO concurred with the recommendations to protect and enhance habitats and species such pre-start checks for bird species, the provision of bat boxes and landscaping with native trees and shrubs. The BDO advised that, if permission is granted, planting of Ash- *Fraxinus excelsior* should be avoided due to Ash Die Back being present in the area and the difficulty in purchasing this species. The BDO noted that Japanese Knotweed is evident and accordingly requests that a watching brief is undertaken for the site.

In response to the JDC Ecology report, the BDO noted the contents, advising that the survey was carried out on 1st December, outwith the optimum time of year, whereas the original ecological report surveys were carried out over a 4 day period in early July. The BDO noted that the conclusions of the report are not unexpected and the recommendations follow best practice including additional advice on the contribution

landscape planning (both planting and bird boxes) and implementation can make to provide habitat for a variety of species.

The BDO recommended that both ecological reports (July and January) are implemented in combination should planning permission be granted.

In the event that planning permission were to be granted, adequate and proportionate measures for biodiversity enhancement and protection could be delivered by planning condition as could compliance with the recommendations and mitigation measures set out in both Otter and Bird Surveys, rendering the proposal compliant with NPF4 Policy 3 as underpinned by LDP Policy LDP 3 and SG LDP ENV 1 and Policy 73 of pLDP2.

5.4. NPF4 Policy 4 – Natural Places

NPF4 Policy 4 seeks to protect, restore and enhance natural assets making best use of nature-based solutions.

The proposed development is not within any designated European site of natural environment conservation or protection, it is not located within a National Park, a National Scenic Area a SSSI or RAMSAR site, or a National Nature Reserve. Neither is it located within a local landscape area or a site designated as a local nature conservation site or within an area identified as wild land.

However, whilst the site is not within any of the aforementioned designations, it is designated within both the adopted and emerging LDP as an OSPA and therefore it is considered to have important landscape value which requires to be considered under NPF4 Policy 4.

The OSPA is detailed as providing visual amenity functions by helping preserve the open aspect on the seaward side of the A85 and with it, public views across Loch Etive. 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. Development within this OSPA with the proposal subject of this planning application would represent the piecemeal erosion of the wider OSPA network and would potentially lead to pressure for development within other designated OSPAs either side of Loch Etive, thereby undermining their functions.

The development the subject of this application would introduce built development and infrastructure into the OSPA which it is considered would erode the open aspect of the site and the associated views across it.

The OSPA is discussed in more detail at NPF4 Policy 9 below.

The proposed development is considered to be contrary to the provisions of NPF4 Policy 4 as underpinned by LDP Policy 3.

5.5. NPF4 Policy 9 – Brownfield, Vacant and Derelict Land and Empty Buildings

NPF4 Policy 9 seeks to encourage, promote and facilitate the reuse of brownfield, vacant and derelict land and empty buildings, and to help reduce the need for greenfield development.

Part (b) of Policy 9 states that proposals on greenfield sites will not be supported unless the site has been allocated for development or the proposal is explicitly supported by policies in the LDP.

The site the subject of this planning application is on a greenfield site designated in the LDP as an OSPA and accordingly there is a direct conflict between the proposed development and NPF4 Policy 9.

In order to inform in the assessment of the proposal, comments were sought from the Council's DPT who advised that in terms of the adopted LDP Proposals Maps the site is situated within an OSPA which provides visual amenity functions by helping preserve the open aspect on the seaward side of the A85 and with it, public views across Loch Etive.

The DPT advise that Policy SG LDP REC/COM2 sets out that the development of OSPAs will not be permitted except where one of the five clauses set out in the policy are met, as follows.

- (i) *The proposed development is ancillary to the principal use of the site as a playing field; Or;*
- (ii) *The proposed development involves a minor part of the playing field which would not affect its use and potential for sport and training; Or,*
- (iii) *The playing field which would be lost would be replaced by a new playing field of comparable or greater benefit for sport and in a location which is convenient for its users, or by the upgrading of an existing playing field to provide a better quality facility either within the same site or at another location which is convenient for its users and which maintains or improves the overall playing capacity in the area; Or,*
- (iv) *A playing field and pitches strategy, prepared in consultation with SportScotland, has demonstrated that there is a clear excess of sports pitches to meet current and anticipated future demand in the area, and that the site could be developed without detriment to the overall quality of provision; Or*
- (v) *In the case of valued recreational areas (public or private) it can be adequately demonstrated that there would be no loss of amenity through either partial, or complete development and that an alternative provision of equal benefit and accessibility be made available.*

The DPT advised that they do not consider that the proposal satisfies any of the five clauses and as such the proposal is considered to be contrary to Policy SG LDP REC/COM 2. The DPT further stated that the OSPA designation has been carried forward into pLDP2 and has not been objected to.

In light of the comments from the DPT, the Agent submitted a report on the OSPA in order to demonstrate that the amenity value of the OSPA will not be affected by the proposed development. The report considers the statement provided by the DPT "*This OSPA provides visual amenity functions by helping preserve the open aspect on the seaward side of the A85 and with it, views across Loch Etive*".

The report considers the existing recreational use and visual amenity of the site and the impact that the proposed development will have on the OSPA. In summary, the report concludes that the proposal will not impact on the visual amenity value of the site in its role in *...helping preserve the open aspect on the seaward side of the A85 and with it, views across Loch Etive.*

The report details that the application proposes the cafe building within the eastern part of the site, adjacent to existing buildings to the west. The proposed cafe will be viewed in the

context of these existing buildings, and will not further impede views across the Loch more than the existing condition. This is applicable in views both from the east and west along the A85. Therefore, the report contends that the proposal does not impact on the visual amenity of the site.

The report states that the site is currently in agricultural use and not formally used as open space. It is not open to the public and any use of the site for recreation is on an informal basis. The proposal will provide a play area, viewing area and landscaped open space. This will open the site to public use bringing an improvement in terms of formal open space provision to the shoreline in the east of Connel.

The report further states that the proposal also represents sustainable economic growth that will provide four full-time jobs and three part-time jobs which will opportunities for local residents which outweigh the site's designation as an OSPA.

The report concludes by stating that development of the site provides the opportunity to provide a betterment to the existing condition in relation to the provision and protection of open space and therefore accords with Policy SG LDP REC/COM 2.

In their response to the report submitted by the Agent in regards to the OSPA, the DPT advised that the additional submission assesses the proposal against clause 'v' of SG LDP REC/COM 2 which relates to "valued recreational areas" and contends that it complies with the clause and therefore the Policy. However, the DPT advise that given that that the land is considered to provide visual amenity functions rather than recreation functions, it is considered that the proposal remains contrary to SG LDP REC/COM 2 as it does not satisfy any of the 5 clauses.

The DPT provided the following comments on the matters raised in the additional information submitted by the agent as follows.

"Improvements to public open space access and recreation

The development would potentially allow easier public access to the location of the proposed view point area and interpretation panel than could currently be achieved. However this area would still need to be accessed through the parking area and private business curtilage of the café premises (and for those on foot, a potential crossing of the A85 trunk road). Being set in close proximity to the café it needs to be considered to what level the view point area would more function to serve the users of the premises rather than the wider general public. It is also not clear what mechanisms are proposed to ensure that the view point remains available for public use in perpetuity. There is also an existing alternative viewpoint area situated within Connel to the west of the Connel Bridge and as such the additional value of the proposal here should be considered.

In terms of play space, the proposal would add to that provided by the existing facility at Powell Place. However, from the information submitted it is not clear how many pieces of equipment the proposed area would be able to accommodate once all siting requirements for each piece had been met and as such how much it would add to the existing provision. In assessing what weight this provision can be afforded it should also be considered to what level the equipment would serve the customers of the café rather than the needs of the local population. There is the potential for the equipment to reach capacity from café customers during busier periods of operation. It should also be considered that access by the local population would require users to cross the A85 trunk road. As with the view point, it is not clear how the facility would remain available in perpetuity for the use by the general public given that it would remain under the control of a private business (that potentially could be owned by different proprietors over its lifetime).

Visual amenity

The sensitivity of the site can be seen through the outcome of 2009 Local Plan Enquiry where the designation of the OSPA on the adjacent land to the west (and along with it, the wider OSPA relating to coast side land at Connel) was confirmed by the Reporter. The Reporter noted that due to its proximity to the Connel Bridge the Local Plan objection site was one of the most valuable points where the A85 runs close to the water's edge. Given the proximity and similar characteristics, similar conclusions can be drawn regarding the adjacent site subject to 21/01583/PP.

The additional information submitted mostly assesses the impact of the café building itself however the overall development of the site should be taken into account, this includes the provision of a car park and turning area for up to 18 cars with what are significant areas of hardstanding. Taken as a whole the proposal would erode the open aspect of the site and the associated [public] views across it as these would be seen in the context of the overall built development.

The OSPA in this particular location helps preserve the open aspect of the land on the shore side of the road and along with it the [public] views, however it must also be recognised that it 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 and the development of the OSPA would represent a piecemeal erosion of this. It would also potentially lead to pressure for development within other designated Open Space Protection Areas on either side of Loch Etive and potentially undermine their functions.

Economic benefits

The additional information provided also contends the economic benefit of four full time and three part time jobs and whilst this would provide a benefit to the local economy this, alongside the other justifications, need to be considered against the concerns set out above”.

Whilst the potential economic 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 OSPA.

The development the subject of this application would introduce built development and infrastructure into a greenfield site which has been designated as an OSPA for its visual amenity functions contrary to the provisions of NPF4 Policy 9 as underpinned by LDP Policies 8 and SG LDP REC/COM 2 and Policy 81 of pLDP2.

5.6. NPF4 Policy 12 – Zero Waste

NPF4 Policy 12 seeks to encourage, promote and facilitate development that is consistent with the waste hierarchy as defined within the policy document.

The proposed development would generate waste when operational. Whilst the proposal makes provision for three commercial refuse bins at the site, should permission be granted, it would be considered appropriate to impose a condition to secure the details of the proposed waste management at the site during the operational phase so as to accord with the principles of sustainable waste management.

In the event that planning permission was to be granted, a Waste Management Statement for the proposed development could be secured by planning condition rendering the proposal compliant with NPF4 Policy 12 as underpinned by LDP

Policies LDP 10 and SG LDP SERV 5 and 5(b) and Policy 63 of pLDP2 should permission be granted.

5.7. NPF4 Policy 13 – Sustainable Transport

NPF4 13 seeks to encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel and reduce the need to travel unsustainably.

The development the subject of this planning application seeks to secure permission for a café with drive through facility. An existing agricultural access at the junction with the A85 Trunk Road is to be upgraded to serve the proposed development. This small scale development is not considered to be a significant travel generating use or a proposal where it is considered important to monitor travel patterns resulting from the development.

In their first submission in November 2021, Transport Scotland (TS) deferred their decision due to insufficient information to allow them to provide a detailed response to the consultation. As a result of the comments from TS ongoing discussions took place between the Agent and TS to agree a suitable access regime to serve the proposed development. In January 2023 TS provided a finalised consultation response for the proposed development raising no objection subject to conditions being imposed on the grant of permission to secure the construction of the access and clearance of the visibility splays at the junction with the A85 in accordance with the finalised scheme agreed between the Agent and the TS.

It should be noted, that during the processing of the application the Agent was advised that the proposal conflicted with LDP Policy regarding development within an OSPA and that the Planning Authority were unable to support the proposed development, details of which are provided below. However, the Agent sought the application to be held to allow the access issues to be resolved, a request which was agreed with the Planning Authority.

The Agent submitted a statement addressing the requirements of NPF4 Policy 13 as follows.

“Policy 13 criterion a) is not relevant to the proposed use of the site. Policy 13 criteria c), d), e) and f) are also not considered relevant as the proposal as it is not a significant travel generating use, nor is it promoting a low/no parking approach.

“The proposal site is located adjacent to the existing pavement and carriageway (A85). Access to the site via walking, wheeling and cycling can be achieved via the existing road and footpath network.

The site is accessible by public transport. The proposal is located within approximately 350m walking distance of the bus stops on Main Street, 450m walking distance of Connel Ferry Railway Station, and 750m of the bus stops on the A85 in the west of Connel. The site therefore has good access to the local public transport network.

The proposal includes parking for disabled drivers and has non-slip surface finishes to the café entrance and to the viewpoint and playpark, ensuring that the needs of diverse groups using the site are met.

It is therefore considered that the proposal accords with NPF 4 Policy 13 b) as far as is necessary for the nature and scale of the proposed use.

The proposal site is located adjacent to the existing pavement and carriageway (A85). Public access to the site will be via the existing footway and vehicular junction from the A85. The A85 is a trunk road. Transport Scotland has been consulted as part of the Application and have raised no objections to the proposed junction”.

In the event that planning permission was to be granted, a suitable access regime and parking and turning area to serve the proposed development could be secured by planning condition rendering the proposal compliant with NPF4 Policy 13 as underpinned by LDP Policies LDP 11, SG LDP TRAN 2, SG LDP TRAN 4 and SG LDP TRAN 6 and Policies 35, 36, 39 and 40.

5.8. NPF4 Policy 14 – Design, Quality and Place

NPF4 Policy 14 seeks to encourage, promote and facilitate well designed development that makes successful places by taking a design-led approach and applying the ‘Place Principle’.

The design and finishing materials of the proposed café is considered to be acceptable, relating to the development within the surrounding area where there is a wide variety of design and finishing materials with no distinct architectural style evident.

The application is accompanied by a statement addressing the six qualities of successful places set out in NPF4 Policy 14 as follows.

*“**Healthy:** Supporting the prioritisation of women’s safety and improving physical and mental health. **Pleasant:** Supporting attractive natural and built spaces. **Connected:** Supporting well connected networks that make moving around easy and reduce car dependency. **Distinctive:** Supporting attention to detail of local architectural styles and natural landscapes to be interpreted, literally or creatively, into designs to reinforce identity. **Sustainable:** Supporting the efficient use of resources that will allow people to live, play, work and stay in their area, ensuring climate resilience, and integrating nature positive, biodiversity solutions. **Adaptable:** Supporting commitment to investing in the long-term value of buildings, streets and spaces by allowing for flexibility so that they can be changed quickly to accommodate different uses as well as maintained over time”.*

In this regard, the development the subject of this planning application is considered to be in accordance with the broad aims of NPF4 Policy 14 as underpinned by LDP Policies LDP 9 and SG LDP Sustainable Siting and Design Principles and Policies 5, 9 and 10 of pLDP2.

5.9. NPF4 Policy 18 – Infrastructure First

NPF4 18 seeks to encourage, promote and facilitate an infrastructure first approach to land use planning, which puts infrastructure considerations at the heart of placemaking.

The development the subject of this planning application proposes connection to the public water supply with drainage via installation of a private system due to the lack of public drainage infrastructure within the vicinity of the site. In their response to the application Scottish Water raised no objection to the proposed development which would be serviced by the Tullich Water Treatment Works but did however advise that further investigations may be required once a formal application for connection is submitted to them for consideration.

The proposal aligns with NPF4 Policy 18 as underpinned by LDP Policy LDP DM 11 and SG LDP SERV 1 and Policies 05, 08 and 60 of pLDP2 which seek to ensure

suitable infrastructure is available to serve proposed developments and the current proposal would raise no issue of conflict should permission be granted.

5.10. NPF4 Policy 22 – Flood Risk and Water Management

NPF4 Policy 22 seeks to strengthen resilience to flood risk and to ensure that water resources are used efficiently and sustainably.

As detailed above the development proposes connection to the public water supply to which Scottish Water has not objected to. With regards to the management of rain and surface water at the site, this could be controlled thorough a condition to secure a suitable sustainable drainage system for the site should permission be granted.

The proposal aligns NPF4 Policy 22 as underpinned by LDP Policies LDP 10 and SG LDP SERV 2 and Policy 61 of pLDP2 and the current proposal would raise no issue of conflict should permission be granted.

5.11. NPF4 Policy 23 – Health and Safety

NPF4 Policy 23 seeks to protect people and places from environmental harm, mitigate risks arising from safety hazards and encourage, promote and facilitate development that improves health and wellbeing.

Part (e) of Policy 30 states that development proposals that are likely to raise unacceptable noise issues will not be supported with a requirement for a Noise Impact Assessment where the nature of the proposal or its location suggests that significant effects are likely.

Accordingly, as the application site is in close proximity to a residential dwellinghouse, in order to inform in the assessment of the application, a consultation was undertaken with the Council's EHS.

In their response the EHS noted that the site layout show areas where pedestrians and vehicles could come into conflict and requested a site traffic management plan with details on engineering controls to prevent pedestrian and vehicle conflict or a redesign of the site layout to address pedestrian and vehicle conflict. The EHS further noted that commercial catering premises of this nature require the installation of external extraction from their kitchens to assist with removal and treatment of kitchen fumes and hot air. Accordingly, in terms of amenity of the area, the EHS advised that a noise limiting condition should be imposed on any permission granted which would cover noise from the aforementioned extraction systems and limit the impact which these would have on neighbouring noise sensitive premises. Finally, the EHS advised that a condition should be imposed on the grant of permission regarding any proposed external lighting to ensure no adverse impact on the amenity of the area.

Subject to conditions to secure the requirements of the EHS, the current proposal would raise no issue of conflict with NPF4 Policy 23 as underpinned by LDP Policy SG LDP BAD 1 and pLDP2 Policy 14 should permission be granted.

5.12. NPF4 Policy 28 – Retail

NPF4 Policy 28 seeks to encourage, promote and facilitate retail investment to the most sustainable locations that are most accessible by a range of sustainable transport modes.

Policy 28(d) gives support to retail uses within rural areas where their use is ancillary to other uses; serve local needs; has no impact on nearby town centres; provide a service throughout the year; and has no adverse impact on traffic generation and parking provision. In this regard, the site, being a rural extension of the defined settlement, benefits from support under Policy 28(d) representing an appropriate form of ancillary retail use serving the village of Connel.

The proposal aligns NPF4 Policy 28 as underpinned by LDP Policies LDP 7 and SG LDP RET 3 and Policy 46 of pLDP2 and the current proposal would raise no issue of conflict should permission be granted.

5.13. NPF4 Policy 29 – Rural Development

NPF4 Policy 29 seeks to encourage rural economic activity, innovation and diversification whilst ensuring that the distinctive character of the rural area and the service function of small towns, natural assets and cultural heritage are safeguarded and enhanced.

Part (a) of Policy 29 supports development proposals that contribute to the viability, sustainability and diversity of rural communities and local rural economy with Part (b) requiring development proposals in rural areas to be suitably scaled, sited and designed to be in keeping with the character of the area taking into consideration how the development will contribute towards local living and taking into account the transport needs of the development as appropriate for the rural location. Part (c) affords support to development proposals in rural areas where they will (i) support local employment; (ii) support and sustains existing communities and (iii) is suitable in terms of location, access, siting, design and environmental impact.

The SS submitted with the application details that the proposal will provide four full-time jobs and three part-time jobs which it is hoped will be for local residents. The proposed development includes a viewpoint with an interpretative sign providing information about the history of Connel and Loch Etive. The proposal also includes a playpark for use by patrons of the proposed café and also locals.

Whilst it has been demonstrated that the proposed development, through consideration of the Policies detailed above, that the development is of a suitable scale and design, taking account of transport needs, and providing some economic benefit, it is not considered that these aspects of the proposed development would outweigh the negative landscape impact that would arise from the proposed development within the designated OSPA, which is discussed in more detail above.

The proposal conflicts with NPF4 Policy 29 as underpinned by LDP Policy LDP 5 and Policy 22 of pLDP2.

6. Public Representation

6.1. At the time of report, representations have been received by the Planning Authority from 165 respondents in relation to this planning application. 44 respondents raise objection, 120 provide support and 1 submits a representation.

Of the 120 expressions of support, 66 of these were submitted to the Applicant during a Community Council Meeting held on 09/05/22 and then passed to the Planning Authority.

In addition to the above, a screenshot from Facebook with names and 'likes' for the development on the Applicant's personal Facebook page has been submitted.

The names and addresses of those contributing to the application are contained within Appendix B of this report with full copies of the representations published on the planning application file available to view via the [Public Access](#) section of the Council's website.

As detailed above, NPF4 Policy 9(b) states that proposals on greenfield sites will not be supported unless the site has been allocated for development or the proposal is explicitly supported in the LDP.

The site has been designated as an OSPA in the adopted LDP and emerging pLDP2 where Policies SG LDP REC/COM 2 and Policy 81, respectively, do not permit development on OSPAs except in the specific circumstances detailed above.

The proposed development within the OSPA conflicts with both National and Local Policy and therefore, in this instance, the proposal represents a clear policy refusal and it is not considered that a hearing would add anything to the planning process.

7. Conclusion

- 7.1. Notwithstanding the assessment above that the design and finishes of the proposed café building is acceptable, and that suitable access and infrastructure could be provided to serve the proposed development, there is a clear conflict with NPF4 Policy 9 as underpinned by LDP Policies LDP 9 and SG LDP REC/COM 2 and Policy 81 of pLDP2 which seek to protect OSPAs from built development.

As detailed above, 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. It should be recognised that 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. Development within this OSPA with the proposal subject of this planning application would represent the piecemeal erosion of the wider OSPA network and would potentially lead to pressure for development within other designated OSPAs either side of Loch Etive, thereby undermining their functions.

The development the subject of this application would introduce built development and infrastructure into a greenfield site which has been designated as an OSPA for its visual amenity functions as detailed above.

The proposed development would result in an adverse environmental impact eroding the open aspect of the site and the associated public views across it thereby undermining the OSPA designation of the site.

Whilst the potential economic 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.

In light of the above it is recommended that planning permission be refused.

COMMITTEE REPORT APPENDIX B – RELATIVE TO APPLICATION NUMBER:	21/01583/PP
LIST OF CONTRIBUTORS	

OBJECTION		
Contributor Name	Contributor Address	Date Received
Planning Objections Scotland (on behalf of Pat and Cheryl Howe)	By e-mail only	10/07/23
Mykhailo Andreiev	Inverlusragan, Connel, PA37 1PG	29/06/22
Tetiana Andreieva	Inverlusragan, Connel, PA37 1PG	29/06/22
John Hamilton	Glen Cole, Connel, PA37 1SS	29/06/22
M.R. Cooper	Conbrio, Feochan Gardens, Oban, PA34 4NJ	29/06/22
Dr Paul Yoxon	IOSF, 7 Black Park, Isle of Skye, IV49 9DE	15/06/22
Julian Hedditch	2 Cook Avenue, Chard, Somerset, TA20 2JR	04/06/22
Dr Allison Davies	Craignaha, Connel, PA37 1PH	04/06/22
Mr Andrew Davies	Craignaha, Connel, PA37 1PH	04/06/22
Mr Dylan Howe	Inverlusragan, Connel, PA37 1PG	02/06/22
Ann MacKenzie	1 Grosvenor Crescent, Connel, PA37 1PQ	01/06/22
Miss H.A. Steele	By e-mail only	01/06/22
Mr Andrew Davies	Craignaha, Connel, PA37 1PH	
Neil Stuart	Achaleven House, Connel, PA37 1PF	01/06/22
Mr David Williams	Allt na Craobh, Connel, PA37 1PT	01/06/22
Elise Cleaver-Smith	Tyndrum Lodges	31/05/22
Graham Irving	Loch na Beithe Cottage, North Connel	31/05/22
Andrew Crabb	7 Dalnabeich, North Connel, PA37 1QY	31/05/22
Miss Sheila Cawthera	Loch na Beithe Cottage, North Connel, PA37 1QX	31/05/22
Mrs Janet B. Finlayson	Etive Cottage, Connel	30/05/22
Mary Buchanan	Strathaird, Connel, PA37 1PH	28/05/22
Mr Derek Wilkinson	Lora House Upper, Connel, PA37 1PA	29/05/22
Mrs Gillian Cowan	Ards Cottage, Connel, PA37 1PT	28/05/22
Chris Hill	Barnstone, Great Street, Norton sub Hamdon, Somerset, TA14 6SJ	27/05/22
Lynn Ashforth	By e-mail only	26/05/22
Mr William Cowan	Ards Cottage, Connel, PA37 1PT	26/05/22
Helen Anderson	Ard Beag, Connel, PA37 1PT	25/05/22
John Anderson	Ard Beag, Connel, PA37 1PT	25/05/22
James Stewart	Dunavon, Connel, PA37 1PJ	25/05/22
Wendy Barbour	19 Barossa Place, Perth, PH1 5HH	25/05/22
Katy Buchanan	12 Etive Park, North Connel, PA37 1SJ	25/05/22
David Gates	21 Titchfield Grange, Fareham, Hants, PO15 5AR	23/05/22
Eric Barbour	45 Taylor Drive, Bramley, Hampshire, RG26 5XB	22/05/22
Lynda Carlin	15 Creag Bhan Village, Oban, PA34 4BF	22/05/22
Fiona Woodhouse	Achacha, Barcaldine, PA37 1SF	22/05/22
Marie Geekie	115 Byng Drive, Potters Bar, Herts, EN6 1UJ	22/05/22

Rowan Howe	Inverlusragan, Connel, PA37 1PG	23/05/22
Tom Howe	Inverlusragan, Connel, PA37 1PG	20/05/22
Anna-Maria Darzeva	2/2, 16 White Street, Glasgow, G11 5RP	20/05/22
Clare Mattison	By e-mail only	03/02/23
Paul Mattison	By e-mail only	03/02/23
Ann Buchanan	By e-mail only	09/12/21 05/01/22 19/05/22 23/05/22 27/10/22 22/02/23
Mrs Cheryl Howe	Inverlusragan, Connel, PA37 1PG	07/12/2 28/04/23 13/05/22 16/05/22 21/02/23
Mr Pat Howe	Inverlusragan, Connel, PA37 1PG	03/12/21 01/04/22 28/04/22 05/05/22 13/05/22 16/05/22 02/06/22 27/09/22 13/11/22 21/02/23

SUPPORT		
Contributor Name	Contributor Address	Date Received
Mrs Susan Baillie	The Neuk, Connel, PA37 1PJ	02/06/22
Barbara Macfarlane	Caerthann House, Grosvenor Crescent, Connel, PA37 1PQ	20/05/22
Dr Garret Macfarlane	Caerthann House, Grosvenor Crescent, Connel, PA37 1PQ	20/05/22
Duncan Baird	Leven House, Achaleven, Connel, PA37 1PE	11/05/22
Ian MacVicar	Fasgadh, North Connel, PA37 1RA	21/04/23
Christine Hill	Mo Dhachaidh, Connel, PA37 1QP	21/04/23
Steven Hill	Mo Dhachaidh, Connel, PA37 1PO	21/04/23
Daniel MacVicar	8 Park Road, Oban	21/04/23
Matt Kelly	Catalina, Oban	21/04/23
Sara Stephenson	Carnoch, Connel, PA37 1PH	21/04/23
Lesley Stone	Eilean Froaich, North Connel, PA37 1QX	21/04/23
John Stone	Eilean Froaich, North Connel, PA37 1QX	21/04/23
Shona MacVicar	Oaklea, Ledaig, PA37 1RX	21/04/23
Graeme MacVicar	Oaklea, Ledaig, PA37 1RX	21/04/23
Isla Robertson	Old Burnside Flat, Main Street, Connel, PA37 1PA	21/04/23
Lorne Sinclair	Old Burnside Flat, Main Street, Connel, PA37 1PA	21/04/23
Yvonne Clark	Lailt, Connel, PA37 1PF	21/04/23
Allan MacKay	15 Kerrera Terrace, Oban, PA34 5AT	21/04/23

Claire MacKay	15 Kerrera Terrace, Oban, PA34 5AT	21/04/22
Vivien Smith	15 Kerrera Terrace, Oban, PA34 5AT	21/04/22
Clare Hampson	49 Achlonan, Taynuilt, PA35 1JJ	21/04/22
Janine Johnson	Bruach, Taynuilt, PA35 1HX	21/04/22
Karina MacPherson	19 Camus Road, Dunbeg, PA37 1QD	21/04/22
Gemma Campbell	12 Cruachan Cottages, Taynuilt, PA35 1JG	21/04/22
Katie Smith	Glenview, Kilvaree, Connel, PA37 1QN	21/04/22
Connor Kerr	Carnoch, Connel, PA37 1PH	21/04/22
Daniel MacIntyre	179 Lightburn Road, Cambuslang, G72 8XW	21/04/22
Robert H. Smith	24 Creag Bhan Village, Oban, PA34 4BF	21/04/22
Georgia Mitchell	Balnakeil, Kirk Road, Dunbeg, PA32 1PP	21/04/22
Veronica Speirs,	Corran Brae, Oban, PA34 5AJ	21/04/22
Lucy Stewart	17c Corran Brae, Oban, PA34 5AH	21/04/22
Nadia Holenadl	Flat 3, 10 Stevenson Street, Oban, PA34 5NA	21/04/22
Scott Sinclair	6 Ferryfield Road, Connel	21/04/22
Calum MacLachlain	Morven House, Oban	21/04/22
Kenneth Ferguson	Morar House, Connel, PA37 1PA	21/04/22
George McKnight	No address	21/04/22
Cloudie Forsyth	White Lodge, Glencruitten Road, Oban, PA34 4EW	21/04/22
Owner/Occupier (unreadable)	13d Corran Brae, Oban PA34 5AJ	21/04/22
Lee Gallacher	10b Corran Brae, Oban	21/04/22
Marie-Louise Korke	5a Burnbank Terrace, Breadalbane Street, Oban, PA34 5PB	21/04/22
Gavin MacKinnon	120 George Street, Oban, PA34 5NT	21/04/22
Kimberly Bryce	6 Ferryfield Road, Connel	21/04/22
Shona Vajk	14 Achaleven Road, Connel, PA37 1PE	21/04/22
Elaine Smith,	Keppoch, Croft Road, Oban, PA34 5JN	21/04/22
Eilidh Johnston	Seilachveaich, Oban, PA34 4JG	21/04/22
Jamie Warnock	61 MacKelvie Road, Oban	21/04/22
Andrew MacMillan	10 Benmore View, North Connel, PA37 1SN	21/04/22
Ann Campbell	Andarach, Connel, PA37 1PQ	21/04/22
Archie Campbell	Andarach, Connel, PA37 1PQ	21/04/22
Fiona Ferguson	Morar House, Connel, PA37 1DA	21/04/22
Graham Campbell	12a Glencruitten Drive, Oban, PA34 4EP	21/04/22
David Cameron	11b Longsdale Terrace, Oban	21/04/22
Blair MacFarlane	Darach Lodge, Inverawe	21/04/22
Helen MacVicar	Oaklea, Ledaig, PA34 1RX	21/04/22

In addition to the above, details of support submitted during a Community Council Meeting on 09/05/22 containing 76 signatures has also been submitted as follows. Those shown in bold have provide separate support as detailed above.

Contributor Name	Contributor Address
Scott Sinclair	6 Ferryfield Road, Connel
Caitlen Fowler	Rockfield Road, Oban
Paul Addison	15/7 Sloan Street, Edinburgh, EH6 8PL
G. MacFarlane	Darach Lodge, Inverawe
C. MacFarlane	Beachglade, Soroba, Oban
Duncan Baird	Leven House, Connel, PA37 1PE
Ally Dickie	Meadow View, Kilmore, PA34 4XX
Matthew Kelly	2 Stranraer Road, Oban

Lauren Stewart	Innishail, Bridge of Awe
Colin MacCallum	2 Stranraer Road, Oban
Lucy Stewart	Keepers Cottage, Benderloch, PA37 1WS
Hamish Buchanan	Cregan, Benderloch
Karen Baird	Leven House, Achaleven, Connel
Connor Kerr	Carnoch, Connel, PA37 1PH
Gayle Dickie	Meadow View, Kilmore, PA34 4XX
A. Silvester	Flat, Greenacre, Connel
Laura Carmichael	42 Morvern Hill, Oban, PA34 4NS
Hazel Silvester	2 Greenacre, Connel
Helen Campbell	9 Castle Road, Dunbeg, PA37 1QH
Peter MacGregor	Knysna, Glenshellach Road, Oban
Robert MacPherson	Riverside Lodge, Barcaldine
Nico Minco	The Caravan, Achaleven, Connel
Donald MacLean	Riverdale, Connel
Sarah Sinclair	Abernethys, Connel, PA37 1RN
Lucy Plummer	Burnside, Connel
Iona Sinclair	Abernethys, Connel, PA37 1RN
C. Munro	Ferndene, North Connel, PA37 1RA
Neil Carmichael	42 Morvern Hill, Oban, PA34 4NS
William (Illegible)	39 Marine Court
Isla Robertson	Old Burnside Flat, Connel, PA37 1PA
Allan Wright	3 Deirdre, Connel
Alice Addison	Macvicar Court, Dunbeg, PA37 1AA
Chris Shotton	15/7 Sloan Street, Edinburgh
Mairi Wright	2 Deirdre, Connel, PA37 1PL
Wendy Addison	10 Lunga Road, Oban, PA34 4NP
Sara Stephenson	Carnoch, Connel, Oban, PA37 1PH
Shaun	Abernethys, Connel
John Campbell	9 Castle Road, Dunbeg, PA37 1QH
Veronica Speirs	17c Corran Brae, Oban, PA34 5AJ
Jack Harper	Connel
Anna-May Woodhouse	Culnadalloch Bungalow, Achnacloich Farm, Connel, PA37 1PR
Paul Ferguson	16 Achaleven
Fiona Ferguson	Morar House, Connel, PA37 1PA
Chrissie Thomson	6 Millpark Terrace, Oban, PA34 4JH
Jamie MacMillan	Main Street, Connel
Iain Scott	6 Grosvenor Crescent
Ragen Kelly	2 Stranraer Road, Oban, PA34 4EU
Kirsteen Clark	2 Stranraer Road, Oban, PA34 4EU
Kenny (Illegible)	5 Dalrigh, Oban, PA34
F. Lockhart	The Oaks, Polvinster Road, Oban
Jonathan MacKenzie	Achnacloich Farm, Connel, PA37 1PR
Kathleen Anderson	Dal-Eite, Connel, PA37 1PA
Kevin McCubbin	14 Park Road, Oban, PA34 4GZ
Jean Clark	Cuiluaine, Connel, PA37 1PF
Sileas Sinclair	Rhonelin, North Connel, PA37 1QX
Suzie Smith	1 Buchanan Terrace, Oban
Yvonne Clark	Lailt, Connel
Millie (illegible)	Lailt, Connel
K. Bryce	6 Ferryfield Road, Connel
Janice McGhee	Allt an Sith, Achnacloich, Connel, PA37 1PR
Georgia Mitchell	7 Balnakeil, Kirk Road, Dunbeg, PA37 1PP

Jonathan Sayer	7 Balnakeil, Kirk Road, Dunbeg, PA37 1PP
Grace MacLean	10a Dalintart Drive, Oban, PA34 4EE
Amanda Hunter	Craigneuk, Benderloch, PA37 1RT
Dr Garret MacFarlane	Caerthann House, Grosvenor Crescent, Connel, PA37 1PQ
Fiona MacFarlane	Darach Lodge, Taynuilt
Steve Hill	Mo Dhachaidh, Connel
Christine Hill	Mo Dhachaidh, Connel
Sarah Hill	Mo Dhachaidh, Connel
Archie Campbell	An Daroch, Connel
Katie Sims	Dalrannoch Farm, Barcaldine
Nigel Taylor	12 Powell Place, Connel, PA37 1AE
Barbara MacFarlane	Caerthann House, Grosvenor Crescent, Connel, PA77 1PQ
Lorne Campbell Sinclair	Old Burnside Flat, Main Street, Connel, PA37 1PA
Anna McDonald	19 Creag (illegible)
Ross Addison	MacVicar Court, Dunbeg, PA37 1AA

In addition to the above, a screenshot from Facebook with names and 'likes' for the development on the Applicant's personal Facebook page has been submitted.

REPRESENTATION		
Contributor Name	Contributor Address	Date Received
Oban and District Access Panel	By e-mail only	08/01/22



Location Plan Relative to Planning Application: 21/01583/PP



1:1,250

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

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

Reference No:	22/02523/PP
Planning Hierarchy:	Local Application
Applicant:	Mr D Higgins
Proposal:	Erection of dwellinghouse, formation of vehicular access and associated works
Site Address:	Garden Ground of Torwood House, Torwoodhill Road, Rhu, Helensburgh, Argyll and Bute

SUPPLEMENTARY REPORT NO. 2

1.0 INTRODUCTION:

Members will recall that a Report by officers, with regard to the above proposal, was published as part of the PPSL Committee Agenda for 21 June 2023. The officer's recommendation at the time of publication was that the application be refused on the basis that the public road regime was unsuitable to accommodate the resultant intensification of traffic. At the time of publication of that report, officer's considered that applicant had not demonstrated to the satisfaction of the planning authority that commensurate improvements could be implemented as part of the development, in order to address current road access constraints as highlighted in the consultation response from the Council's Area Roads Engineer. Members will be aware that the proposed development was considered by officers to be acceptable with regard to all other material planning considerations (with the exception of the access regime.)

However, Members agreed 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, as per the officers' recommendation set out in a Supplementary Report No.1 (Agenda Item no. 10.) Members also noted that this would be reported back to the Committee at a future meeting

The purpose of this report is to:

- 1) Advise Members that further information has been submitted by the applicant in August 2023 providing detail of proposed road improvements;
- 2) Advise Members that a revised consultation response has been received by the Council's Area Roads Engineer on the basis of additional information submitted by the applicant, following the June meeting of the PPSL Committee; and,
- 3) Report to Members that Officers now consider that the applicant has demonstrated that there are no known constraints to prevent the applicant/developer implementing

required commensurate off-site road improvements, referred to in the original consultation response from the Council's Area Roads Engineer, subject to compliance with recommended planning conditions.

2.0 RECOMMENDATION:

That planning permission be approved subject to planning conditions as set out within this report.

3.0 ADDITIONAL SUPPORTING INFORMATION/DRAWINGS:

Since the June meeting of the PPSL Committee, further information has been received from the applicant's agent comprising the following: -

- Drawing No. 807(L)002B Revision B – (Revised) Proposed Site Plan;
- Drawing No. 807(L)004 – Proposed Location – 2 Nos. Passing Places; and,
- *A covering letter confirming that “the applicant has control over the land outside the application site as highlighted on Dwg No 807 L 004, to allow 2 no passing spaces to be formed as per Argyll and Bute Council Roads Authority comments.”*

4.0 CONSULTATIONS:

Area Roads – 29.08.2023 – On the basis of the shared point of access (refer to Section 3.0 above) there is no objection to the proposal subject to planning conditions and advisory notes.

5.0 ASSESSMENT

Further to deferral of formal determination at the June meeting of the PPSL Committee the applicant has since submitted an additional plan showing the position of 2 no. passing spaces on the northern side of Torwoodhill Road; one of which is by means of a service bay type access layout at the junction of the proposed private driveway and the public road, and the other being the formation of a new passing space on the northern side of the public road located towards the middle of that section of Torwoodhill Road between the proposed new access and the junction with Upper Torwoodhill Road.

The applicant has also confirmed that the applicant has control over the land outwith the application site required for these off-site road improvements as shown on the above drawing.

The Area Roads Engineer has re-assessed this proposal on the basis of the additional information submitted and issued a revised consultation on this basis to the effect that the proposed off-site road improvements (provision of two passing spaces) will address previous concerns regarding the design capacity of the public road to accommodate the intensification of traffic resulting from the proposed new house. Notwithstanding, the above drawing no. 807(L)004, it is recommended that further details of the detailed design layout of the 2 no. passing spaces be submitted to, and approved in writing, by the planning authority in consultation with the Roads Authority to ensure that these proposed improvements comply with design standards.

On this basis, officers are satisfied that the applicant has the necessary control to implement the off-site road improvements. 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.

6.0 RECOMMENDATION

- 1) Planning Permission be approved subject to planning conditions as set out within this report.

Author of Report: Norman Shewan **Date:** 07.09.2023

Reviewing Officer: Peter Bain **Date:** 07.09.2023

Fergus Murray
Head of Development and Economic Growth

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 22/02523/PP**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.

2. 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.

NOTE TO APPLICANT

- The applicant is advised that the boundary wall of Torwood House is a listed structure; separate listed building consent will be required in relation to any works to alter the wall, including the formation of the driveway opening and passing place formation.
- It is strongly recommended that the applicant/developer implement the approved development having careful regard to the advice set out in the consultation response from the Council's Local Biodiversity Officer dated 21st February 2023, including incorporation of good practice ecological measures e.g. provision of pipe end capping and escape ramps from foundation/services trenches during construction to avoid trapping animals. The above consultation response is available for inspection in full via the Public Access section of the Council's website.
- Notwithstanding the approval of planning permission, and the assessment carried out with regard to Town and Country Planning legislation and Policy guidance, the applicant/developer should be fully aware of their legal responsibilities and obligations under nature conservation legislation including the Habitats Directive and Habitats Regulations. Further details on the above are available by contacting NatureScot directly.

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: 22/02523/PP

Planning Hierarchy: Local

Applicant: Mr D. Higgins

Proposal: Erection of dwellinghouse, formation of vehicular access and associated work

Site Address: Garden Ground of Torwood House, Torwoodhill Road, Rhu, Helensburgh

SUPPLEMENTARY REPORT NO. 1

1.0 INTRODUCTION

The purpose of this report is to advise Members that:

- 1) The applicant has requested that determination of this application be deferred to allow an opportunity for him to engage in discussions to Council Officers and to prepare further details of a scheme of commensurate off-site road improvements for assessment by Planning Officers in consultation with Area Roads Engineers.
- 2) To advise Members of the implications of LDP2 as recommended by the Examination Report.
- 3) To advise members of further representations received from one of the original objectors in response to the submission of a revised site plan – proposed drawing no. 807(L)002 Revision A, received on 21st February 2023.

2.0 REQUEST FOR DEFERRAL

Members will be aware from the Main Report, that Council officers have assessed the proposal as being acceptable with reference to all material considerations with the exception of impact upon highways issues, having particular regard to the consultation response from the Council's Area Roads Engineer and third party representations.

It is also noted that the most recent formal consultation response from Area Roads recommends deferral of determination pending the submission of details of commensurate off-site improvements to the public approach road, commensurate to accommodate the intensification of traffic movements resulting from the proposed development. These commensurate improvements comprise the provision of two passing places on Torwoodhill Road between the proposed site access and the junction with Upper Torwoodhill Road.

Officers published the Main Report on the basis of information available at the time of the publication deadline in order to give the applicant a determination as soon as possible. During the drafting of the Main Report, Officers were engaged in negotiations with the applicant with

regard to the commensurate improvements. However, the timescale from the start of negotiations relative to the deadline for the publication of the report gave a very short window of opportunity to conclude the negotiations to an extent to allow a recommendation for approval prior to the report publication deadline. At the time of publication of the Main Report, the recommendation was that the application be refused on grounds that the applicant had failed to demonstrate that the required commensurate improvements could be implemented, and as such Officers considered that a recommendation for approval subject to a planning condition requiring implementation of the improvements would not be competent.

However, on 13th June, the applicant confirmed that the applicant:

“can provide the passing spaces in his land as he owns Torward House which is next to the proposed site - and the spaces can be formed within his land ownership.”

On the basis of this commitment in principle, Officer's would support the request for deferral in order to give the applicant the reasonable opportunity to seek to agree a detailed design for road improvements, particularly since the time available for the applicant to explore this opportunity was significantly constrained by the deadline for reports for the June PPSL meeting. In addition, Officers consider that the roads issue is the only one that warrants a recommendation for refusal, and that if this issue is reasonably capable of satisfactory resolution, then the most reasonable way to proceed would be defer formal determination to give the applicant a reasonable timescale to prepare details of a scheme of road improvements and to enter into further dialogue with planning officers in consultation with the Area Roads Engineer.

The application can be reported to PPSL at the next available opportunity upon resolution of this issue at which time the assessment will be based on a more categorical assessment of whether the required improvements can be implemented to the satisfaction of Area Roads.

3.0 RELEVANT PLDP2 POLICIES

Policy 01 - Settlement Areas

Policy 04 – Sustainable Development

Policy 05 – Design and Placemaking

Policy 06 – Green Infrastructure

Policy 08 – Sustainable Siting

Policy 09 – Sustainable Design

Policy 10 – Design – All Development

Policy 15 – Supporting the Protection, Conservation and Enhancement of Our Historic Built Environment

Policy 16 – Listed Buildings

Policy 17 – Conservation Areas

Policy 34 – Electric Vehicle Charging

Policy 35 – Design of New and Existing, Public Roads and Private Access Regimes

Policy 36 – New Private Accesses

Policy 40 – Vehicle Parking Provision

Policy 41 – Off Site Highway Improvements

Policy 61 – Sustainable Drainage Systems (SUDS)

Policy 66 – New Residential Development on Non-Allocated Housing Sites within Settlement Areas

Policy 73 – Development Impact on Habitats, Species and Biodiversity. Development Impact on Sites of International and National Importance.

Policy 77 – Forestry, Woodland and Trees

Policy 79 – Protection of Soil and Peat Resources

4.0 IMPLICATIONS OF PLDP 2 AS RECOMMENDED TO BE MODIFIED BY THE EXAMINATION REPORT

The assessment of this proposal against PLDP2 as recommended to be modified by the Examination Report is as follows:

Policy 01 – Settlement Areas: The proposal is located within the Settlement Area for Rhu as identified in PDL2. The provisions of Policy 01 continues to set out general support for development within the settlement area. No substantive change to previous assessment.

Policy 04 – Sustainable Development: Promotes the principles of sustainable development and remains generally aligned with the requirements of ABC LDP STRAT 1 and NPF 4 Policies 1 and 2 which have already been applied to the assessment of this matter. No substantive change to previous assessment.

Policy 05 – Design and Placemaking: Sets out principles for achieving good quality places and is generally aligned with the requirements of ABC LDP 2015 Policy LDP 9 and SG LDP Sustainable Design, and NPF4 Policy 14 which have already been applied to the assessment of this matter. No substantive change to previous assessment.

Policy 06 – Green infrastructure: Sets out a requirement for the developer to demonstrate how green infrastructure has been integrated into the design of the proposal from the outset. This policy overlaps with provisions elsewhere to consider enhancements to biodiversity and sustainable urban drainage which have already been applied to the assessment of this matter. No substantive change to previous assessment.

Policy 08 – Sustainable Siting: Sets out the principles for successfully integrating new development into its landscape/townscape setting and is aligned with the provisions of NPF4 and ABC 2015 Policy LDP 9 and SG LDP Sustainable Design which have already been applied to the assessment of this matter. No substantive change to previous assessment.

Policy 09 – Sustainable Design: Sets out that development proposals should demonstrate consideration of and where possible utilisation of renewable sources of energy; and sustainable design and construction methods. The Supporting Statement accompanying the application identifies that the proposal has been sited to maximise solar gain and would be constructed to meet Section 7 Sustainability of Scottish Technical Standards to provide an energy efficient build, enhanced natural lighting, home office space, energy efficient heating and improved storage space. No substantive change to previous assessment.

Policy 10 – Design – All Development: Sets out requirements for the design of new development and is generally aligned with the provisions of NPF4 and ABC 2015 Policy LDP

9 and SG LDP Sustainable Design which have already been applied to the assessment of this matter. No substantive change to previous assessment.

Policy 15 – Supporting the Protection, Conservation and Enhancement of Our Historic Built Environment: Sets out that development will not be supported where it fails to protect, conserve or enhance the special characteristics and/or cultural significance of the historic built environment, or to avoid any cumulative effect upon the integrity or special qualities of heritage assets. Policy 15 is aligned with the aims of NPF4 Policy 7 and ABC LDP 2015 Policy LDP 3 which have already been applied to the assessment of this matter. No substantive change to previous assessment.

Policy 16 – Listed Buildings: Sets out requirements for development which affects a listed building or its wider setting. The aims of Policy 16 are aligned with the aims of NPF4 Policy 7 and ABC LDP 2015 Policy LDP 3 which have already been applied to the assessment of this matter. No substantive change to previous assessment.

Policy 17 – Conservation Areas: Sets out a requirement that new development will preserve or enhance the character and appearance of a conservation area. The aims of Policy 17 are aligned with the aims of NPF4 Policy 7 and ABC LDP 2015 Policy LDP 3 which have already been applied to the assessment of this matter. No substantive change to previous assessment.

Policy 34 – Electric Vehicle Charging: This policy sets out a requirement for all new residential development with private off street parking to install dedicated cable ducting connecting each private residential parking space to the nearest electricity supply connection point capable of supporting the installation of a 7-kilowatt EV charging point. The provisions of Policy 34 introduce an additional requirement for residential development that has not been included within the design of the current proposal or the previous assessment. In the event that it were proposed to grant planning permission then it would be appropriate to seek the submission of further information to ascertain the practicability of this requirement in relation to the current development, and if deliverable and considered appropriate, to impose a planning condition to secure the provision of EV cable ducting within the implementation of the development.

Policy 35 – Design of New and Existing, Public Roads and Private Access Regimes: Sets out that the acceptance of development utilising existing public roads is subject to road safety and street design issues being addressed to the satisfaction of the Roads Authority and Planning Authority. In this instance it has been identified by the Roads Authority that the existing public road serving the development is substandard and unsuited to accommodate additional development without improvement; a detailed assessment is set out in the main report of handling of this aspect in relation to ABC LDP 2015 Policy LDP 11 and SG LDP TRAN 4 and SG LDP TRAN 5. On the basis that the applicant has not demonstrated that they would be able to address the underlying issues relating to street design and road safety the proposal would be viewed as contrary to the provisions of Policy 35. No substantive change to previous assessment.

Policy 36 – New Private Access: Sets out the circumstances where a new private access may be considered to be acceptable. In this instance the proposal would connect to the public road by a private driveway connection and would be consistent with the principles of Policy 36a. No substantive change to previous assessment.

Policy 40 – Vehicle Parking Provision: Sets out standards for off street car and vehicle parking. The proposed provision of 3 onsite parking spaces would be consistent with the requirements of Policy 40. No substantive change to previous assessment.

Policy 41 – Offsite Highway Improvements: Sets out an expectation that where new development would be served by a substandard private or public approach road then it will contribute proportionately to improvements to an agreed section of the public or private road

network. A detailed assessment is set out in the main report of handling of this aspect in relation to ABC LDP 2015 Policy LDP 11 and SG LDP TRAN 4 and SG LDP TRAN 5. No substantive change to previous assessment.

Policy 61 – Sustainable Urban Drainage Systems: Sets out a requirement that proposal for SuDS are required in relation to all development prior to determination. The proposal has been amended to include detail that SuDS are to be designed and installed in accordance to BRE Digest 365 Soakaway Design and BSEN - 752-4. No substantive change to previous assessment.

Policy 66 – New Residential Development on Non-Allocated Housing Sites within Settlement Areas: Sets out criteria to be applied to new residential development on non-allocated sites which seeks to secure an appropriate relationship with existing properties, respect the character of the locale, and to ensure that appropriate standards of access and parking are secured. The provisions of Policy 66 are aligned with the provisions of NPF 4 Policy 14, and elements of ABC LDP 2015 Policy LDP 9 and SG LDP Sustainable Design, Policy LDP 11 and SG LDP TRAN 4 and SG LDP TRAN 6 which are all covered within the previous assessment. No substantive change to previous assessment.

Policy 73 – Development Impact on Habitats, Species and Biodiversity. Development Impact on Sites of International and National Importance. The provisions of Policy 73 are generally aligned with the requirements of NPF4 Policy 3, and ABC LDP 2015 Policy LDP 3 and Sg LDP ENV 1 which have already been applied to the assessment of this matter. No substantive change to previous assessment.

Policy 77 – Forestry, Woodland and Trees: Sets out criteria for the assessment of development impact on woodland and trees. The provisions of Policy 77 are aligned with the requirements of NPF4 Policy 6; ABC LDP 2015 Policy LDP 3, and SG LDP ENV 6 which have already been applied to the assessment of this matter. No substantive change to previous assessment.

Policy 79 – Protection of Soil and Peat Resources: Sets out that the Council will only support development where appropriate measures are taken to maintain soil resources and functions through measures that are proportionate to the development. Policy 79 is aligned with the provisions of NPF4 Policy 5 which have already been applied to the assessment of this matter. No substantive change to previous assessment.

6.0 ADDITIONAL REPRESENTATIONS

Since publication of the Report, an amended representation has been received from:

- Albert Barclay - Carbeth House, Torwoodhill Road, Rhu

Representations are published in full on the planning application file and are available to view via the Public Access section of the Council's website, and a summary of the issues raised are summarised as follows:

- The further information provided by the revised Drwg 807(L)002A is a substantive amendment to the application and additional information should be provided by the applicant to demonstrate that the proposed soakaway solution is fit for purpose.
- The underlying strata of the site is rock, so it is questionable how the principle of soakaways (proprietary or otherwise) would actually work effectively.

- The implications will be far reaching in terms of flood risk to adjacent infrastructure and will not be easily rectified if a wrong assessment is made.
- A detailed Drainage Survey should be required for approval by the relevant authorities as a condition of planning approval, particularly given the revised proposals.
- Additional particulars and detailed information should be required for proper consideration prior to approval by committee.

Comment: - With respect to the objector, the latest representation offer some clarity on the issue of surface water/land drainage in respect of the revised drawings, however it does not raise any new material planning issues over and above those set out, and fully assessed in the Main Report. The revised representation does not raise any new issues that requires an amendment to the Main Report.

- The revised drawing does not address waste and soil water discharge. This matter also needs to be fully addressed.

Comment: - The application details propose that foul water drainage be by means of a connection to the public drainage network. The consultation response from Scottish Water does not indicate that there are any constraints that would warrant further information from the applicant in this respect. Land water drainage should be assessed as part of the proposed private surface water drainage system. No changes to the main Report are required in response to this issue.

7.0 CONCLUSION

Request for Deferral

Having regard to all material considerations, including the planning history of a planning permission for a similar development on this site in 2017; the consultation response from Area Roads on the current application; and the acceptance of the applicant in principle to implement off-site road improvements to provide two passing places on the public approach road; and given that Officers are otherwise minded to support this proposal, it considered wholly appropriate in these circumstances to allow the applicant every reasonable opportunity to seek, with Council Officers, to continue to seek a resolution that accords with the consultation response from Area Roads and with relevant transport/access policy.

However, should Members wish to determine the application on the basis of the information available at the time of publication of the Report, then the following matters should be noted.

LDP2 Assessment

Proposed Local Development Plan 2 as recommended to be modified by the Examination Report is now a significant material consideration. However, in this case there is no significant material change of policy between the Adopted Plan and Proposed Local Development Plan 2 as recommended to be modified by the Examination Report that would require further assessment or lead to a change in the recommendation.

Further Representations

Whilst the latest representation received provides some clarity to the original objection in response to the submission of a revised site plan drawing showing soakaway drainage, with respect to the objector, it does not raise any new issues that have not been assessed within the body of the Main Report. For Members convenience, should planning permission ultimately be approved, then it is recommended by officers that it be subject to a suspensive planning condition requiring the submission and approval of further drainage details for assessment by officers in consultation with the Council's Flood Risk Assessor.

6.0 RECOMMENDATION

- 1) That Members defer determination of this application to allow an opportunity for the applicant to prepare and submit further details to demonstrate to the satisfaction of Council Officers that there are no constraints to the implementation of an agreed scheme of commensurate off-site road improvements.

Should Members wish to determine the application at the meeting on 21st June 2023, notwithstanding the Officer's recommendation above, then the secondary recommendation is that:

- 2) Members note the additional representation received: and,
- 3) Determine the application in accordance with the Head of Development & Economic Growth's report dated 13th June 2023.

Author of Report: N. Shewan **Date:** 20.06.2023

Reviewing Officer: Sandra Davies **Date:** 20.06.2023

Fergus Murray
Head of Development and Economic Growth

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Argyll and Bute Council
Development & Economic Growth

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

Reference No: 22/02523/PP
Planning Hierarchy: Local
Applicant: Mr D Higgins
Proposal: Erection of dwellinghouse, formation of vehicular access and associated works
Site Address: Garden Ground of Torwood House, Torwoodhill Road, Rhu, Helensburgh, Argyll And Bute

DECISION ROUTE

- Delegated - Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997
- Committee - Local Government Scotland Act 1973
-

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Sub-division of curtilage of single residential development to create a site for erection of a new separate dwellinghouse
- Erection of a dwellinghouse
- Formation of access and driveway
- Associated land engineering works/re-profiling existing ground levels
- Installation of surface water drainage system

(ii) Other specified operations

- Connection to existing public water supply network
 - Connection to existing public drainage network
-

(B) RECOMMENDATION:

It is recommended that planning permission be refused.

(C) CONSULTATIONS:

ABC Roads (08.03.2023):

Torwoodhill Road, in its current layout is considered unsuitable to serve the existing properties and the proposed new development.

It is recommended that determination of the application be deferred until details of commensurate improvements to Torwoodhill Road are submitted for assessment.

Commensurate improvements should include the creation of 2No. intervisible passing places between the Upper Torwoodhill Road junction and the access to the proposed. This could include the creation of a 'Service Bay' access arrangement at the access to the proposed development.

ABC Local Biodiversity Officer (21.02.2023):

- 1) The submitted Tree Report does not provide advice on the timing for opening up the site for foundation construction with reference to impact on birds.
- 2) Requests a planning condition requiring a pre-start ecological survey to be carried out in advance of excavation works, if it is proposed to commence during the bird nesting season.
- 3) Advises that good practice measures e.g. pipe end capping and escape ramps from foundation/services trenches should be implemented during construction to avoid trapping animals.
- 4) Advises that submission, assessment and approval of a Landscape Design Planting Plan be required by planning condition.

ABC Built Heritage & Conservation Officer (22.02.2023):

Planning Permission Ref 16/03045/PP was granted for the sub division of the plot and proposed new dwellinghouse. Whilst the same LDP is currently in place, there has been a material change in that the NPF4 has now been adopted which requires to be taken into account as part of a proper assessment of the current application. It is not considered that the supporting information submitted as part of the Planning Statement provides sufficient assessment of the character of the conservation area and the properties (both listed and un-listed within it) to allow a full assessment against the provisions of NPF4 Policy 7.

Notwithstanding the above required information, initial concern is expressed that:

- 1) the proposed development is at odds with the existing pattern of development/urban grain; and,
- 2) there is a lack of justification for the architectural style of the proposed house in relation to the mixture of distinct architectural styles for existing houses within the area.

It is suggested that the applicant submits a more comprehensive assessment of the historic assets and the likely impacts of the proposal which may help to address these concerns.

Scottish Water (03.02.2023):

No objection. This does not confirm that the proposed development can currently be serviced. Further investigation regarding Water Capacity Assessment may be required when a formal application is submitted to Scottish Water. Suggest that the applicant submits a Pre-Development Enquiry to Scottish Water to allow a full assessment of waste Water Capacity. Scottish Water will not accept any surface water connections into their combined sewer system.

(D) HISTORY:

20/01190/PP - Conversion of garage into dwellinghouse, erection of two storey extension and installation of air source heat pump at Garden Ground Of Torwood House – Approved 18.10.2020.

16/03045/PP – Erection of dwellinghouse at Garden Ground Of Torwood House, Torwoodhill Road, Rhu – Approved 01.12.2017

(E) PUBLICITY:

Site Notice - Conservation Area – Expired 22.02.2023

Site Notice - Setting Listed Building – Expired 22.02.2023

Listed Building/Conservation Advert – Expired 02.03.2023

Neighbour Consultation – Expired 22.02.2023

(F) REPRESENTATIONS:

(i) Representations received from:

Representations are published in full on the planning application file and are available to view via the Public Access section of the Council's website.

A total of thirteen representations have been received from third parties. Twelve of these are objections to the proposal and the remaining one does not object in principle subject to concerns regarding drainage being satisfied prior to determination of the application.

It is noted that whilst the status of several third party submissions has been expressed as an "objection" - their concerns may be satisfied by resolution of these identified concerns ((primarily relating to drainage and roads/access.)

Objection:

- Hilary Stuart – Dunaivon, Armadale Road, Rhu Helensburgh, Argyll and Bute G84 8LG
- Dr. Florence Watt - Acorn Cottage, Invergare Cottages, Glenarn Road, Rhu, Helensburgh, Argyll and Bute G84 8LL
- Miss Kim Maclean - The Cottage, Invergare, Glenarn Road, Rhu
- Mrs. Jill Wadge - 5 Torwoodhill, Torwoodhill Road, Rhu, Helensburgh, Argyll and Bute G84 8LE
- Ms. Carolan Dobson – Auchenlea, Torwoodhill Road, Rhu, Helensburgh, Argyll and Bute G84 8LF
- Frazer King – Hazelwood, Torwoodhill Road, Rhu, Helensburgh, Argyll and Bute G84 8LF
- Nick Barton – Dunrowan, Armadale Road, Rhu, Helensburgh, Argyll and Bute G84 8LG
- Mrs. Celia Taylor - Rowan House, Armadale Road, Rhu, Helensburgh, Argyll and Bute G84 8LG
- Jane Nicholson - Torwood Cottage, Armadale Road, Rhu
- Albert Barclay - Carbeth House, Torwoodhill Road, Rhu
- Michael Thornley - Glenarn House, Glenarn Road, Rhu, Helensburgh
- Sue Thornley - Glenarn House, Glenarn Road, Rhu, Helensburgh
- Mrs. Norma Bennie – Oakdene, Armadale Road, Rhu, Helensburgh, Argyll and Bute G84 8LG

Representation:

- Tim Esson - Melsetter ,Torwoodhill Road, Rhu, Helensburgh, Argyll and Bute G84 8LF

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

- Drainage Infrastructure/Surface Water Flood Risk:

Sewage system does not have capacity to serve an additional house. Anecdotal evidence of recent sewer blockages on Torwoodhill Road is submitted in support the above.

Anecdotal evidence is submitted with regard to regular flooding on the local road network and adjacent residential properties. It is submitted that this has significantly worsened after clearance of vegetation from the application site.

The application does not include details of a specific drainage plan. The drawings indicate “Aco” type drains at the bottom of the driveway with no information on where these discharge to.

Proposal is likely to exacerbate surface water flooding on public adopted road and nearby properties on lower ground to the south, and the integrity of the existing retaining wall may be threatened.

Planning permission should not be approved until a full drainage impact survey has been carried out, and an effective and comprehensive surface water drainage system agreed.

(It is understood (by an objector) that soakaways are proposed however this is unlikely to be achievable due to underlying ground conditions).

Comment: - It is noted that planning permission has previously been approved for the erection of a house on this site in December 2017 subject to a planning condition that the development incorporate a Sustainable Urban Drainage System (SuDS). The current application submission has been revised to show further detail with regard to the proposed surface water drainage design. Officers accept that further details are required to demonstrate to the satisfaction of the local planning authority that adequate surface water drainage can be provided to serve the propose development particularly with regard to the suitability of a soakaway; however Officers are satisfied that the current information available provide sufficient assurance that the site is capable of development, and that the exact technical design, based on a geological survey, if required, can be satisfactorily dealt with by means of a suspensive planning condition. The Council’s Flood Risk Consultant will be consulted as part of that process.

- Access and Road Safety:

The proposal will result in further intensification of traffic using a sub-standard access (Torwoodhill Road) and will increase safety hazards to drivers and pedestrians.

Size of the site results in “less than adequate” arrangements for access and egress.

Comment: - Noted. The consultation response from Area Roads will be given significant material weight as part of this assessment. Area Roads consider that Torwoodhill Road is unsuitable, in its current layout, to service a further intensification of use generated by the proposed

development. Area Roads recommend deferral of the application pending submission of details of commensurate improvements to Torwoodhill Road, to comprise 2 no. intervisible passing spaces to the west of its junction with Upper Torwoodhill Road. Following further clarification of the requirement for commensurate off-site access improvement works, this requirement has been confirmed to the applicant with request that the applicant confirm that he has ownership/control over sufficient land (if required outside of the public road corridor) to provide the passing spaces and whether he is willing to provide the required improvement works.

A response is awaited.

- Historic Environment

Objection to “yet another property being built in the garden of a conservation village.”

The layout/siting; development density and design style of the house does not reflect the character (inc. historic grain) of the conservation area.

Comment: - These issues are assessed in full within Section (P) below.

- Residential/Visual Amenity

Screening onto Torwoodhill Road needs to be carefully considered to maintain privacy of residents in existing houses (and preserve the ambience of the local area.)

Replacement tree planting should be addressed to reflect the character of the area.

Comment: - Having regard to Policy LDP 9 and SG LDP – Sustainable Guidance and Design principles - it is considered that the proposed development, by reason of its siting and orientation relative to nearby residential properties; and the visual screening provided by existing and proposed natural planting along the site boundaries, will not have a materially adverse impact upon residential amenities of the occupiers of nearby properties by reason of loss of privacy through overlooking between windows to habitable rooms.

- Miscellaneous

Construction related activity/parking etc. may cause temporary blockages to Torwoodhill Road to the detriment of the amenities of existing residents, including potential obstruction of emergency vehicles.

Comment: - Whilst the concerns of local residents are noted, this is not a material consideration that can form part of this assessment. Any obstruction of the public road system by contractors would be a matter for parking enforcement or police Scotland.

The application should not be determined until an up-to-date Tree Report has been submitted.

Comment: - Officers consider that the Tree Report dated October 2016 is adequate to allow a full and professional assessment of the proposed development impact upon trees within the application site.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) **Environmental Impact Assessment Report:** Yes No
- (ii) **An Appropriate Assessment under the Conservation (Natural Habitats) Regulations 1994:** Yes No
- (iii) **A Design or Design/Access statement** Yes No

Planning Design Statement

- This application is for minor changes to a proposal for a single dwellinghouse previously approved under ref: 16/03045/PP (since expired.)
- Site description, context and history is set out.
- The design incorporates traditional features evident in neighbouring properties, particularly Torwood House and high quality materials are proposed to ensure that the building will respect and enhance the area and preserve the listed building and its setting in accordance with relevant planning policy.
- An existing access onto Torwoodhill Road will be widened and otherwise improved.
- Parking and turning for 3 cars will be provided within the site.
- Drainage channels to be installed across the access junction and the driveway to mitigate any water run-off from the development.
- The site will be served by a connection to mains water and sewage systems.
- Landscape design proposes retention of mature trees where recommended by an accompanying Tree Survey Report, and additional planting where trees are to be removed. The North West of the site is to be retained to maintain existing screening between the site and the neighbouring property, Carbeth.
- The proposal is sustainable development with reference to siting/orientation and there is an aim to meet high technical standards e.g energy efficient build; energy efficient

heating; enhanced natural lighting; home office space; etc.

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

Tree Report

- Sets out the legal position with regard to trees and wildlife, specifically in relation to bats and birds.
- Details of the tree survey and analysis methodology and tree categorisation.
- None of the 34 trees surveyed are classed as Category A trees. 14 no. trees are Category B and 16 are Category C. Five trees are Category U (either already dead or in such poor condition that they should be removed regardless of development.)
- Recommended management includes removal of overgrown laurel and rhododendron which has suppressed the surrounding trees; and remedial tree work operations including felling of 27 no. trees. 8 no. trees are proposed “to accommodate the development”.
- Recommends Tree Protection Measures during construction in accordance with BS standards – Trees and Construction.

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: Yes No

-
- (I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** Yes 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.**

[National Planning Framework 4 \(Adopted 13th February 2023\)](#)

Part 2 – National Planning Policy

Sustainable Places

NPF4 Policy 1 – Tackling the Climate and Nature Crises
NPF4 Policy 2 – Climate Mitigation and Adaption
NPF4 Policy 3 – Biodiversity
NPF4 Policy 4 – Natural Places
NPF4 Policy 5 – Soils
NPF4 Policy 6 – Forestry, Woodland and Trees
NPF4 Policy 7 – Historic Assets and Places
NPF4 Policy 13 – Sustainable Transport

Liveable Places

NPF4 Policy 14 – Design, Quality and Place
NPF4 Policy 16 – Quality Homes
NPF4 Policy 22 – Flood Risk and Water Management

'Argyll and Bute Local Development Plan' Adopted March 2015

LDP STRAT 1 – Sustainable Development
LDP DM 1 – Development within the Development Management Zones
LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment
LDP 8 – Supporting the Strength of our Communities
LDP 9 – Development Setting, Layout and Design
LDP 10 – Maximising our Resources and Reducing our Consumption
LDP 11 – Improving our Connectivity and Infrastructure

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

Natural Environment

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

Historic Environment and Archaeology

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

General Housing Development

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

Sustainable Siting and Design

SG LDP Sustainable – Sustainable Siting and Design Principles

Resources and Consumption

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

Transport (Including Core Paths)

SG LDP TRAN 4 – New & Existing, Public Roads & Private Access Regimes
SG LDP TRAN 5 – Off-site Highway Improvements
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.** *(delete as appropriate)*

- Historic Environment Scotland - HEPS
- Historic Environment Scotland – Managing Change in The Historic Environment

[Argyll and Bute proposed Local Development Plan 2 \(November 2019\)](#) – The reporters have written to Argyll and Bute Council regarding the Proposed Local Development Plan 2, which is currently at Examination. Due to the status of the revised draft National Planning Framework 4 the reporters are currently determining what, if any, further processes are required as a consequence. Although PLDP2 remains a material consideration it is now subject to this further assessment [against NPF4 policies](#). Therefore, it considered appropriate **not** to attach significant weight to PLDP2 [policies](#) during this time, i.e. until the consequences of NPF4 [policies](#) for the PLDP2 have been assessed by the reporters and the Examination report is issued. [Specific sites in PLDP2 that have not received objections and are not being dealt with at the Examination may continue as strong material considerations, e.g. allocations and potential development areas.](#)

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

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

(M) **Has a Sustainability Checklist been submitted:** Yes No

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

(O) **Requirement for a pre-determination hearing:** Yes No

(P)(i) **Key Constraints/Designations Affected by the Development:**

- Setting of a Listed Building
- Conservation Area
- Existing trees

(P)(ii) **Soils**

[Agricultural Land Classification:](#)

Built Up Area

Peatland/Carbon Rich Soils Classification:

- Class 1
- Class 2
- Class 3
- N/A

Peat Depth Classification:

N/A

- Does the development relate to croft land? Yes No N/A
- Would the development restrict access to croft or better quality agricultural land? Yes No N/A
- Would the development result in fragmentation of croft / better quality agricultural land? Yes No N/A

(P)(iii) Woodland

- Will the proposal result in loss of trees/woodland? Yes No
- Does the proposal include any replacement or compensatory planting? Yes No details to be secured by condition N/A

(P)(iv) Land Status / LDP Settlement Strategy

- Status of Land within the Application *(tick all relevant boxes)*
- Brownfield
 - Brownfield Reclaimed by Nature
 - Greenfield

- ABC LDP 2015 Settlement Strategy LDP DM 1 *(tick all relevant boxes)*
- Main Town Settlement Area
 - Key Rural Settlement Area
 - Village/Minor Settlement Area
 - Rural Opportunity Area
 - Countryside Zone
 - Very Sensitive Countryside Zone
 - Greenbelt

ABC LDP 2015 Allocations/PDAs/AFAs etc: N/A

(P)(v) Summary assessment and summary of determining issues and material considerations

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/Minor Settlement Zone of Rhu as identified in the Argyll and Bute Local Development Plan 2015 (LDP) wherein Policy LDP DM 1 gives encouragement to sustainable forms of small scale development on appropriate sites.

The proposal lies within the Rhu Village Conservation Area and both the 'donor property' "Torwood house", and the residential property adjacent to the north, "Carbeth House" are both Category "C" listed buildings. As such, the impact of the proposed development on the historic environment will be a determining factor. In

addition, the proposed development has been assessed more generally with regard to siting, scale, massing form, and detailed design in relation to the aim of respecting and reflecting the visual character of the existing built development pattern; and protecting local residential amenity in terms of loss of privacy by reason of direct over-looking of nearby houses.

The site is not located within or in proximity to any nature conservation designation and existing trees are not specifically protected by a Tree Preservation Order, nor do they lie within NatureScot Ancient Woodland Inventory. However, any impact upon the natural environment in relation to biodiversity and impact on trees/woodland falls to be assessed in connection with the proposal.

The proposal has also been assessed with regard to the satisfactory provision of services infrastructure provision.

A fully detailed assessment with reference to the above determining factors, and all other material considerations, including planning history and material planning issues raised by third party representations are set out in the Appendix A to this report.

Having regard to all material considerations it is considered that the proposal cannot be supported on the basis of the information currently available. It is considered that existing public approach road, "Torwoodhill Road", is unsuitable to accommodate the intensification of traffic that will be generated by this additional house without detriment to road safety and the free flow of traffic. The applicant has been unable to demonstrate to the satisfaction of the planning authority that commensurate improvements can be implemented as part of the development in order to address current road access constraints. It is therefore recommended that the application be refused on road safety grounds.

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

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

N/A

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

Not applicable.

(T) Need for notification to Scottish Ministers or Historic Environment Scotland:
 Yes No (If yes provide detail below)

Author of Report: Norman Shewan **Date:** 02.06.2023

Reviewing Officer: Sandra Davies **Date:** 13.06.2023

Fergus Murray
Head of Development & Economic Growth

REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO. 22/02523/PP

1. It is considered that the proposed public road access regime is unsuitable, in terms of width and alignment, to accommodate the resultant intensification of traffic movements generated by the proposed development and would result in an increase in road traffic hazards to the detriment of highway safety and the free flow of traffic contrary to the provisions of Policy LDP 11; SG TRAN 4 and NPF 13. On the basis of the submitted information, the applicant is unable to demonstrate that the design issues relating to this substandard access approach road can be addressed by commensurate improvements to the satisfaction by the Council as Roads Authority to a level that can serve the additional vehicular and pedestrian movements that will result from the proposed development.

COMMITTEE REPORT	
APPENDIX A – RELATIVE TO APPLICATION NUMBER:	22/02523/PP
PLANNING LAND USE AND POLICY ASSESSMENT	

1. Settlement Strategy

- 1.1. The site is located within the Village/Minor Settlement Zone of Rhu as identified in the Argyll and Bute Local Development Plan 2015 (LDP) wherein Policy LDP DM 1 gives encouragement to sustainable forms of small scale development on appropriate sites.
- 1.2. The proposed residential development is considered to be “small-scale” with reference to SG LDP HOU 1 – “General Housing Development Including Affordable Housing.” Policy LDP 8 and SG LDP HOU 1 serve to operate a presumption in favour of housing development in accordance with the nature and scale of development set out in Policy LDP DM 1, and advises that such development “will be supported unless there is an unacceptable environmental, servicing or access impact.”
- 1.3. NPF 4 Policy 1 requires that significant weight be given the global climate and nature crises when considering new development. Policy 2 seeks to encourage, promote and facilitate development that minimises emissions and adapts to impacts on climate change. NPF 4 Policy 5 aims to protect locally, regionally, national and internationally valued soils.
- 1.4. The development is located within an identified settlement with access to community facilities and public transport networks, consistent with the LDP Settlement Strategy, and as such complies with the Sustainability criteria established by Policy LDP STRAT 1, and is compatible with the provisions of NPF 4 Policy 1 in terms of addressing the Climate Crisis in principle. The site is located within an established residential area and will not impact upon soil that has material value. It is recommended that any planning permission will be subject to a model planning condition
- 1.5. On the above basis, it is considered that there is a general presumption in favour of the principle of this proposed development in terms of its location, nature and scale when assessed against the policy provisions relating to the LDP Settlement Strategy and relevant NPF 4 Policy.

2. Location, Nature and Design of Proposed Development

- 2.1. Torwood House is a large, detached Category B listed traditional villa set in a very large curtilage characterised by mature trees, hedgerows and large shrubs that bound the site. It is accessed off Torwoodhill Road. Torwood House is sited towards the upper north west of the grounds and overlooks the Gareloch.
- 2.2. The proposal is to subdivide this site to create a plot of some 1040m² within the south west corner of the grounds for a new dwellinghouse. The application site is bounded to the east and north by the remaining curtilage of Torwood House and the west by an adjoining dwellinghouse known as Carbeth House. This latter property is also a Category B listed building. There is an established natural belt of trees and large shrubs along the western site boundary separating it from the grounds of Carbeth House. Lastly, the site is bounded to the south by a public adopted road known as Torwoodhill Road. The level of

the site slopes downwards towards the road and the boundary is demarcated by a stone retaining wall.

- 2.3. Evidence suggests that there was an original pedestrian gated access to the grounds of Torwood House within the site frontage of the current application site. This gate has been removed; perimeter trees removed; the small opening in the stone boundary wall significantly enlarged; and ground engineering works carried out to form an access track from the level of Torwoodhill Road up the central part of the application site. The application site has been fenced off from the rest of the curtilage to Toward House and the central area cleared of vegetation.
- 2.4. The site slopes reasonably steeply upwards from south to north. The houses to the south of Torwoodhill Road sit much lower than the proposed plot.
- 2.5. The proposed house is to be sited towards the north west corner of the site. A level 'plateau' for the siting of the house, and a driveway at the southern edge of the site will be formed by ground engineering works. The level of the proposed house will sit significantly above the level of Torwoodhill Road. It will be set back some 17.3 metres from the southern boundary with the public road and set in approximately 2.16 metres from the western boundary (with Carbeth House). The proposed dwellinghouse will have 4 bedrooms with a floor area of approximately 130 square metres and a maximum ridge height of 8.5 metres. It will be traditional in design to reflect the architectural character of Torwood House. Two projecting gable forms at either end of the principal (south) elevation serve to visually 'break up' the massing of the new building; and in conjunction with traditional chimneys and finial, this will provide an attractive, well-considered form and 'animated' roofscape. External wall finishes are to be off-white coloured render with stone detailing, a natural slate roof and timber framed windows.
- 2.6. The site previously had a wooded character however a number of trees and shrubs have been removed as recommended in a Tree Survey Report submitted as part of this application. The removed trees and clearance relates mostly to the southern site boundary with the road and the central area of the site. Trees and large shrubs remain along the north, east and west boundaries to maintain the privacy of neighbouring properties. New trees will be planted to the front of the site to further protect privacy and to help the development to integrate into its surroundings.
- 2.7. NPF4 Policy 14 requires that development proposals be designed to improve the quality of an area; and, offers support to development that achieve the six qualities of Health; Pleasant; Connected; Distinctive; Sustainable; and, Adaptable. Development that is poorly designed, detrimental to the amenities of surrounding areas or inconsistent with the aforementioned six qualities will not be supported.
- 2.8. NPF Policy 14 is closely aligned with the provisions of Policy LDP 9 and SG LDP Sustainable Siting and Design Principles which requires that new development be assessed against identified sustainability criteria and identified design criteria relating to the Design of New Housing in Settlements. The Supplementary Guidance also establishes design criteria that seeks to protect the residential amenities and daylight enjoyed by the occupiers of neighbouring properties.
- 2.9. Having regard to the built development pattern and densities of the local area, it is noted that there is a range of scale and design of houses, and whilst the overall pattern of built development is very spacious, there is a range of site densities; and that the ratio of built development to open curtilage in the case of this proposal is similar to some other existing development. The scale of the house is comparatively small and it is considered that the siting, form, massing and material finishes will respect and reflect the existing character

of built development and compliment the visual character of the area in accordance with the relevant provisions of NPF4; LDP 9 and SG on Sustainable Siting and Design Principles.

- 2.10. The proposed house will be screened from Carbeth and Torwood House by existing natural boundary features and this screening, in conjunction with the relative orientation of windows and separation distances will mean that there will be no material loss of residential amenities to the occupiers of these properties by reason of overlooking. The properties to the south of the site, "Dunrowan" and "Hazelwood" are set at a significantly lower level than the proposed development due to the prevailing slope. However, the windows on the south elevation of the proposed house is in excess of the minimum 18 metres guideline (SG – Sustainable) from windows on the rear elevations of these properties. Additionally the windows in the proposed house do not directly face the rear windows at Hazelwood. There is an existing natural boundary along the rear of "Dunrowan" and supplementary planting proposed along the southern edge of the application site will mitigate any issue of loss of privacy to an acceptable level. On this basis, Officers are satisfied that the proposed development will not have a material impact upon the residential amenities of nearby properties in accordance with the provisions of NPF4 Policy 14 and Policy LDP 9/SG – Sustainable Siting and Design Principles.

3. Natural Environment

- 3.1. NPF4 Policy 3 generally seeks to protect biodiversity, reverse biodiversity loss and to deliver positive benefits from development that strengthens nature networks. Policy 3(c) requires that proposals for local development will include appropriate biodiversity measures proportionate to the scale and nature of the proposal. Policy 3(d) requires any potential adverse impacts on biodiversity/nature networks/natural environment to be minimised by planning and design. NPF 4 Policy 3 is generally aligned with LDP Policy, although NPF 4 Policy 3(c) goes beyond the LDP requirements in relation to current biodiversity interests of the site.
- 3.2. NPF 4 Policy 4 generally confirms that development that will have an unacceptable impact on the natural environment will not be supported. Outside of European, national and local designations, development is expected to meet the relevant statutory tests in terms of protected species legislation; and potential impacts must be fully considered prior to determination of planning applications. NPF 4 Policy 4 (insofar as it relates to the location, nature and scale of the current proposal) largely aligns with the provisions of LDP policy.
- 3.3. Policy LDP 3 (the Argyll and Bute Local Development Plan – 2015) generally serves to support the protection, conservation and enhancement of the environment. SG LDP ENV 1 ensures that other legislation relating to biodiversity habitats are fully considered in relation to development proposals; and generally that development does not have an adverse impact on habitat or species, particularly in relation to habitat or species designated as being of European, national or local significance.
- 3.4. The site is not located within or in proximity to any nature conservation designation.
- 3.5. The site was previously a small 'pocket' of woodland and ground cover vegetation within the corner of the extensive grounds to Torwood House, however this wooded area is not overlain by a Tree Preservation Order, nor does it form part of any woodland within the NatureScot Ancient Woodland Inventory.

- 3.6. The Council's Local Biodiversity Officer has been consulted on the basis of potential impact upon wildlife habitat with particular regard to the felling of trees and scrub clearance (although a large part of this has been implemented.)
- 3.7. The consultation response from the Council's Local Biodiversity Officer has noted that the submitted Tree Report has provided the applicant information on Bats, the law and licencing, along with Birds and the law, although it does not provide advice on the timing for opening up the site for foundation construction with reference to impact on birds. On this basis, it is considered that adequate information has been submitted to allow an assessment on impact on species and habitats in accordance with the provisions of NPF 4 Policy 3(c).
- 3.8. However, it is recommended that any permission be subject to a planning condition requiring a pre-start ecological survey to be carried out in advance of excavation works, if it is proposed to commence during the bird nesting season.
- 3.9. It is also advised that submission, assessment and approval of a Landscape Design Planting Plan be required by planning condition. (With regard to the latter, additional information relating to new planting has been submitted on the revised Site Plan – Proposed drawing showing the SUDS design, and the Council's Local Biodiversity Officer has not had the opportunity to assess this.) It is recommended that planning permission be subject to a condition requiring the submission of further information, should the Council not be satisfied with the level of information already submitted.
- 3.10. Good practice measures e.g. pipe end capping and escape ramps from foundation/services trenches should be implemented during construction to avoid trapping animals. It is recommended that any permission be accompanied by an advisory in relation to the above.

4. Built / Historic Environment

- 4.1. The application site forms part of the original grounds of a Category B listed building, "Torwood House." Additionally, the western site boundary is shared with an adjoining Category B listed building, "Carbeth House."
- 4.2. The site is located within the Rhu Conservation Area.
- 4.3. NPF4 Policy 7 generally seeks to protect and enhance the historic environment, assets and places, and to enable positive change as a catalyst for the regeneration of places. Policy 7(a) requires that development proposals with a potentially significant impact on historic assets or places be accompanied by an assessment based on an understanding of the cultural significance of the asset and/or place. Development will only be supported where the character and appearance of the conservation area is preserved or enhanced; and where the existing natural and built features which contribute to the character of the conservation area (including boundary walls, trees and hedges) are retained.
- 4.4. The provisions of NPF 4 Policy 7 (as it applies to the current proposal) are LDP 3 and SG LDP ENV 16(a) and SG LDP ENV 17, however NPF 4 Policy 7(a) imposes an additional requirement for a detailed assessment as summarised above.
- 4.5. The Council's Design and Conservation Officer makes reference to NPF 4 Policy 7(a) and the requirement for an assessment of the historic assets and the likely impacts of the proposed development and advises that such an assessment could demonstrate that the sub-division of the curtilage to provide a house plot is appropriate; as well as demonstrating the most appropriate siting, scale and detailed design for the proposal. The

assessment could be used to address two initial concerns expressed by the Design and Conservation Area:

- 1) How the proposal addresses the urban grain in the area; and,
- 2) The architectural style (which has been designed to reflect the architectural character of Torwood House.)

4.6. Whilst the 'new' requirements for an assessment under the provisions of NPF 4 Policy 7(a) are acknowledged, it is also considered that significant material weight should be given to planning history, specifically planning permission reference 16/03045/PP for an identical house design (but handed), in a similar siting to the current proposal, that has been approved in late 2017. The Case Officer's Report of Handling clearly set out the policy context relating to the siting within the Rhu Conservation Area and the consequential requirement for both a high quality design and for it to be of a scale that respects the character and appearance of the (conservation) area and the surrounding listed properties. During the processing of this (16/03045/PP) application, the originally submitted scale and design style was assessed as being inappropriate to the historic environment. In response, a revised design was submitted as a non-material amendment that effectively reduced the scale of the building and adopted a more traditional architectural style. The Report of Handling concluded that *"the scale and design of the proposed new house (as amended) is acceptable and in accordance with Development Plan policies."* As such, a favourable assessment has been relatively recently carried out with reference to Policy 3 and SG LDP 16(a) - SG LDP ENV 17 – Development in Conservation Areas.

4.7. It is noted that the policy context has changed since that favourable assessment only in that NPF 4 Policy 7(a) would now normally require a more substantial Assessment to support the design process. Specifically, there are no changes to policy with regard to the 'tests' for assessing whether the proposal will have an acceptable impact on historic assets. On the basis that a favourable assessment has previously been carried out by the planning authority, and that the Policy 'tests' for assessment have not changed since then, it is considered that the submission of an Assessment under the provisions of NPF 4 Policy 7(a) would unnecessarily delay determination whilst not adding any value to the quality of the decision making process, notwithstanding the consultation response from the Council's Design and Conservation Officer.

4.8. Whilst there may be a 'technical' conflict with NPF 4 Policy 7(a) in relation to the level of supporting information submitted, having regard to the relative weight of material considerations including the previous favourable assessment in late 2017, Officers are satisfied that the proposed development, by reason of siting, scale, form and architectural style is of a sufficiently high standard and will otherwise at least preserve the character and appearance of this part of the Rhu Conservation Area in accordance with NPF 4 Policy 7, Policy LDP 3, SG LDP 16(a), and relevant HES guidance on development impact on historic assets.

5. Impact on Woodland

5.1. The site previously comprised a large corner of a garden characterised by unmanaged woodland with dense undergrowth.

5.2. None of the trees on the site are protected by a Tree Preservation Order; nor are they within the NatureScot Ancient Woodland Inventory/Sem-natural ancient woodland.

- 5.3. None of the 34 trees surveyed are classed as Category A trees. 14 no. trees are Category B and 16 are Category C. Five trees are Category U (either already dead or in such poor condition that they should be removed regardless of development).
- 5.4. The Tree Report recommends management including removal of overgrown laurel and rhododendron which has suppressed the surrounding trees; and remedial tree work operations including felling of 27 no. trees. 8 no. trees are proposed "to accommodate the development". It is noted from a recent site inspection that a significant number of these trees have already been felled, particularly towards the central and frontage areas of the site.
- 5.5. The submitted Tree Inspection Report also sets out the legal position with regard to trees and wildlife, specifically in relation to bats and birds. The consultation response from the Council's Local Biodiversity Officer acknowledges this, but advises that the Report does not provide advice on the timing for opening up the site for foundation construction with reference to impact on birds. In order to address this issue, a planning condition is recommended to require a pre-start ecological survey to be carried out in advance of excavation works, if it is proposed to commence during the bird nesting season.
- 5.6. In other respects, it is not considered that the individual trees to be removed are of high biodiversity value and that removal of the trees proposed in the report will have an adverse impact on the ecological condition of the area, based on the Tree Survey and Officers inspection of the site.
- 5.7. It is recommended that the Tree Protection Measures set out in the submission are appropriate, and that any planning permission be subject to a condition requiring the works to be carried out in accordance with these agreed protection measures during construction in accordance with BS standards – Trees and Construction.
- 5.8. On the above basis it is considered that the proposal is in accordance with the provisions of NPF4 Policy 6; Policy LDP 3; and SG LDP ENV 6.

6. Road Network, Parking and Associated Transport Matters.

- 6.1. Access to the site is directly from a cul-de-sac forming the upper end of Torwoodhill Road at a point some 125 metres from the junction with Upper Torwoodhill Road.
- 6.2. This cul-de-sac currently serves 5 houses. In addition, planning permission reference 20/01190/PP has been approved for a new detached 4-bedroom house within the grounds of Torwood House (on a site adjacent to the west of the main access to Torwood house) to the east of the current application site. This latter development has been implemented and appears to be nearing completion. When occupied, this section of Torwoodhill Road will therefore serve 6 no. existing dwellinghouses.
- 6.3. From the access junction a private driveway will bend to the east and run up a steep bank to the central part of the application site to a parking and turning area laid out in front of the proposed house. Three car parking spaces are identified on the application drawings on the paved parking/turning area and the top of the driveway.
- 6.4. NPF4 Policy 13 generally aims to encourage, promote and facilitate developments that prioritise alternative means of transport to car journeys and reduce the need to travel unsustainably. The requirement to submit a Transport Assessment is introduced for some developments however this relates to larger scale developments than the current proposal for a single house.

- 6.5. The elements of NPF 4 Policy 13 that are relative to the scale and nature of this development are largely aligned with the provisions of Policy LDP 11 and associated SG LDP TRAN 1 – 6.
- 6.6. SG LDP TRAN 4 advises that acceptance of development using existing public and private access regimes is subject to road safety and street design issues being addressed.
- 6.7. Where development proposals will significantly increase vehicular or pedestrian traffic on substandard public approach roads, then SG LDP TRAN 5 requires that developments contribute proportionally to improvements to an agreed section of the public network.
- 6.8. The consultation response from Council Area Roads notes that Torwoodhill Road (past its junction with Upper Torwoodhill Rd.) currently serves 6 no. properties and that it is substandard to service an intensification of the existing level of use without an adverse impact on road safety and the free-flow of traffic contrary to the provisions of Policy LDP 11 and SG LDP TRAN 4.
- 6.9. Under the provisions of SG LDP TRAN 5, it is considered that improvement works to this section of the public road network, commensurate to the scale and nature of the proposed development, could improve the access road to a level where it can satisfactorily accommodate the resultant intensification in traffic movements. It is advised that the commensurate improvements should include the provision of 2 no. intervisible passing spaces between the Upper Torwoodhill Road junction and the proposed new private access to the application site. It is also noted that the formation of a 'Service Bay' access arrangement at the junction of proposed private driveway and the public road could be accepted as one of these two required passing spaces.
- 6.10. The applicant has challenged the validity of this requirement on the basis that the Council's Area Roads did not consider that commensurate improvements to Torwoodhill Road were required by the proposed development of 1 no. house as part of the assessment of previous planning permission ref: 16/03045/PP. It is confirmed that this planning permission was approved without any requirement for off-site improvements.
- 6.11. Area Roads has responded that all previous relevant planning history has been taken into account, including planning permission ref. 16/03045/PP, however any new assessment of this proposal should give due consideration to up-dated guidance including the National Roads Development Guidance (NRDG) and the Highway Code; and in doing so, acknowledge the proposed intensification of use, the limited pedestrian step-off available, the number of dwellings accessed from Torwoodhill Road and the available carriageway width for bi-directional traffic.
- 6.12. The agent has responded further that the applicant can create a large pull in area next to the entrance to the right to allow vehicles to pull in including vans to allow passing for vehicles.
- 6.13. On the basis of all of the information currently available, this fails to demonstrate that the applicant can provide the off-site road improvements considered by the Area Roads Engineer to be required in order to increase the capacity of the public approach road to serve the proposed house. It is considered that the required improvements to comprise 2 no. intervisible passing spaces (one of which can be provided by means of a service bay access) is commensurate with the scale and nature of the proposed development.
- 6.14. On the basis that the applicant is unable to demonstrate that commensurate off-site road improvements can be implemented under the provisions of Policy LDP 11 and SG

LDP TRAN 5, it is recommended that this application be refused on the basis that the public approach road is unsuitable to accommodate a further intensification of traffic without an adverse impact upon road traffic safety and the free flow of traffic contrary to the provisions of Policy LDP 11; SG LDP TRAN 4 and NPF 13.

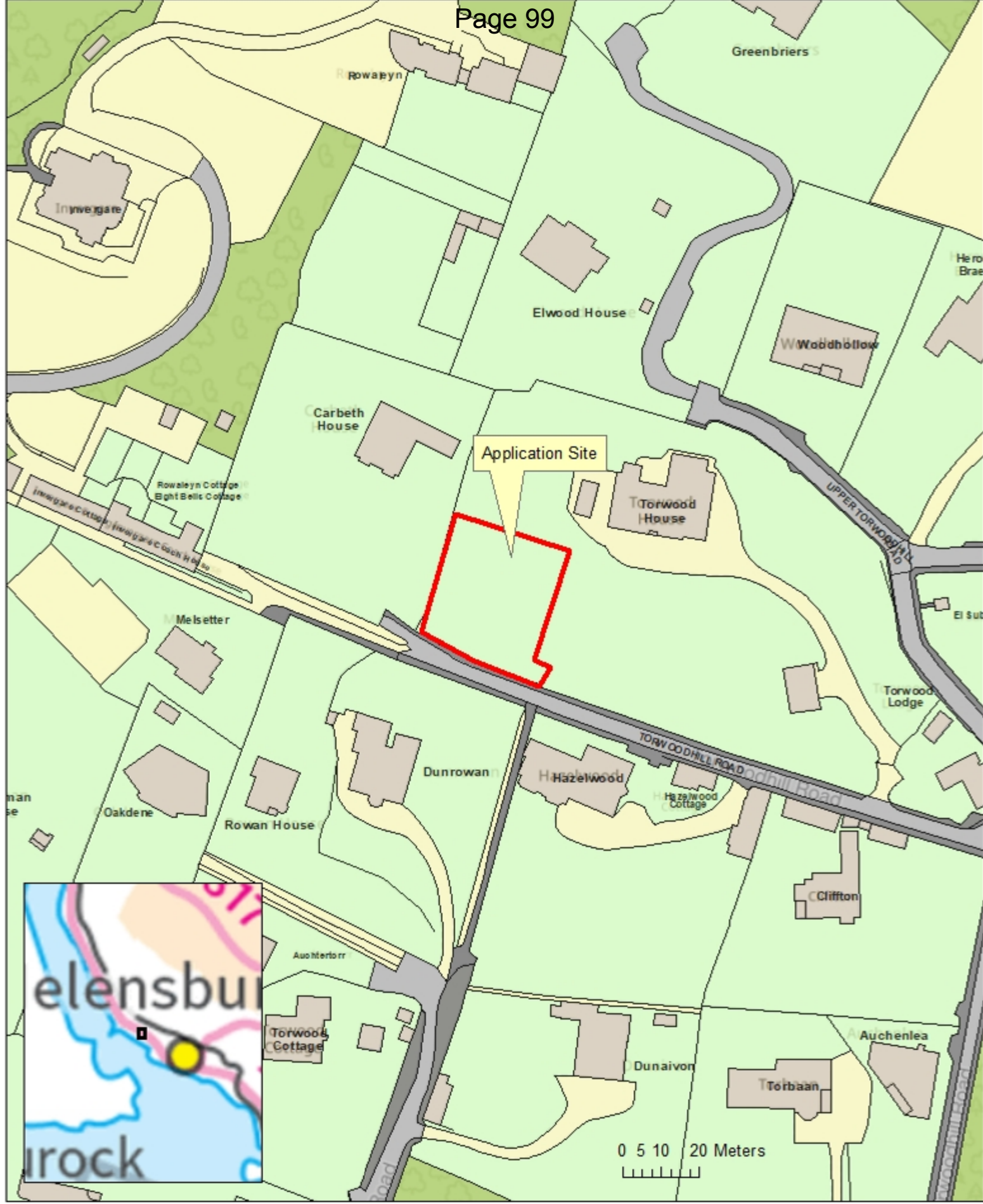
- 6.15. SG LDP TRAN 6 generally serves to require that new development makes on-site provision for parking and turning of vehicles in accordance with the adopted “*Access and Parking Standards.*”
- 6.16. The site layout drawing shows 3 no. car parking spaces, however Officers have concerns that a vehicle parked in the space indicated at the top of the driveway could block any other cars from turning within the site to ensure that vehicles can enter and egress the site in a forward gear. It is considered however that the site has adequate space to allow for adequate turning and parking, and if this application had been assessed as acceptable with regard to all other material considerations, then this issue may be addressed by means of a suspensive planning condition requiring submission and approval of further layout details.

7. Infrastructure

- 7.1. Water supply and foul drainage is proposed to be by means of a connection to the existing Scottish Water network. Notwithstanding objections relating to the capacity of the sewer system, the consultation response from Scottish Water does not indicate any over-riding capacity constraints to the system that would warrant an objection to the proposal, but advises that further investigation may be required upon submission of a Pre-Development Enquiry (PDE) by the applicant. On this basis, officers are satisfied in principle that there are no known constraints in respect of public water and sewage infrastructure.
- 7.2. The application forms state that the site is not within an area of known risk of flooding; and advises that the applicant does not think that the proposal will increase flood risk elsewhere. The curtilage of Torwood House, including the application site, is not overlain by any recorded areas at risk to coastal, fluvial or surface water flooding with reference to the SEPA Flood Map.
- 7.3. The consultation response from Scottish Water specifically advises that a surface water connection into its combined drainage system will not be accepted. The proposal is for rainwater run-off from the proposed house to be by means of a soakaway indicated to the east of the house. Aco drains are shown at various locations across and adjacent to the driveway to void surface water discharge onto the public road adjacent to the south of the site.
- 7.4. It is proposed to manage surface water drainage by the installation of soakaway crates wrapped with a permeable membrane allowing the rainwater and surface water run-off to be collected and slowly soak back into the ground through an infiltration process in line with the natural rate to avoid excessive water run-off. The driveway surfaces will be permeable to allow natural run off into the ground; and four no aco drains to deal with any excess water. SuDS to be designed and installed in accordance to BRE Digest 365 Soakaway Design and BSEN - 752-4.
- 7.5. A significant number of local residents have submitted anecdotal accounts that surface water currently runs off of the site onto falling levels of land adjacent to the south, including Torwoodhill Road and Lovers Lane as well as existing residential properties on the southern side of Torwoodhill Road. Third party representations submit that surface water run-off from the site has increased as a result of the clearance of vegetation over the site.

It has also been submitted that the underlying ground conditions are not suitable for a soakaway.

- 7.6. Whilst the concerns raised by objectors are acknowledged, it is considered that the revisions to the proposal gives sufficient information relating to the proposed surface water drainage to demonstrate that this is not an over-riding constraint to development, but a technical matter. It is further considered that these concerns can be properly addressed by means of a suspensive planning condition requiring submission of full details of the surface water drainage scheme design for assessment and written approval prior to commencement of any development. This should include a geological site survey and report demonstrating to the satisfaction of the planning authority that a soakaway/ground filtration system is appropriate. The Council's Flood Risk Assessor will be consulted as part of this process.
- 7.7. Subject to the above, it is considered that the proposal makes adequate provision for services infrastructure in accordance with the provisions of NPF4 Policies 18, 20, 22, 23 and 24. LDP 10 and SG LDP SERV 1 – 7.



Location Plan Relative to Planning Application:22/02523/PP



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Argyll and Bute Council
Development and Economic Growth

PROPOSAL OF APPLICATION NOTICE (PAN)

Reference: 23/01276/PAN

Applicant: Ylem Energy Ltd

Proposal: Proposal of Application Notice for: Installation of 50Mw battery energy storage system to balance the electricity network and facilitate renewable energy deployment

Site Address: Ardencaple Farm, Rhu, Helensburgh, Argyll and Bute

1.0 INTRODUCTION

This report informs the Planning Committee of the submission of a Proposal of Application Notice (PAN). The submission of the PAN accords with the provisions of the Planning etc. (Scotland) Act 2006 and was made valid on 14.08.23. The development which is subject to the PAN is of a scale which will be an application to The Planning Authority as the capacity of the storage facility will not exceed 50Mw in total capacity. (Above 50Mw would require a Section 36 Application under the Electricity Act)

The submitted information includes:

- Proposal of Application Notice
- Location Plan
- Copy of newspaper adverts
- Community Consultation Presentation Dated 10.8.23

The applicant has set out in detail their proposals to ensure sufficient opportunity is provided for the community to view and comment on the proposals in advance of the submission of a formal application. The applicants have confirmed in the PAN form that the following consultation steps will be undertaken:

- Consultation with Helensburgh Community Council
- Notification of the following Parties,
Cllr Mark Irvine
Cllr Maurice Corry
Cllr S I Paterson
Jackie Baillie MSP
- Undertaking three community consultation events
- Advertising events within the Helensburgh Advertiser

In addition to the above, the applicants have stated that they will write to all residents within a 750m radius of the proposed site and put up posters in local shops and community facilities.

Officers consider that the steps set out in the PAN are acceptable and in accordance with the requirements of the Regulations to ensure appropriate community consultation is undertaken.

2.0 DESCRIPTION OF PROPOSED DEVELOPMENT

The PAN provides notice of the developer's intention to submit a planning application for the erection and operation of a 50Mw battery storage facility. The proposed compound boundary comprises some 1.2 acres (120m x 40m). By means of general background the applicants submit that:

Battery Energy Storage Systems ("BESS") are rechargeable batteries which are used to store electricity imported from the grid at times of surplus. This power can come from different sources, such as solar PV, during periods of excess supply or wind generation at night when demand is low. This electricity is then discharged at times when there is demand which exceeds supply....BESS sites are similar conceptually to reservoirs which hold drinking water, or gas holders which store natural gas for heating.

The applicants have submitted a copy of their community presentation of 10.8.23 which contains additional information on the proposals, and also an illustrative layout of a similar facility to provide a general indication of the likely scale and appearance of the development. This is available to view on the public access system.(Document 22986637)

3 SITE DESCRIPTION

The proposals 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. It is within the general field patters of Ardencaple Farm located some 350m to the south east of the main farmhouse buildings.

The application site currently comprises part of a large field which appears to be used as pasture land. A band of trees is located along the Western Boundary of the site and also in the south eastern corner of the field. The applicants submit that the development is approximately 300m from the nearest residential property.

The site slopes from north to south from a high point of 100m AOD down to 75m AOD with the application site being on the lower lying part of the site adjacent to the railway line which forms the southern boundary of the site.

For Members general information, the application site is located within the Green Belt. 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.

4 DEVELOPMENT PLAN POLICY

In considering the merits of this PAN, a number of Development Plan Policy considerations are relevant. The policies to be considered include:

[National Planning Framework 4 \(Adopted 13th February 2023\)](#)

Part 2 – National Planning Policy

NPF4 Policy 1 – Tackling the Climate and Nature Crises
NPF4 Policy 2 – Climate Mitigation and Adaption
NPF4 Policy 3 – Biodiversity
NPF4 Policy 4 – Natural Places
NPF4 Policy 5 – Soils
NPF4 Policy 6 – Forestry, Woodland and Trees
NPF4 Policy 7 – Historic Assets and Places
NPF4 Policy 11 - Energy
NPF4 Policy 14 – Design, Quality and Place
NPF4 Policy 22 – Flood Risk and Water Management
NPF4 Policy 23 – Health and Safety
NPF4 Policy 25 – Community Wealth Building

Annex B – National Statements of Need

3. Strategic Renewable Electricity Generation and Transmission Infrastructure

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 4 – Supporting the Sustainable Development of our Coastal Zone
LDP 5 – Supporting the Sustainable Growth of Our Economy
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

SG LDP ENV 1 – Development Impact of 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 6 – Development Impact on Trees / Woodland
SG LDP ENV 7 – Water Quality and the Environment
SG LDP ENV 11 – Protection of Soil and Peat Resources
SG LDP ENV 14 – Landscape
SG LDP ENV 16(a) – Development Impact on Listed Buildings
SG LDP ENV 20 – Development Impact on Sites of Archaeological Importance
SG LDP PG 1 – Planning Gain
SG LDP BAD 1 – Bad Neighbour Development
SG LDP Sustainable - Sustainable Siting and Design Principles
SG LDP SERV 5 – Waste Related Development and Waste Management
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 4 – New and Existing, Public Roads and Private Access Regimes
SG LDP TRAN 6 – Vehicle Parking Provision

These appear to be the most relevant policies. However this cannot be finalised until such time as a formal application has been submitted and the details of the proposals finalised.

Other Relevant Policy Considerations:

Emerging Local Development Plan (LDP2)

The emerging Local Development Plan (LDP2) will replace the current Local Development Plan 2015, once adopted. On 13th June 2023, the Scottish Government's Planning and Environmental Appeals Divisions issued their Report of Examination on the Council's LDP2. At the time of writing this Pre-application report, the LDP 2015 remains the adopted Local Development Plan, however, the Examination Report of the Draft LDP2 is a material consideration of significant weight and may be used as such until the conclusion of the LDP2 adoption process. (It is likely that this will form the statutory plan before the end of 2023 although this is subject to ongoing reporting to Members and adoption procedures).

Policy 02 – Outwith Settlement Areas
Policy 04 – Sustainable Development
Policy 05 – Design and Placemaking
Policy 06 – Green Infrastructure
Policy 08 – Sustainable Siting
Policy 09 – Sustainable Design
Policy 10 – Design: All Development
Policy 14 – Bad Neighbour Development
Policy 15 – Supporting the Protection, Conservation and Enhancement of Our Historic Built Environment
Policy 18 – Enabling Development
Policy 21 – Sites of Archaeological Importance
Policy 22 – Economic Development
Policy 30 – The Sustainable Growth of Renewables
Policy 35 – Design of New and Existing, Public Roads and Private Access
Policy 36 – New Private Accesses
Policy 37 – Development Utilising an Existing Private Access or Existing Road
Policy 39 – Construction Standards for Private Access
Policy 48 – Developer Contributions
Policy 55 – Flooding
Policy 58 – Private Water Supplies and Water Conservation
Policy 59 – Water Quality and the Environment
Policy 63 – Waste Related Development and Waste Management
Policy 73 – Development Impact on Habitats, Species and Biodiversity
Policy 77 – Forestry, Woodland and Trees
Policy 78 – Woodland Removal
Policy 79 – Protection of Soil and Peat Resources
Policy 80 – Geodiversity

- [ABC Technical Note – Biodiversity \(Feb 2017\)](#)
- UK Government's Ten Point Plan for a Green Industrial Revolution (2020),
- Energy White Paper (2020),
- Carbon Plan (2011),
- The UK Renewable Energy Roadmap (2011) (updated 2012 and 2013) and the
- British Energy Security Strategy
- Scotland's Draft Energy Strategy and Just Transition Plan and the accompanying Ministerial statement (Dated 10.1.23)

- The Scottish Government's Policy on 'Control of Woodland Removal' (Forestry Commission Scotland 2009)
- Views of statutory and other consultees;
- Planning history of the site
- Legitimate public concern or support expressed on relevant planning matters

5.0 POTENTIAL MATERIAL CONSIDERATIONS

In respect of this proposal, it is considered that the following matters will be material considerations in the determination of any future planning application:

- a) LDP 2
- b) National Energy Policy Objectives;
- c) Economic Benefits;
- d) Roads, Transport and Access;
- e) Flood Risk, Water Quality and Drainage;
- f) Peat and Soils;
- g) Access and Recreation;
- h) Natural Heritage and Biodiversity (including impact on designated sites);
- i) Impact on Woodland;
- j) Built and Cultural Heritage;
- k) Design and Layout;
- l) Landscape and Visual Impact (including cumulative impacts);
- m) Noise and Vibration;
- n) Telecommunications;
- o) Construction Impacts;
- p) Any other material considerations raised within representations.

Members will note from the file that third party concerns/objections relating to the proposals have been sent to the Planning Authority as part of the PAN Consultation Process. For clarity, it is for the applicant to consider any concerns/objections at this stage and demonstrate by means of a PAC report to accompany any future major planning application how these matters have been considered.

It is not for the Planning Authority to have regard to these matters at the current time as no determination is sought on the merits of the proposal through the PAN process. Should concerns or objections remain in relation to any future planning application they can be submitted to the Planning Authority and considered at the appropriate time.

6.0 CONCLUSION

The report sets out the information submitted to date as part of the PAN. Summarised are the policy considerations, against which any future planning application will most likely be considered as well as potential material considerations and key issues based upon the information received to date. The list is not exhaustive and further matters may arise as and when a planning application is received and in the light of public representations and consultation responses.

7.0 RECOMMENDATION

That Members note the content of the report and submissions and provide such feedback as they consider appropriate in respect of this PAN to allow these matters to be considered by the applicants in finalising any future application submission.

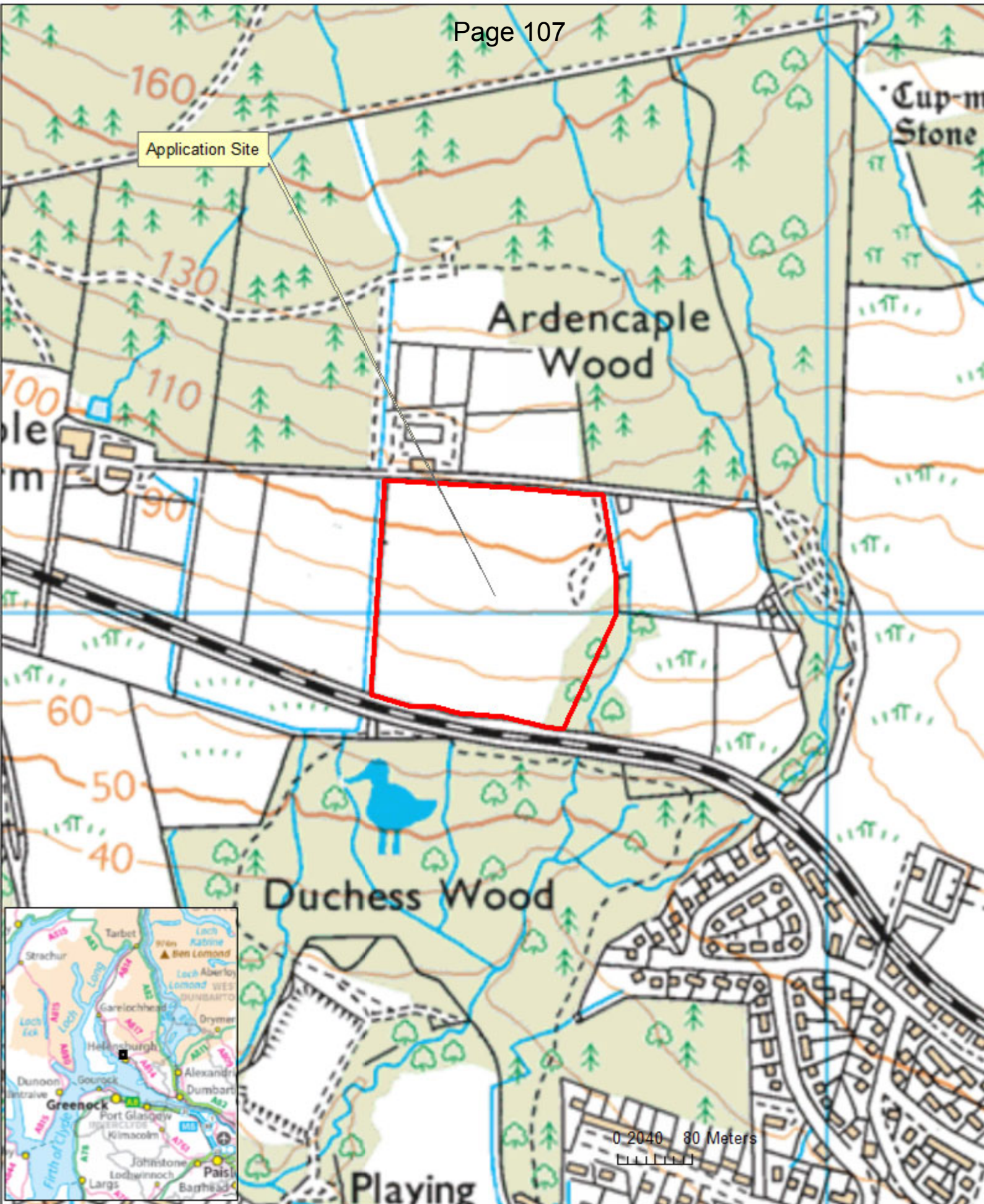
Author of Report: David Moore

Date: 05.09.2023

Reviewing Officer: Peter Bain

Date: 05.09.2023

Fergus Murray
Head of Development and Economic Growth



Application Site

Ardencaple Wood

Duchess Wood

0 20 40 80 Meters



Location Plan Relative to Planning Application: 23/01276/PAN



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Argyll and Bute Council
Development and Economic Growth

PROPOSAL OF APPLICATION NOTICE (PAN)

Reference: 23/01581/PAN

Applicant: Loch Long Salmon Limited

Proposal: Proposal of application notice for the installation and operation of Lurignish Fish Farm and associated infrastructure

Site Address: Lurignish Fish Farm, Land Adjacent To Lurignish Farm, Appin

1.0 INTRODUCTION

Proposal of Application Notices only relate to National and Major Applications as defined by the Government's planning hierarchy and are a statutory requirement prior to the submission of the planning application. The PAN heralds the start of a minimum 12 week period to allow for community consultation before an application can be lodged.

In considering this item, Members should restrict comments to issues relating to the material considerations which may be relevant in the determination of the proposed development and should refrain from expressing opinion as to the likely acceptability of development in advance of any subsequent application being presented for determination. Any opinions or views expressed by Councillors at the pre-application stage must be made mindful of the overarching requirements of fairness, impartiality and of keeping an open mind. The process provides opportunity for Officers to give feedback to the prospective applicant on issues which Members would wish to see addressed within the planning application submission.

The submitted information includes:

- Proposal of Application Notice
- Location Plan

The Proposal of Application Notice describes the proposed development as *"Installation and operation of Lurignish Fish Farm and associated infrastructure. The development would involve the construction and operation of a closed containment at sea (often called semi-closed containment) fish farm and other related marine and shore base structures, located approximately 0.5km west of Lurignish Farm"*

The applicant has confirmed the following consultation steps will be undertaken:

- a) Consultation letters to be sent to Appin Community Council, Duror and Kentallen Community Council, Lismore Community Council and Ardgour Community Council.
- b) Two public meetings will be held; one at Duror and Kentallen Community Centre on 14th September 2023 and one at Appin Village Hall on 24th October 2023.

- c) A press notices will be placed in the Oban Times and Edinburgh Gazette no later than 7th September 2023 for the first event and no later than 17th September for the second public event.

Officers consider that the steps set out in the PAN are acceptable.

2.0 DESCRIPTION OF PROPOSED DEVELOPMENT

Based on the description of the development contained within the proposal of application notice, the forthcoming application is anticipated to comprise of the following

- A semi closed containment marine fish farm;
- Supporting shore base with associated new access and landscaping.

3.0 SITE DESCRIPTION

The fish farm would 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.

4.0 DEVELOPMENT PLAN POLICY

This is not a planning application and therefore does not require evaluating and determining in accordance with Section 25 of the Planning Act against the Development Plan and its policies. However, in considering the merits of this PAN, a number of Development Plan Policy considerations are relevant. The policies to be considered include:

National Planning Framework 4 (Adopted 13th February 2023)

Part 2 – National Planning Policy

NPF4 Policy 1 – Tackling the Climate and Nature Crises
NPF4 Policy 2 – Climate Mitigation and Adaption
NPF4 Policy 3 – Biodiversity
NPF4 Policy 4 – Natural Places
NPF4 Policy 5 – Soils
NPF4 Policy 6 – Forestry, Woodland and Trees
NPF4 Policy 7 – Historic Assets and Places
NPF4 Policy 10 – Coastal Development
NPF4 Policy 12 – Zero Waste
NPF4 Policy 13 – Sustainable Transport
NPF4 Policy 14 – Design, Quality and Place
NPF4 Policy 22 – Flood Risk and Water Management
NPF4 Policy 23 – Health and Safety
NPF4 Policy 25 – Community Wealth Building
NPF4 Policy 26 – Business and Industry
NPF4 Policy 29 – Rural Development

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 4 – Supporting the Sustainable Development of our Coastal Zone
LDP 5 – Supporting the Sustainable Growth of Our Economy
LDP 8 – Supporting the Strength of Our Communities
LDP 9 – Development Setting, Layout and Design
LDP 10 – Maximising Our Resources and Reducing Consumption
LDP 11 – Improving our Connectivity and Infrastructure

Supplementary Guidance

SG LDP ENV 1 – Development Impact of Habitats, Species and Our Biodiversity (i.e. biological diversity)
SG LDP ENV 2 – Development Impact on European Sites
SG LDP ENV 6 – Development Impact on Trees / Woodland
SG LDP ENV 7 – Water Quality and the Environment
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 ACE 1 – Area Capacity Evaluation
SG LDP ENV 16(a) – Development Impact on Listed Buildings
SG LDP ENV 19 - Development Impact on Scheduled Ancient Monuments
SG LDP SERV 5(b) – Provision of Waste Storage and Collection Facilities within New Development
SG LDP BUS 2 – Business and Industry Proposals in the Countryside Development Management Zones
SG LDP BAD 1 – Bad Neighbour Development
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 3 – Drainage Impact Assessment (DIA)
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 Sust Check – Sustainability Checklist
SG LDP TRAN 1 – Access to the Outdoors
SG LDP TRAN 4 – New and Existing, Public Roads and Private Access Regimes
SG LDP TRAN 5 – Off-Site Highway Improvements
SG LDP TRAN 6 – Vehicle Parking Provision

SG LDP CST 1 - Coastal Development
SG LDP AQUA 1 – Aquaculture Development
Annex A – Planning Process for Aquaculture Development
Annex B – Council Adopted Marine and Coastal Plans
Annex C – Responsibilities of Statutory Authorities in Relation to Aquaculture Development
Annex D – Marine Planning Area for Aquaculture Development

Emerging Local Development Plan (LDP2)

The emerging Local Development Plan (LDP2) will replace the current Local Development Plan 2015, once adopted. On 13th June 2023, the Scottish Government's Planning and Environmental Appeals Divisions issued their Report of Examination on the Council's LDP2. At the time of writing this Pre-application report, the LDP 2015 remains the adopted Local Development Plan, however, the Examination Report of the Draft LDP2 is a material consideration of significant weight and may be used as such until the conclusion of the LDP2 adoption process.

Policy 02 – Outwith Settlement Areas
Policy 04 – Sustainable Development
Policy 05 – Design and Placemaking
Policy 06 – Green Infrastructure
Policy 08 – Sustainable Siting
Policy 09 – Sustainable Design
Policy 10 – Design: All Development
Policy 14 – Bad Neighbour Development
Policy 19 – Scheduled Monuments
Policy 21 – Sites of Archaeological Importance
Policy 22 – Economic Development
Policy 28 – Supporting Sustainable Aquatic and Coastal Development
Policy 32 – Active Travel
Policy 35 – Design of New and Existing, Public Roads and Private Access
Policy 36 – New Private Accesses
Policy 39 – Construction Standards for Private Access
Policy 40 – Vehicle Parking Provision
Policy 41 – Off Site Highway Improvements
Policy 55 – Flooding
Policy 58 – Private Water Supplies and Water Conservation
Policy 59 – Water Quality and the Environment
Policy 60 – Private Sewage Treatment Plants and Wastewater Drainage Systems
Policy 61 – Sustainable Drainage Systems (Suds)
Policy 62 – Drainage Impact Assessments
Policy 63 – Waste Related Development and Waste Management
Policy 73 – Development Impact on Habitats, Species and Biodiversity
Policy 77 – Forestry, Woodland and Trees
Policy 78 – Woodland Removal
Policy 79 – Protection of Soil and Peat Resources

Other Relevant Policy Considerations:

- ABC Technical Note – Biodiversity (Feb 2017)

- Marine Planning Policy

As part of the proposed development extends into the marine environment, the Council as a public body is required to take authorisation decisions in accordance with the National Marine Plan (NMP), unless relevant considerations indicate otherwise.

The proposal must also be considered against the Marine Planning Policies of the National Marine Plan.

5.0 POTENTIAL MATERIAL CONSIDERATIONS

In respect of this proposal, it is considered that the following matters will be material considerations in the determination of any future planning application:

- Landscape, seascape and visual issues;
- Benthic Impact;
- Water Quality;
- Wild Fish Interactions;
- Impacts on natural, built and / or historic or archaeological sites and their settings;
- Impacts on designated sites, habitats and species;
- Traffic and transport;
- Amenity impacts (waste, noise, light and odour);
- Impacts on commercial and recreational activity;
- Public access;
- Economic Impact.

6.0 CONCLUSION

The report sets out the information submitted to date as part of the PAN. Summarised are 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. The list is not exhaustive and further matters may arise as and when a planning application is received and in the light of public representations and consultation responses.

7.0 RECOMMENDATION

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

Author of Report: Sandra Davies

Date:

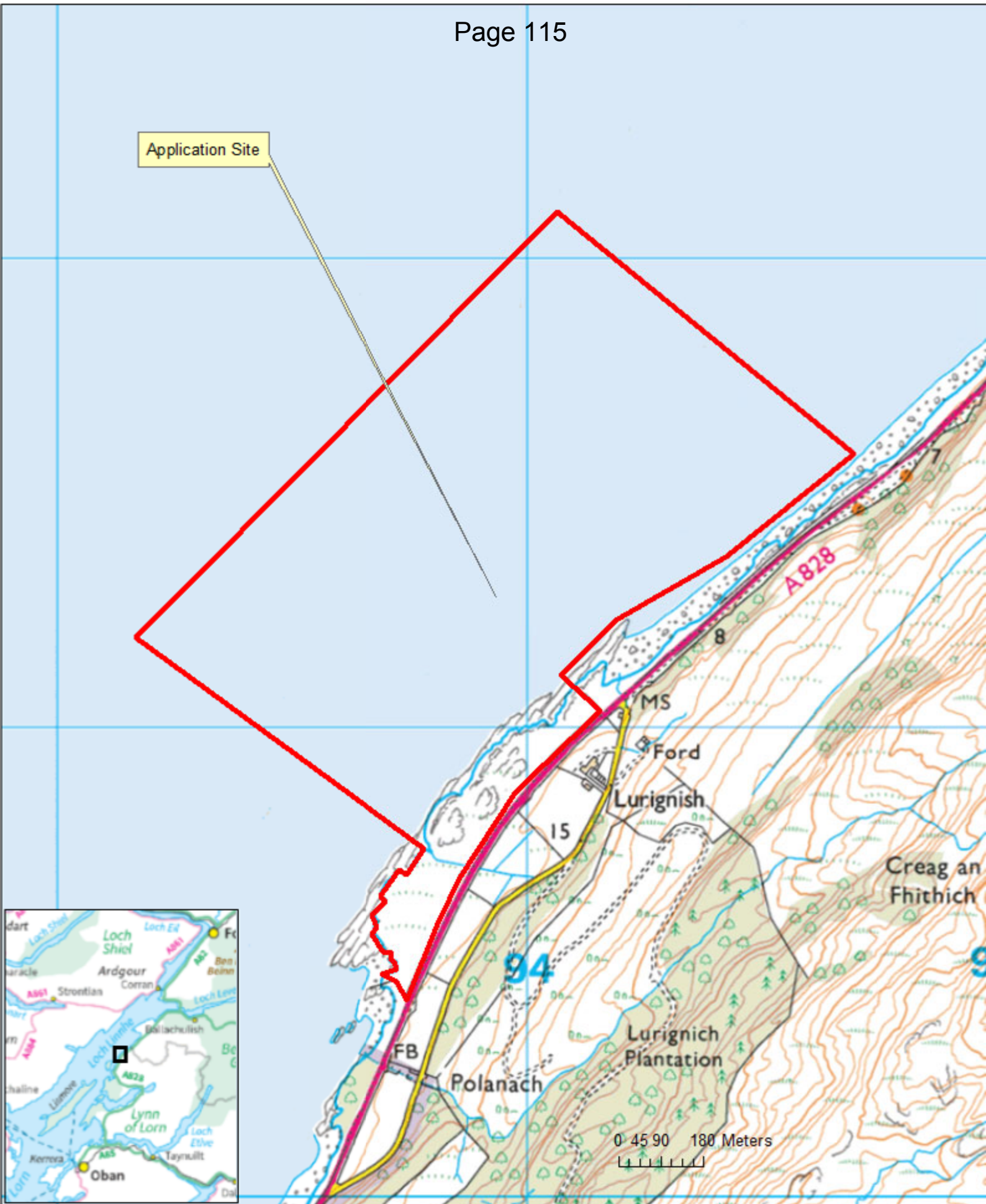
Reviewing Officer: Peter Bain

Date: 7 September 2023

Fergus Murray
Head of Development and Economic Growth

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Application Site



Location Plan Relative to Planning Application: 23/01581/PAN



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ARGYLL AND BUTE COUNCIL

PPSL COMMITTEE

DEVELOPMENT AND ECONOMIC GROWTH

20 September 2023

Planning Policy Response to Argyll and Bute's Declared Housing Emergency

1.0 EXECUTIVE SUMMARY

- 1.1 This report provides 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.
- 1.2 There are many factors which contribute to the housing emergency in Argyll and Bute including social, economic, geography and demographics. This paper examines areas where land use planning policies may have some effect to help address imbalances in the local housing system that may have contributed to the housing emergency. These are; the growth in the use of residential accommodation to provide short term let holiday accommodation; the use of houses as second homes and the application of current development plan housing policies to meet local housing needs including homes for primary occupancy, and the provision of affordable housing and housing for key workers.
- 1.3 This paper recommends that the Council explores the introduction of planning short term let control area/s, as part of the housing event to be held in November 2023, and subsequently a further report for consideration by PPSL Committee outlining the preferred options.
- 1.4 National Planning Framework 4 provides greater policy emphasis on local solutions to ensure new homes within the region are delivered to meet the identified local housing needs; and in some areas to offset the impact of second homes and short term lets. In order to inform the application of these policies to ensure that new homes meet identified local housing needs, it is proposed that a technical note be prepared to accompany the Proposed Local Development Plan (LDP 2) when adopted.
- 1.5 It is proposed that the existing supplementary guidance on affordable housing is reviewed as a LDP2 Technical Note. This will seek to ensure all forms of affordable housing is used as such in perpetuity; and further explore the role which housing for key workers may have in meeting affordable housing requirements to

enable local industry to expand, and attract economically active population to our area.

RECOMMENDATION

1.6 It is recommended that Members:

- i) Note and endorse the content of the report;
- ii) Agree 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.
- lii) Agree 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.
- iv) Agree 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 need as identified by the Housing Needs Demand Analysis (HNDA), including potential occupancy restrictions for consideration by Members.

ARGYLL AND BUTE COUNCIL

PPSL COMMITTEE

DEVELOPMENT AND ECONOMIC GROWTH

20 September 2023

Planning Policy Response to Argyll and Bute's Declared Housing Emergency

2.0 INTRODUCTION

2.1 The Argyll and Bute Local Development Plan 2 (LDP) identifies that the central challenge facing Argyll and Bute is the delivery of sustainable long-term economic growth to support the retention and growth of our population. One of the key aims of the LDP is to support the provision of a range of homes that meets the existing and future needs of all our communities through the identification and delivery of allocations for housing together with a flexible policy framework that encourages new homes constructed in appropriate, deliverable, and sustainable locations. This includes the availability of a range of homes for local people and for those who wish to move to the area to take up employment opportunities. It is clear that the availability of affordable, principle homes in the area makes an important contribution to the sustainability of communities, local services, and the local economy.

3.0 RECOMMENDATIONS

3.1 It is recommended that Members:

- i) Note and endorse the content of the report;
- ii) Agree 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.
- lii) Agree 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.

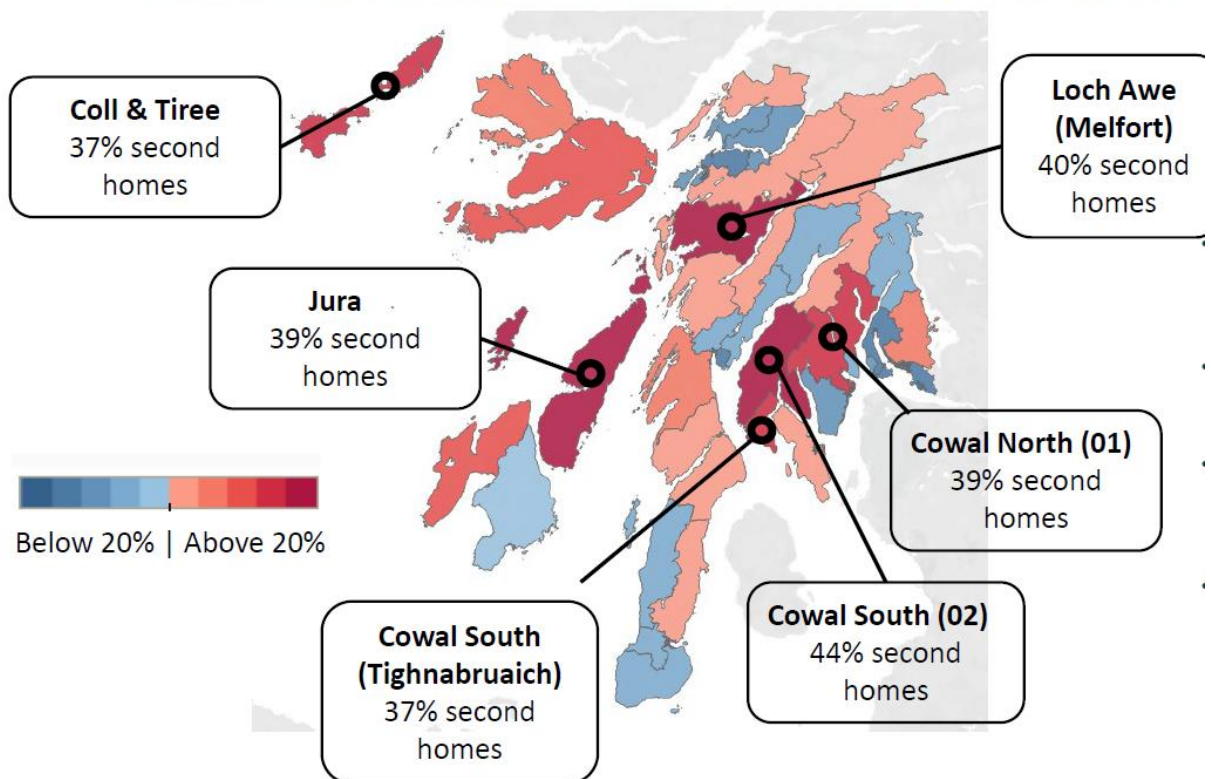
- iv) Agree that officers prepare a draft Technical Note in support of NPF4, and LDP2, that will provide guidance on how we ensure housing is delivered to meet the local housing need as identified by the Housing Needs Demand Analysis (HNDA), including potential occupancy restrictions for consideration by Members.

4.0 DETAIL

4.1 The issue of second homes and the loss of residential accommodation to short term lets is not a new one to Argyll and Bute. In fact, it forms an important contribution to economic activity in our area. However, the growth of on-line platforms for short term lets, has raised the profile of this type of accommodation, and made it easier for owners of second homes, and just as importantly privately owned rental accommodation, to offer their properties for short term let while they are not using them.

Proportion of second homes by data zone

2021/22 (combining CAG Self Catering properties and council tax second home registrations)



- 4.2 This national trend has contributed to the shortage of available accommodation for use as people’s primary home. This makes it harder to retain economically active people in the places they grew up, as well as harder to attract people to live and work in the area. Consequently, there is a strain on the sustainability of local services and a brake on growing our economy that is becoming increasingly supported by available evidence. An August 2023 survey by MIGHT of just 8 companies indicated un-met accommodation demand for 15 worker households who are needed to support their businesses, and this is over and above the accommodation those businesses are already procuring themselves on behalf of their workers.
- 4.3 That said, at the same time, tourism is extremely important to Argyll and Bute. A recent article by the Office for National Statistics shows that Argyll and Bute comes 9th in the list of tourism hotspots preceded only by 6 London boroughs, the Isles of Scilly, and South Lakeland.
- 4.4 Whilst it is recognised that tourism makes an important contribution to the Argyll and Bute economy, a balance has to be struck, in order to ensure that there are enough people who can live locally in order to provide vital services upon which we rely. It is also important in terms of stabilising and growing the population. There are numerous communities across Argyll and Bute where the availability of homes is very limited and has been reduced further by the higher than average levels of second homes, short terms lets, and vacant properties.

PLANNING CONTROL AREAS/ CONSULTATION

- 4.5 At a national level the Scottish Government has responded to concerns over the growth of short term lets by introducing regulations to establish a licencing regime for short term lets, and by amending the Planning (Scotland) Act 2019 to enable Planning Authorities to establish Short Term Let Control Areas, for all, or parts of, their area.
- 4.6 In terms of Air B+B (single brand), analysis of their website in January 2023 revealed that the just over 2,000 properties were available in Argyll and Bute as follows (NB: this is a snap shot figure that varies over time). This figure will not include more traditionally offered holiday accommodation such as hotels.

Islay Jura Colonsay	172
Coll Tiree	35
Mull Iona	212
Kintyre	111
Mid Argyll	159
Bute	146
Cowal	360
Helen/Lomond	203
Lorn	<u>673</u>
A&B	2,071

- 4.7 A number of short term let control areas have already been introduced by other authorities. Edinburgh City Council has introduced a single control area that covers the whole of the City. Highland has introduced a short term let control area in its Baddenoch and Strathspey ward (which covers the Aviemore and Grantown on Spey area). In Argyll and Bute there may be a number of options regarding short term let controls, this could include a single area covering the whole of the planning authority area, or by identifying those communities where there may be particular pressure on housing supply on a housing market area basis.
- 4.8 The designation of a short term let control area is not a ban on short term lets, but will mean that planning permission will always be required for a change of use to a short term let. This will allow the planning authority to assess the application against LDP policy and for communities and individuals to make representations as part of the planning application process. It should be noted that all existing short term lets are required to apply for a license by 1st October 2023.
- 4.9 The licensing information will help inform more detailed consideration of the introduction of planning short term let control area or areas, with further evidence gathering and workshops considered as part of the housing summit to be held in November 2023. Following this, a further report will be prepared for consideration by PPSL Committee outlining the preferred options and the next steps in the formal designation procedures including submission to Scottish Ministers.

REQUIRMENT FOR HOMES FOR PRIMARY OCCUPANCY

- 4.10 National Planning Framework 4 (NPF4) was published in February 2023 and is now part of the development plan for Argyll and Bute. Planning applications require to be determined in accordance with all parts of the development plan unless material considerations dictate otherwise. National Planning Framework 4 includes policies on Quality Homes, Rural Homes and Tourism. These policies place greater emphasis on:
- ensuring new homes on land allocated for housing are delivered; and
 - demonstrating how they take account of identified local housing needs.
- 4.11 NPF4 recognises that "*There is a clear need for affordable housing provision across the region to improve choice and access to homes, to support local economies, and in some areas to help offset the impact of second home ownership and short term lets on the market. **Local solutions may include** key worker housing, temporary homes for workers in remote areas, and self-provided homes including self-build and custom-build*" (the region in this case being the North West Coast and Islands - which includes the Council's area).
- 4.12 NPF4 also states that "*Demand for development, including in pressured areas, will require a planned response to minimise the impact of second homes on local communities and ensure new homes are affordable and meet local needs*"

- 4.13 There is a clear emphasis in NPF4 on the identification of Local Solutions. Both the NPF4 and the Argyll and Bute Local Development Plan 2 policies in relation to housing, and the loss of existing accommodation to tourist accommodation require to be taken into account. In applying these in the context of the development plan as a whole, the Scottish Government's housing policy and the Council's now declared housing emergency, a more rigorous approach to securing housing to meet identified local housing requirements is justified. In order to inform the application of these policies to ensure that new homes meet identified local housing needs, and the loss of residential accommodation is taken in to consideration in relation to changes of use, it is proposed that a technical note be prepared to accompany the Local Development Plan 2 when adopted.
- 4.14 The Local Development Plan 2 (LDP 2) contains housing allocations in order to meet the local housing needs and demands which have been established in the Housing Need and Demand Assessment (HNDA). The HNDA provides the evidence base for the Local Housing Strategy and is used to calculate the Local Housing Land Requirement for the Local Development Plan 2. The HNDA does not assess the need for tourism accommodation, neither holiday lets nor second homes. It identifies the need for homes for those who wish to live and work within Argyll and Bute as their primary residence. Following the examination of LDP2 the reporters have confirmed that the Local Housing Land Requirement has been set at 3,000 units up to 2030, and a supply of housing allocations has been identified to meet that requirement. It is clear that the LDP2 identified land supply is intended to provide homes for primary occupancy for people who wish to live and work within the Area, not for second homes or holiday lets.
- 4.15 Reflecting this Policy 65 of LDP 2 contains a presumption against development other than housing, on land identified as a housing allocation unless it can be demonstrated that it will not result in a shortfall in housing land supply and significant positive environmental, economic or social benefits can be demonstrated. It is important to clarify that second homes and holiday letting are not considered "housing" under the terms of this policy.
- 4.16 It is proposed to draft a Technical Note for PPSL approval, which will set out how the new NPF4 and LDP2 policies will be applied in terms of the development of land for housing to meet the housing land requirement. Specifically the technical note will set out proposals to ensure that such new homes are meeting the identified local housing need by requiring that they are occupied as primary residences and remain as such in perpetuity. This is likely to be achieved by a S75 agreement, or a Rural Housing Authority Burden. Should subsequent property owners wish to change that restriction they would need to make an application to the Council to achieve that. It would then be open to the Council to approve or refuse the application. Again, this issue will be consulted on prior to reverting to PPSL.

REVISIONS TO AFFORDABLE HOUSING GUIDANCE

- 4.17 The Supplementary Guidance on the delivery of affordable housing which accompanies the 2015 Adopted Local Development Plan was approved in 2016

and is now out of date and will be reviewed as part of the suite of Technical Notes that will support LDP2.

Monitoring the provision of affordable housing since the approval of the Supplementary Guidance in 2016 indicates:

- the majority of affordable housing has been provided by Registered Social Landlords,
- there have been limited commuted payments; and
- a number of schemes where properties have been described as affordable by design or affordable in the market.

4.18 Some affordable properties delivered for ownership have subsequently been re-sold, and there is need to ensure that all types of affordable housing remain available for use as affordable housing in perpetuity. In addition, it is important to ensure that all types and tenures of affordable home remain in use as primary residences and are not lost to second homes or holiday letting. Mechanisms to deliver this will be included in the review.

4.19 Another issue which has emerged in recent years is that of housing for key workers including the provision of accommodation by employers, and how this should be treated in relation to affordable housing. This is an issue that Scottish Government have requested to be included within the Strategic Housing Investment Plan going forwards.

4.20 Guidance on all these issues will be developed and included in the Technical Planning Notes that will accompany LDP 2.

5.0 CONCLUSION

5.1 In response to the Council's declared housing emergency there are a number of ways in which the land use planning system and specifically the development plan policy can assist. In relation to development plan policy, further guidance can be developed and included in Technical Planning Notes to explain how the LDP policies relevant to the provision of homes for people will be applied. This will include making clear that housing is intended to provide homes for people to use as primary residences, that affordable housing is to be provided in perpetuity and the role which key worker or employer provided housing may play in the provision of affordable housing.

5.2 Argyll and Bute Council, as a Planning Authority, has the ability to pursue the designation of a short term let control area(s) for all or parts of their area. Further work will be carried out to establish the pattern and distribution of short term lets once the requirement for existing operators to apply by 1st October 2023 has passed. This data will further inform the housing workshops held later in November 2023. Notwithstanding all of the above, there is also a need to recognise the importance of tourism and the provision of visitor accommodation to the Argyll and Bute economy.

6.0 IMPLICATIONS

6.1 Policy

The proposals are consistent with current Council priorities including the Outcome Improvement Plan, Local Housing Strategy and Local Development Plan and NPF4 which forms part of the Argyll and Bute Development Plan..

6.2 Financial – None.

6.3 Legal - None at this stage.

6.4 HR None

6.5 Fairer Scotland Duty:

6.5.1 Equalities -

6.5.2 Socio-economic Duty –

6.5.3 Islands -

6.6 Climate Change

Making most effective use of existing buildings and existing housing stock helps reduce carbon inputs and provides for more sustainable communities.

6.7 Risk

Failure to follow the statutory process regarding the designation of a short term let control areas correctly may open the council to legal challenge.

6.8 Customer Service

None.

Kirsty Flannagan

Executive Director with responsibility for Development and Economic Growth

Policy Lead Cllr Kieron Green

23 August 2023

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OCCUPATIONAL HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2023-2025

1.0 Executive Summary

- 1.1 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. The paper presents the 2023-25 Work Plan and Enforcement Policy for Committee approval.
- 1.2 We live in a society where we expect to be safe at work, be able to shop at businesses which do not put a significant hazard to us, and to a range of facilities, for leisure and other purposes, which we can enjoy safely. The Health and Safety at Work Act etc.1974 provides for this, but these standards can only be achieved, maintained and improved, through the work of the Health and Safety Executive (hereafter referred to as HSE) and Local Authorities, who enforce the provisions of the Act.
- 1.3 The Planning, Protective Services and Planning Committee approved the [Regulatory Services Work Plan 2023-25](#) on the 21 June 2023. This overarching plan covered the wide range of priorities across Regulatory Services, included the statutory health and safety enforcement role carried out by environmental health. The Occupational Health and Safety Work Plan 2023-23 provides more detail
- 1.4 Recommendations
 - 1.4.1 Members are asked to recognise the work by environmental health to secure standards of health and safety across businesses in Argyll and Bute. This directly protects employee and others (e.g. members of the public etc.), supports business and indirectly supports the wider economy
 - 1.4.2 To approve the Occupational Health and Safety Law Enforcement Workplan 2023-25 and enforcement policy to be implemented by Regulatory Services.

OCCUPATIONAL HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2023/25

2.0 INTRODUCTION

- 2.1 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. The paper presents the 2023-25 Work Plan and Enforcement Policy for Committee approval.
- 2.2 Like other health protection activities, this work going largely un-noticed, but seeks to protect society’s expectations to be safe at work, be able to shop at businesses which do not pose a significant hazard, and to safely use a range of facilities, for leisure and other purposes. The regulatory work undertaken by environmental health officers through this plan aims to achieve this level of expectation of protection.

3.0 RECOMMENDATIONS

- 3.1 Members are asked to recognise the work by environmental health to secure standards of health and safety across businesses in Argyll and Bute. This directly protects employee and others (e.g. members of the public etc.), supports business and indirectly supports the wider economy.
- 3.2 To approve the Occupational Health and Safety Law Enforcement Workplan 2023-25 and enforcement policy to be implemented by Regulatory Services.

4.0 SUMMARY OF ACTIONS FROM 2020-22 WORK PLAN

- 4.1 Argyll and Bute Council is an enforcing authority for the Health and Safety at Work etc. Act 1974 and regulations made thereunder. In Great Britain, enforcement of the 1974 Act is generally divided the Health and Safety Executive (HSE) and local authorities. HSE is responsible for workplaces including factories, farms, building sites, schools, hospitals, and offshore installations. The Council covers businesses including offices, shops, hotels, leisure premises, caterers, nurseries, and clubs. In Argyll and Bute, the Environmental Health team have responsibility for health and safety law enforcement in over 3,500 premises.

4.2 Section 18 of the 1974 Act provides that HSE can issue guidance to direct how local authorities plan their priorities and target their interventions, enabling them to meet the requirements of the *National Local Authority Enforcement Code*. The Code and guidance are strongly influenced by the UK Government's view that inspection and regulation activities are a burden on business and should only be used when alternative methods of securing compliance are inappropriate. Therefore, the routine inspection of workplaces across England, Scotland and Wales has effectively ceased.

HSE's guidance is published as local authority circular LAC 67/2 and is revised each year. The 2023 revision, version 12, has been used to develop the Occupational Health and Safety Law Enforcement Plan 2023-2025, and which is appended to this report.

4.3 The Planning, Protective Services and Planning Committee approved the [Regulatory Services Work Plan 2023-25](#) on the 21 June 2023. This overarching plan covered the wide range of priorities across Regulatory Services, included the statutory health and safety enforcement role carried out by environmental health. The Occupational Health and Safety Work Plan 2023-23 provides more detail.

4.4 The following summarises the health and safety enforcement work over the last plan period and the outcome of investigations that were completed in that period.

1. **Loch Awe Boats** The death of Kieran Cowan on Loch Awe on 17th August 2019 arose when three young men were hired a defective boat, without proper safety equipment, in stormy weather, by a licensed boat hire operator. The incident was investigated jointly with Police Scotland under the direction of the Crown Office. A report was submitted following that investigation, which resulted in Clifford Davies and Janet Lightbown, the operators of Loch Awe Boats, pleading guilty to a charge under section 3(1) of the 1974 Act and to causing the death of Kieran Cowan. The case was heard at Oban Sheriff Court on 10th January and the business was fined £10,000.
2. **Fiscal warning – work equipment in catering.** An incident in 2018, in which a young person working in a catering establishment was injured when using a domestic food processor, resulted in a Fiscal warning for a non-causative breach of the Provision and Use of Work Equipment Regulations 1998. That warning has now expired.
3. **Other investigations**
 - a. An incident in which a worker was injured in a workplace transport accident was investigated and a report has been submitted to the Crown Officer Procurator Fiscal Service.
 - b. An incident in which a worker was injured handling equipment at work was investigated and disposed of by means of a Fiscal Warning.

- c. Two other serious incidents are currently under investigation with a view to reports to the Crown Office Procurator Fiscal Service.

4. **Accident reports**

- a. The local authority receives statutory reports of injuries, diseases, and dangerous occurrences from workplaces which fall to it for enforcement. The service has procedures for screening which incidents are to be investigated, according to HSE guidance.
- b. In the year 2022-2023, 49 RIDDOR reports were received. Five were selected for investigation. One of these was the workplace transport incident which resulted in a report to the Crown Office Procurator Fiscal Service.
- c. In first quarter of the year 2023-2024, 11 RIDDOR reports were received. Two were selected for investigation. One investigation is ongoing.

5. **Summary of enforcement actions**

- a. Enforcement actions can arise from proactive inspections or from reactive work such as investigating incidents. Inspectors may also come across unsafe conditions for workers and the public when conducting other site inspections. Inspectors will always deal with unsafe conditions when they find them, and interventions range from giving advice to formal enforcement notices.
- b. In the year 2022-2023, 5 immediate prohibition notices and 10 improvement notices were served.
- c. In the first quarter of the year 2023-2024, 2 improvement notices were served.
- d. Prohibition notices were served for unsafe gas installations, unsafe electrical installations, and unsafe asbestos materials
- e. Improvement notices were served for failure to maintain gas installations, absence of suitable and sufficient risk assessments, absence of *Legionella* controls in premises, failure to implement risk assessments in respect of workplace transport.

6. **Guest safety in short-term lets accommodation**

Guest safety conditions were proposed for the short-term lets licensing scheme based on known topics which had given rise to evident concern in the holiday let sector in the past. It is anticipated that the requirement for hosts to comply with specific licensing conditions will ensure safer conditions for guests and enable hosts more easily to identify and comply with their duties under health and safety law.

7. **Co-ordination with other regulators**

The Lead EHO (Health and Safety) participates in regional and national groups to share information and practice with other local authority regulators. These groups include, the West of Scotland Health and Safety Liaison Group, for which the Council provides the secretarial function, and the Royal Environmental Health Institute of Scotland's Health and Safety Co-ordination Group.

8. **Expert Advice Group**

The ETC19 group was established to co-ordinate the local authority regulatory response during the period of restrictions at the start of the COVID pandemic. Argyll and Bute Council have had representation on this group from the foundation of the group. The group has established very good working relationships with Scottish Government officials, and in liaison with HSE and Police Scotland. The group continues in existence as a forum for discussing regulatory matters of interest to environmental health and trading standards colleagues.

9. The Lead EHO (Health and Safety) also served on two Scottish Government short-life working groups, the Ventilation and Adaptations groups. His role was to represent the local authority environmental health perspective.

5.0 **CHALLENGES**

- 5.1 The local authority health and safety regulatory role continues to be under pressure, primarily of staffing and secondarily of other operational demands on environmental health functions. Inspectors are, except for the Lead EHO (Health and Safety), generalist and have responsibilities for food control, licensing, and public health duties in addition to their health and safety function. Conversely, the demands of staffing reactive investigations into serious health and safety incidents affects the delivery of other environmental health functions. The Occupational Health and Safety Law Enforcement Plan 2023-2025 is written with these constraints in mind, and with the need to maintain the competence of Environmental Health Officers who are not specialist health and safety inspectors.

6.0 **OCCUPATIONAL HEALTH AND SAFETY ENFORCEMENT PLAN 2023-25**

- 6.1 The 2023-25 work plan has been developed having regard to national and local priorities, our available resource and meets the requirements of the National Code.
- 6.2 Our priorities are detailed in APPENDIX 1 of this report which is attached as an appendix to this report.

In summary, this focuses on high risk activities, responding to service requests and reported accidents/incidents; assessing

compliance with certificates issued in respect of petroleum sites, and targets the following national and local initiatives:-

(a) **National**

- Construction safety
- Falls from height
- Health risks from respirable silica dust
- Duty to manage asbestos
- Visitor attractions to prevent or control ill-health arising from animal contact
- Beverage gases in the hospitality sector
- Gas safety in commercial catering premises
- Welfare provision for delivery drivers
- Raising awareness of the need to prevent injury to members of the public from accessing large commercial waste and recycling bins
- Promoting worker involvement in safety management systems

(b) **Local Priorities**

- Public and worker safety at events
- Legionella* control in hot tubs and spa pools

6.3 We will continue to monitor accident and injury rates across all employment sectors in Argyll and Bute and develop intelligence-based targeting methods for ensuring that our regulatory interventions address risk and deliver safer, healthier working conditions for the people of Argyll and Bute.

7.0 ENFORCEMENT POLICY

7.1 Our enforcement policy seeks to achieve compliance through appropriate, proportionate and risk-based regulates, and ideally through working with business.

7.2 The 1974 Act provides formal enforcement powers which are used by authorised inspectors where they identify a significant risk to health or safety; where there is a history of non-compliance, where the informal approach working with business is unsuccessful, and will be considered in the event to any major or significant incident or injury to employee. Reports will be made to the Procurator Fiscal in cases of serious breach of duty, significant risk or serious harm to employees or the public, or failure to comply with formal enforcement notices.

7.3 The Occupational Health and Safety Law Enforcement Policy (see Appendix II) has been reviewed and is presented for approval. It meet the requirements of the National Code, the *Scottish regulators' strategic code of practice* and the Council's Enforcement Policy. There are no changes to the policy previously approved by Committee.

8.0 CONCLUSIONS

8.1 Argyll and Bute Council's Environmental Health team continues to provide a competent and flexible enforcement team for health and safety matters, although resourcing requires it to be targeted and reactive in nature

This report sets out the priorities of Regulatory Services to continue to protect citizen and worker health and safety through a considered, proportionate, work plan, always acknowledging that significant investigations might require to be resourced at any time.

9.0 IMPLICATIONS

9.1	Policy	Meets the National Code and the Regulatory Performance Agenda
9.2	Finance	None. Plan has been developed to reflect existing budget and available resources.
9.3	Legal	Meets our statutory duties as an "enforcing authority"
9.4	HR	None
9.5	Fairer Scotland	
9.5.1	Equalities	None
9.5.2	Socio-economic	None
9.5.3	Islands	None
9.5.4	Climate change	None
9.6	Equalities	None
9.7	Risk	The major risks are lack of available resource and competing operational priorities. These are being managed.
9.8	Customer Service	None

Executive Director with responsibility for Environmental Health: **Kirsty Flanagan**

Policy Lead:

Councillor Kieron Green

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Appendix 1: Occupational Health and Safety Law Enforcement Work Plan 2023-25 Priorities

Appendix 2: Argyll and Bute Council Occupational Health and Safety Law Enforcement Policy

APPENDIX 1: Occupational Health and Safety Law Enforcement Plan 2023-2025

Summary

The following areas of work are proposed for the period 2023-2025.

National Priorities

1. Building safety – duty to manage asbestos/falls through fragile surfaces/
respirable silica dust.
Actions : Raising of awareness in routine contacts and intervention on complaint
or MECs.
Resource: Inspectors having routine contact with businesses for other regulatory
functions.
2. Visitor attractions to prevent or control ill health arising from animal contact.
Actions : Proactive inspection of the small number of sites in Argyll and Bute.
Resource: Lead EHO.
3. Inflatable amusement devices.
Actions : Proactive inspection when found to be in use. Imposition of safety
requirements through event licensing processes. Provision of information on the
council’s website.
Resource: Area inspectors.
4. Gas safety in catering premises.
Actions : Providing advice to new businesses, checking currency of records during
routine visits, responding to complaints and MECs.
Resource: Inspectors having routine contact with businesses for other regulatory
functions.
5. Electrical safety in hospitality settings.
Actions : Raising of awareness during routine visits to hospitality settings,
responding to complaints and MECs.
Resource: Inspectors having routine contact with businesses for other regulatory
functions.
6. Spa pools and hot tubs on display.
Actions : Providing information to retailers about the actions required to be taken
to prevent outbreaks of Legionnaires’ disease.
Resource: Lead EHO.
7. Welfare provision for delivery drivers.
Actions : Raising of awareness during routine visits to restaurants and takeaway
premises, responding to complaints and MECs.
Resource: Inspectors having routine contact with businesses for other regulatory
functions.
8. Promoting worker involvement in safety management systems.
Actions : Engaging with worker representatives during proactive inspections or
responding to complaints/MECs.

Resource: Inspectors undertaking proactive inspections or responding to complaints/MECs.

Local Priorities

9. Spa pools in commercial use.
Actions : Proactive engagement with operators when identified and through short-term lets licensing consultations, proactive inspections, responding to complaints.
Resource: Lead EHO
10. Bather safety in public swimming pools.
Actions : Proactive inspections of public swimming pools focussing on lifeguarding or emergency response arrangements, according to the risk presented to bathers.
Resource: Lead EHO and inspectors.

These topics have been identified from reviewing the 12th edition of LAC67/2 ([weblink](#)). A more detailed analysis of the topics is included in the annexes to this report.

The following training is **proposed**:

- A. Procedures for the investigation and reporting of serious health and safety breaches.
- B. Optional refresher briefings, depending on demand, selected from the following topics:
 - Gas safety in catering premises
 - Solid fuel catering appliances
 - Inflatable play equipment
 - Legionella in water services
 - Manual handling

APPENDIX 2: Occupational Health and Safety Law Enforcement Policy

1. Introduction

- 1.1 Argyll and Bute Council is an enforcing authority for the purposes of the Health and Safety at Work etc. Act 1974 (“the Act”).
- 1.2 As an enforcing authority under the Act, the Council’s objective is to protect the health, safety and welfare of people at work, and to safeguard others, mainly members of the public, who may be exposed to risks from the way work is carried out.
- 1.3 The Council is required to have regard to the Health and Safety Executive’s (HSE’s) *Enforcement Policy Statement* in determining its own policy, and HSE’s *Enforcement Management Model* in making enforcement decisions in individual cases.
- 1.4 The principles and policies set out in this document are brought into operational effect by procedures approved by the Regulatory Services and Building Standards Manager in consultation with the Area Environmental Health Managers, and the Lead EHO (Health & Safety and Service Support).

2. The principles of enforcement

- 2.1 Argyll and Bute Council is committed to firm but fair enforcement of health and safety law. The Council’s approach is informed by the following principles:
 - 2.1.1 **Proportionality**, which means that enforcement action relates to the risks to health and safety, to the seriousness of any breach and to any actual or potential harm arising from a breach of the law.
 - 2.1.2 **Targeting**, which means that the regulatory activities of the Council are directed primarily on those whose activities give rise to the most serious risks or where the hazards are least well controlled. Targeting also requires that action is focussed on the dutyholders who are responsible for the risk and who are best placed to control it.
 - 2.1.3 **Consistency**, which means taking a similar approach in similar circumstances to achieve similar ends. This is not the same as uniformity and requires the exercise of professional judgement and discretion by inspectors.

2.1.4 **Transparency**, which means helping dutyholders to understand what is expected of them and what they should expect from the Council as an enforcing authority. It also means making clear to dutyholders not only what they have to do, but where this is relevant, what they don't. This means distinguishing between statutory requirements and advice or guidance about what is good practice but not compulsory.

2.1.5 Public transparency also requires that the Council shall publicise successful enforcement actions such as prosecutions.

2.1.6 **Accountability**, which means that the Council, as an enforcing authority, is accountable to the public for its actions. This means having a clear and accessible complaints procedure which is brought to the attention of those with whom inspectors come into contact.

3. **The purpose and methods of enforcement**

3.1 The purpose of enforcement is to:

3.1.1 Ensure that dutyholders take action to deal immediately with serious risks;

3.1.2 Promote and achieve sustained compliance with minimum legal standards;

3.1.3 Ensure that dutyholders who breach minimum legal requirements, and directors or managers who fail in their responsibilities, may be held to account, which may include reporting offences to the Crown Office Procurator Fiscal Service.

3.2 The methods of enforcement are:

3.2.1 Giving information and advice, either verbally or in writing;

3.2.2 Serving improvement or prohibition notices;

3.2.3 Reporting the matter to the Crown Office Procurator Fiscal Service

3.3 In addition to the methods of enforcement set out above, inspectors have powers under section 20 of the Act to deal with causes of immediate danger in the workplace.

4. **Enforcement decisions**

4.1 Enforcement decisions shall be taken having regard to HSE's *Enforcement Policy Statement* and *Enforcement Management Model*.

- 4.2 Enforcement decisions shall be made in accordance with the principles set out at section 2 of this policy.

5. **Prosecution**

- 5.1 Enforcement decisions shall be made in accordance with the principles set out at section 2 of this policy.
- 5.2 The decision to report an offence to the Crown Office Procurator Fiscal Service shall be considered when:
 - 5.2.1 Prosecution is identified as the most appropriate intervention from the *Enforcement Management Model*;
 - 5.2.2 The relevant dutyholder has failed to comply with an improvement notice without reasonable excuse;
 - 5.2.3 The requirements of a prohibition notice have been breached.
- 5.3 Where inspectors are obstructed in the execution of their duty, consideration shall be made to reporting the matter to the Crown Office Procurator Fiscal Service.
- 5.4 Where inspectors are assaulted, the Council shall always support the officer should they wish to report the matter to the Police, with a view to seeking the prosecution of offenders.

6. **Business's right to challenge incorrect health and safety advice**

- 6.1 Businesses are entitled to receive sensible health and safety advice based on risk, and Argyll and Bute Council are committed to giving advice on that basis.
- 6.2 Argyll and Bute Council shall put the following procedures in place to enable businesses to challenge incorrect health and safety advice, or advice which goes beyond what is required to control the risk(s) adequately:
 - 6.2.1 A business can raise the matter with the Inspector directly;
 - 6.2.2 If not satisfied, the business can raise the matter with the inspector's line manager;

- 6.2.3 If still not satisfied, the business can:
 - 6.2.3.1 Raise the matter through the Council's Complaints Procedure, and/or;
 - 6.2.3.2 Raise the matter with the Independent Regulatory Challenge Panel.

6.3 All informal letters shall include a paragraph setting out the Council's commitment to giving sensible health and safety advice and indicating how a business may raise concerns about the requirements or advice given, including how to contact the Independent Regulatory Challenge Panel.

7. **Enforcement in premises in which Argyll and Bute Council may have an interest**

7.1 A potential conflict of interest may occur where Argyll and Bute Council is the relevant enforcing authority in relation to premises in which it also has an ownership or management interest. A conflict of interest can either be an actual or a perceived conflict of interest.

7.2 Potential conflicts of interest shall be managed according to the following principles:

- 7.2.1 The Regulatory Services and Building Standards Manager shall be proactive in identifying and addressing potential conflicts of interest and will consult with the Council's Senior Health and Safety Officer;
- 7.2.2 The Regulatory Services and Building Standards Manager shall propose arrangements for dealing with those exceptional circumstances where a conflict of interest has come to light after an incident has occurred;
- 7.2.3 The Regulatory Services and Building Standards Manager shall consult with the Council's Senior Health and Safety Officer to identify whether any potential conflicts of interest are introduced or removed when governance arrangements change.

7.3 It is not presumed that HSE will act as the default regulator where there is a potential conflict of interest. Other means of addressing the conflict should be explored first, with transfer of enforcement responsibility to HSE taking place only in exceptional circumstances and as a last resort.

7.4 Argyll and Bute Council shall otherwise:

- 7.4.1 Carry out its enforcement policy and practice in the same way that it does for all other premises and dutyholders;
- 7.4.2 Inform HSE if enforcement allocation for the premises requires to be reviewed or re-allocated.

8. Appointment of Inspectors

- 8.1 The Executive Director, Development and Infrastructure Services has delegated authority under the Council's Scheme of Delegation to appoint inspectors under the Act.
- 8.2 The appointment of inspectors and the variation of the level and scope of their appointments is at the discretion of the Executive Director, Development & Infrastructure Services, having regard to the recommendation of the Regulatory Services and Building Standards Manager.

9. Indemnification of Inspectors

- 9.1 Under the terms of section 26 of the Act, where an action has been brought against an inspector in respect of an act done in the execution or purported execution of any of the relevant statutory provisions and the circumstances are that he is not legally entitled to require Argyll and Bute Council as the enforcing authority to indemnify him, Argyll and Bute Council shall, nevertheless, indemnify him against the whole or any part of any damages and costs or expenses which he may have been ordered to pay or may have incurred, if the Regulatory Services Manager is satisfied that he honestly believed that the act complained of was within his powers and that his duty as an inspector required or entitled him to do it.

10. Review

- 10.1 This policy will be reviewed annually, and more frequently as may be required, by the Regulatory Services and Building Standards Manager.
- 10.2 The policy will be presented to the Planning, Regulatory Services and Licensing Committee for approval as part of the Occupational Health and Safety Law Enforcement Plan.

Alan Morrison, Regulatory Services and Building Standards Manager
Reviewed: July 2023
Reviewer: Patrick Mackie, EHO (Health & Safety and Service Support)

ARGYLL AND BUTE COUNCIL**Planning, Protective Services and
Licensing Committee****Development and Economic Growth****20 September 2023**

ANIMAL HEALTH & WELFARE WORK PLAN 2023/25

1.0 EXECUTIVE SUMMARY

- 1.1** A sustainable agricultural sector is important to economy of Argyll & Bute to ensure that its produce is of high quality, in demand and is able to be marketed locally and nationally. This is dependent on a “compliant industry” and the Council plays a key role in ensuring compliance with legislation through its statutory duties under the Animal Health and Welfare (Scotland) Act 2006.
- 1.2** This report outlines the work and priorities of the animal health and welfare inspectors, within Regulatory Services, and seeks approval of the Animal Health & Welfare Enforcement Work Plan 2023/25 which focuses on preventing the spread of animal disease and protecting standards of welfare.
- 1.3** The Plan meets the Council’s statutory duties and the requirements of the Scottish Governments Animal Health & Welfare Framework Agreement, which specifies the core requirements for animal health & welfare service.

The Plan has been developed in conjunction with our lead veterinary officer from Animal Health and Plan Agency and sets out our priorities of both agencies for 2023/25 and areas of joint working to meet local and national priorities. It reflects available resources, and the principles of “better regulation” and joint working.

1.4 Recommendations

That members note the nature of this work and agree to formally endorse the Argyll & Bute Animal Health & Welfare Work Plan 2023/25.

ANIMAL HEALTH & WELFARE WORKPLAN 2023/25**2.0 INTRODUCTION**

2.1 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 (i.e. the prevention or controlling the spread of disease) and the welfare of animals.

2.2 The key priorities for the animal health and welfare service are to:

- (i) Prevent the introduction and, control the spread of animal diseases including zoonotic diseases (e.g. rabies, tuberculosis etc.) which can be transmitted to humans.
- (ii) To ensure that the welfare needs of animals are met.
- (iii) Promote 'compliance business and growth' by supporting the agricultural and associated industries
- (iv) Proportionate and appropriate enforcement of the Act and associated regulations

2.3 This work is undertaken by qualified and competent animal health & welfare officers who work on a daily basis with our partners, and are supported by other Regulatory Services staff, as required. These partners include business, haulers, market operators, as well as other regulatory services including Animal Plant & Health Agency (APHA), Scottish Government Rural Payments Inspectorate (SGRPID) and the Scottish Society for the Prevention of Cruelty to Animals (SSPCA).

2.4 Councils are required to have in place a formal enforcement plan to meet the core requirements of the Animal Health & Welfare Framework Agreement which defines the standards for core components. The 2023/25 work plan (see appendix 1) meets the Framework requirements.

3. RECOMMENDATIONS

3.1 That members note the nature of this work and agree to formally endorse the Argyll and Bute Animal Health & Welfare Work Plan 2023/25.

4.0 REVIEW OF PERFORMANCE

4.1 In developing the plan for 23/25, it is important to review performance against the previous plan, achievements and emerging issues. This will include the ongoing Avian Influenza outbreak,

4.2 The service has worked hard to reinstate services post pandemic and to adapt new working practices where officers are working across offices, on site, on occasions working from home and using new technology. This has been successful but there

have been long-term absence issues in animal health were the team have been under-resourced by 0.6FTE (35% of the team for the last 18 months). This has impacted on performance and work reprioritized to meet available resource.

High risk farm visits and market inspections	Target 100%	Achieved 85%
Service requests resolved within 20 working days	Target 85%	Achieved 73%

4.3 The reporting of statistics is only one element of measuring performance and it is important to recognise specific work or activity. In the last year, we have achieved the following:

- **Animal Disease- avian influenza.** The UK experienced its largest avian influenza outbreak in 2022 and the outbreak has continued into 2023 with outbreaks and positive cases still being identified. Specific actions have been taken by Argyll and Bute Council to engage with commercial and domestic poultry keepers to enhance their biosecurity arrangements and other controls, to provide advice to minimise contact with wild bird carcasses which were washed upon our coastlines, and review the Councils arrangements to respond to an avian influenza outbreak in our area.
- **Markets;** targeted interventions at livestock markets to deliver the markets strategy conjunction with Animal Health and Plant Agency colleagues and ensure compliance with appropriate standards, including transportation to and from markets
- **SVS.** Actively participated in the national project to develop a Scottish Veterinary Service and the proposal that local authority animal health and welfare activities be included in the new agency. Following considerable work, the decision was taken nationally, to remove local authority services from the project brief.
- **Island communities.** A multiagency forum was held to discuss and identify actions to be taken in the event of a disruption to ferry travel from the islands when there are associated island markets, and exception weather conditions (e.g. high temperatures etc.)
- **Shared services:** We also continue to be lead authority for the anthrax incinerator where we have shared service agreement in place with 7 other local authorities
- **Partnership working** is essential and is embedded within our work with APHA, environmental health and trading standards, Police Scotland (aided by the Rural Crime and Serious Organised Crime Groups) and other agencies. We have formally agreed a memorandum of understanding with APHA & SSPCA regarding data sharing and joint working/support.
- **Business support:** We continue to provide advice and assistance to industry through inspections and visits or responding to enquiries. Proactively, guidance/information notes are issued through our alternative enforcement plan and an example is in Appendix 2 of this report
- **Enforcement.** Ensured compliance across a range of interventions including the service of formal Notices in some cases and a successful prosecution for an offence against a farmer for unnecessary suffering of an animal (Animal Health (Scotland) Act) The resultant fine of £3500 respectively
- **Review of disease contingency plans.** The Argyll nad Bute Animal Disease Plan was revised, together with specific animal disease plans (i.e. rabies, avian influenza etc.) to enhance our preparedness to respond, and align with the West of Scotland Regional Resilience Animal Health and

Welfare Sub-group arrangements.

- **Training and development:** Successfully completed the training and mentoring plan for an Animal Health and Welfare Officer who started on the 14 March 2022.

5.0 SERVICE PLAN 2023/25

- 5.1 The Work plan meets the core requirements of the Animal Health & Welfare Framework Agreement and targets our limited resources to high risk activities and the delivery of regional and local priorities. It also sets a number of key performance targets.
- 5.2 Section 9 of the work plan includes the regional and local priorities and the following are highlighted:
- **Operational priorities.** We will target resources at high risk premises, markets; disease notifications and to reactive service complaints. The service plan clearly details our other planned work
 - **Scottish Market Strategy.** We will continue to deliver the national markets strategy which originated from the work within Argyll and Bute
 - **National Contingency Plan.** We will review the arrangements for the anthrax incinerator which is shared with other local authorities and enhance our preparedness to respond to an animal disease incident
 - **Avian Influenza.** We will continue to monitor the situation and adequacy of the current controls, taking proportionate action as necessary, and ensure our preparedness to respond to an incident.
 - **Collaborative working.** We will continue to foster good working relationships and reduce, where possible the burden on business, through joint inspections with other regulators. We will also be pursuing how we can be more effective and seeking to improve resilience through possible sharing of resources. We have a Memorandum of Understanding in place between APHA, the Council and SSPCA. We also actively participate in the Serious Organised Crime and the Rural Crime Groups.
 - **Intelligence sharing.** To continue to extend on the use of information management and sharing systems and sharing local intelligence
- 5.3 The Animal Health and Welfare Work Plan 2023/25 details the actions of Argyll and Bute Council and work to be undertaken separately or jointly, with Animal Plant & Health Agency (APHA). It has been agreed with APHA and they have given an undertaking to provide resources to meet the planned actions in Section 9.2.
- 5.4 **Assessment against the National Framework Standards**
As a service and a Council, we are well recognised by our peers; actively support the regional and national meeting; are seen to support and work with business. I would gauge the service, against the Framework as meeting '**good practice**' in many of the criteria.
- 5.5 We considered whether it is appropriate to increase to reduce our standards for each element to either minimum, good practice or better practice, This reflects the importance of the agriculture industry to Argyll and Bute and the inherent risks. **We have made changes from our previous plan with some criteria being reduced from better practice to good practice to reflect emerging issues, and our available resource.**

- 5.6** Our enforcement policy seeks to work with and support business, with the initiation of formal enforcement action being only where there is significant risk from non-compliance; to disease control or non-cooperation with our informal approach. We do not propose to change this approach which is consistent with the Scottish Governments Regulatory Strategic Code.

6.0 CONCLUSIONS

- 6.1** The Animal Health & Welfare Work Plan 2023/25 meets the Council's statutory duties; supports the agricultural sectors and protects animal health and the wider public health. I commend the plan to members and ask that it be formally approved.

7.0 IMPLICATIONS

- | | | |
|--------------|------------------|--|
| 7.1 | Policy | None |
| 7.2 | Financial | Existing budget to deliver plan |
| 7.3 | Legal | Meets council's statutory duty under Animal Health (Scotland) Act 1981/2006 |
| 7.4 | HR | None |
| 7.5 | Fairer Scotland | |
| 7.5.1 | Equality | No adverse impact on key characteristics |
| 7.5.2 | Socio-economic | None |
| 7.5.3 | Islands | None |
| 7.5.4 | Climate change | Meets principles |
| 7.6 | Equalities | None |
| 7.7 | Risk | (a) The increasing national drivers of retaining Scotland's high health and disease free status, and meeting national and local priorities has led to an increase in demand on the service. This will be managed through targeting high risk activities in the first instance.
(b) There is a risk relating to capacity to respond to a major incident in Scotland, but the contingency work being done should mitigate this. |
| 7.8 | Customer Service | None |

Executive Director with responsibility for Development and Economic Growth:

Kirsty Flanagan

Policy Lead: Councillor Green

6 September 2023

For further information contact: Alan Morrison, Regulatory Services and Building Standards Manager,

Tel: 01546 604292, email: alan.morrison@argyll-bute.gov.uk

APPENDICES:

Appendix 1- Animal Health and Welfare Service Plan for Argyll and Bute 2023/25

**APPENDIX I :
ANIMAL HEATH AND WELFARE SERVICE PLAN 2023/25 FOR ARGYLL AND BUTE**

Local Authority: ARGYLL AND BUTE COUNCIL

Service Plan for year: 01/04/2023 - 01/04/2025

	Content and relevant outcome(s)	Local Authority Planned Level of Service Delivery
1. Planning the Delivery of the Local Authority Animal Health Function		
1.1 Profile of Local Authority area and associated animal health and welfare workload MIN	Analysis of critical control points by type, number, days of operation, including: <ul style="list-style-type: none"> • premises used for sales (e.g. auction markets etc.) • abattoirs/slaughter houses Analysis of agricultural premises according to risk Summary of staff engaged in Animal Health and Welfare work Outcomes 3 and 5	a) This is detailed above in section 3 of the Service Profile. b) The service plan has been discussed and agreed with the APHA. We have incorporated APHA interventions into the plan in section 11, demonstrating the joint working arrangements which are in place between both agencies and our aim to develop an "Animal Health and Welfare Plan for Argyll and Bute" c) We have a good working relationship with Scottish Governments Rural Payments Inspectorate which involves partnership working which is increasing with greater integration of visits. d) We have a formal Memorandum of Understanding in place between Argyll and Bute Council; Animal and Plant Health Agency (APHA) , Scottish Society for the Prevention of Cruelty to Animals (SSPCA) relating to working arrangements and data sharing e) Increased liaison with Police Scotland, Scottish Environment Protection Agency, other regulators including Food Standards Scotland and the industry through the Rural Crime Group; Serious Organised Crime Group and specific working. f) Active member of the Argyll and Bute Agricultural Forum.
1.2 Annual Service Plan for delivery of services in Animal Health and Welfare BP	Service Plan produced detailing levels of Service Delivery for all activities detailed in this activity framework, reflecting national and local priorities. Annex C should be used as a template. Outcomes 3, 4, and 5	The service plan is formally agreed by the Councils Regulatory Services Manager and Lead Veterinary Officer with the APHA annually and formally approved by the Planning, Protective Services and Licensing Committee. It is reviewed quarterly, amended as necessary to reflect emerging priorities and available resource, and key measures are reported on corporately

	Content and relevant outcome(s)	Local Authority Planned Level of Service Delivery
1.3 Risk Assessment GP	<p>Premises risk assessed in accordance with the national risk scheme detailed in Section 4</p> <p>Risk based inspection programme</p> <p>Outcomes 1, 2, 5 and 6</p>	<p>a) All premises are rated using our revisions to the COSLA risk rating scheme and classed as high, medium or low risk. They are then programmed for inspection based on our inspection frequency</p> <p>b) Risk assessments are reviewed and updated following each programmed visit. This then identifies the next due date and type of intervention.</p> <p>c) The programme for High Risk premises is notified to the APHA and SGRPID in an attempt to share information and where possible, undertake joint visits. It also allows other agencies to highlight specific issues which can be considered as part of the programmed visit. This is consistent with the principle of better regulation, but where the other agencies are unable to share their programmes, we will undertake our own work, as planned.</p> <p>d) The planned interventions programme for 2017-18 has been agreed and our local targets are</p> <ul style="list-style-type: none"> • 95% of high risk visits • Other- intelligence-led.
2 Training and Development		
2.1 Training for new officers On-going professional development GP	<p>Officers are authorised to enforce all relevant legislation. All enforcement staff to hold recognised qualification or have equivalent professional experience i.e. 'Grandfather rights' or undertake to achieve such qualifications as soon as possible</p> <p>It is recognised that in emergency situations i.e. outbreaks of disease, there may be a need to call upon non animal health qualified officers to assist in carrying out animal health and welfare duties.</p> <p>Time and resources allocated to keep up to date on appropriate Animal Health and Welfare legislation, codes of practice, guidance etc. – e.g. by accessing Local Government Regulation website</p> <p>Outcome 5</p>	<p>a) All animal health and welfare officers are authorised in accordance with the legislation. Their level of authorisation is dependent upon their qualifications, training and competency</p> <p>b) Two of our officers have a formal AHW qualification and all have a working knowledge of the agricultural sector. The other is working towards an accredited qualification.</p> <p>c) In the event of emergencies, we will authorise other Regulatory Services staff to undertake specific duties, subject to their skills (i.e. EHO's may be involved in contact tracing, cleansing and disinfection etc.)</p> <p>d) We have a Continued Professional Development system in place for AHW officers to ensure they maintain and their competency and are informed of developments etc. There is also an annual Performance Development Review process which is competency based and identifies a range of objectives targeted at the service plan, the competency framework and the individual's professional and professional development. This is reviewed in the course of the year</p> <p>The target is 10 hours CPD for each officer in the year</p>
3. Licensing Activities		
3.1	Zoo licensing	<p>We will undertake the necessary work associated with licensed zoos within our area and respond to any associated service requests. As of 1st March 2017, there are 2 licensed zoos in Argyll and Bute</p> <p>We are trying to identify specific training in relation to the enforcement and regulation of zoos.</p>

	Content and relevant outcome(s)	Local Authority Planned Level of Service Delivery
4. Education and advice to maximise compliance		
4.1 Education and advice GP	<p>Guidance provided to businesses on all aspects of Animal Health and Welfare for which Local Authorities are responsible, including any movement licensing requirements.</p> <p>Delivery targets should be set in accordance with individual Local Authority 'charter' response times.</p> <p>Outcomes 1, 2, 5 and 6</p>	<p>a) All calls to the service are received by the Councils Customer Contact Centre and they respond based on agreed scripts provided by Regulatory Services.</p> <p>b) General advice is available through our website and this is maintained and kept updated.</p> <p>c) Business advice available from officers during working hours and information readily available on the website. There is also a generic email box for animal health enquires. AH&W business advice available on Council website.</p> <p>d) We have local indicators relating to service requests resolved within 20 working days and the number of high risk inspections done within the due date. We are also in the process of establishing a benchmarking club to develop common benchmarks between similar local authorities to aid service improvement</p> <p>Target 1. Resolve 85% of service requests within 20 working days</p>
4.2 Proactive activity BP	<p>Proactive involvement or lead in education and training events with stakeholder organisations etc.</p> <p>Joined up approach to education and advice through liaison with the Scottish Government, Local Government Regulation and APHA</p> <p>Outcomes 1, 2, 5 and 6</p>	<p>a) We provide information to the industry through "surgeries" at markets and other visits; on a one-to-one basis during inspections; by working with specific groups (e.g. Agricultural Forum etc.) and by direct liaison with other partners including NFU, Food for Argyll etc.</p> <p>b) Information displayed on website, attendance at stakeholders/enforcement groups and alternative enforcement strategy in place</p> <p>c) Focussed Information is issued to specific target groups through our alternative enforcement strategy. This is aimed at keeping businesses advised of developments/changes and to allow them to take steps to ensure their businesses meet standards.</p> <p>d) We are an active member of the National Animal Health and Welfare Strategy Group, the National Framework Steering Group, and various liaison/panel meetings across Scotland and the Framework Steering Group. In addition and at a local level we have liaison group arrangements with the NFUS, SGRIPID, SSPCA and the local Argyll and Bute Agricultural Forum</p> <p>Target Complete AHW activities within Alternative Enforcement Plan</p>

	Content and relevant outcome(s)	Local Authority Planned Level of Service Delivery
5. Enforcement activities to maximise Animal Health and Welfare compliance		
<p>5.1 Attendance at Critical Control Areas- Livestock markets, Sales, and Assembly Centres</p> <p>BP</p>	<p>Highly visible preventative enforcement presence. Attendance at markets and other sales, and Assembly Centres to ensure compliance, in particular with:</p> <ul style="list-style-type: none"> • Biosecurity (vehicles, premises and people) • Livestock identification • Welfare • Transport • Licensing and record keeping • Specific pre movement licensing • All other relevant legislation <p>Exact attendance levels and times according to status of gathering</p> <p>Outcomes 1, 2, 5 and 6</p>	<p>a) We will continue to deliver the National market strategy to ensure that we are able to undertake our enforcement duties within markets and effectively utilise the available resources we have.</p> <p>b) The interventions required for each market is specific to each, given the outcome of its risk assessment, and programmed into the services operational work.</p> <p>c) Additional interventions, and other associated visits to farms and other premises, will be undertaken as a result of the findings of routine market visits and also intelligence gathered from other sources, including service requests and notifications from other services (e.g. environmental health) other local authorities or agencies.</p> <p>Target:</p> <ol style="list-style-type: none"> 1. The projected number of programmed market visits is 44 (reduction in 4) although this will be confirmed after the joint inspections of the markets which is to be undertaken in conjunction with AHPA. Fewer but bigger markets 2. We will measure our performance against this programme with target of 100% of the agreed interventions programme for markets being completed
<p>5.2 Attendance at Critical Control Areas - slaughter houses</p> <p><i>The MHS are responsible for enforcement and Local Authorities should liaise with MHS with regard to any need to enter the slaughterhouse production area.</i></p> <p>BP</p>	<p>Attendance at slaughter houses (high and low throughput, red meat and poultry (white meat) in liaison with FSA OV to ensure legislative compliance,</p> <p><i>Those activities with regard to the transport unloading and identification of livestock should normally occur outside of the slaughterhouse production area.</i></p> <p>Outcomes 1, 2, 5 and 6</p>	<p>a) No inspections required for the island slaughterhouses following discussions with Food Standards Scotland Attendance at slaughter house on request of OV or the Meat Hygiene Service or as a result of particular intelligence that there is a problem outwith the responsibility of the OV.</p> <p>b) Ongoing liaison with AHPA or FSS regarding any planned interventions</p> <p>c) Improved liaison between LA's and FSS which identifies issues from slaughterhouses outwith our area, relating to businesses within Argyll and Bute. This allows us to take appropriate enforcement action. This is 2-way communication between agencies.</p> <p>Target: to respond to enquiries regarding slaughterhouse and participate in intelligence-led interventions where there is reason to act due to legitimate concerns. – 100%</p>
<p>5.3 Attendance at Critical Control Areas - Dealers/Agents</p> <p>GP</p>	<p>Identification of Dealers and Agents</p> <p>Visits/inspections to verify legislative compliance</p> <p>Outcomes 1, 2, 5 and 6</p>	<p>a) List of High Risk dealers and agents compiled in consultation with AHPA</p> <p>b) Businesses will be inspected in accordance with their risk rating or more frequently based on local, regional and national intelligence or concerns</p> <ul style="list-style-type: none"> • High risk dealer premises to be visited in terms of their risk rating • Written report of non-compliance given at time of visit • Major non compliances reported to relevant agencies • Re-visits undertaken when actionable infringements occur • All investigations, visits and actions entered into UNIFORM software system <p>Target: 100% of high risk visits completed</p>

	Content and relevant outcome(s)	Local Authority Planned Level of Service Delivery
5.4 Attendance at Critical Control Areas - Ports MIN	Attendance at Ports to ensure legislative compliance, in particular with: <ul style="list-style-type: none"> • Biosecurity (vehicles, premises and people) • Livestock identification • Welfare • Transport • Import/export documentation • All other relevant legislation <p>Outcomes 1, 2, 5 and 6</p>	There are no significant ports within Argyll and Bute Council although there is the movement of livestock throughout the district by ferries and road. To combat this we have:- <ul style="list-style-type: none"> • Arrangements in place with CALMAC which regulates the transportation from livestock from the islands • Respond to any notifications or issues relating to imported animals <p>We will continue to support APHA, in respect of the storage and disposal arrangement for animal by-products and international catering waste at marinas and ports and other high risk premises in a programme of joint working with APHA</p>
5.5 Attendance at Critical Control Areas - High risk Farms (Other than dealers or agents)	Visits/inspections to verify legislative compliance Outcomes 1, 2, 5 and 6	a) All premises are inspected in accordance with the risk rating although more frequent inspections may be undertaken where local knowledge or intelligence suggests possible AHW issues. The inspection programme is developed and agreed with the Service Manager at the beginning of every financial year and resources are allocated to meet this programme. The programme is discussed with SGRPID to minimise the duplication caused by multiple inspections and visits. b) High risk premises to be visited annually. Written report of non-compliance given at time of visit. Major non-compliances reported to relevant agencies Re-visits undertaken where appropriate Target: Inspect 35 high risk premises
5.6 Visits and inspections to other premises	Visits to verify legislative compliance. Commercial hauliers Farms (including own livestock vehicle) Agricultural Shows and farm dispersal sales Animal by-products premises including Any other premises of livestock origin and destination Outcomes 1, 2, 5 and 6	a) Visits only undertaken to other premises on intelligence basis or as a result of another inspection plan e.g. Primary Production visit plan. b) Integrated primary production inspections are undertaken by AHW officers and the remit includes animal health and welfare, food, where the business is subject to a high risk visit for animal health and welfare c) Joint working arrangements are in place with APHA SGRPID and the SSPCA. d) All inspections are confirmed in writing All enforcement action is taken in accordance with the services enforcement policy and procedures. These are revised annually or more frequently, as required. Formal notices are reviewed by the officers line manager prior to service by the officer., All formal reports to the PF are approved by the Regulatory Services Manager

	Content and relevant outcome(s)	Local Authority Planned Level of Service Delivery
5.7 In transit checks GP	Roadside checks (in conjunction with police) Police led multi agency roadside checks local authority led checks for animal health and welfare compliance only (including co-ordination with adjacent Local Authorities) National exercises and operations Outcomes 1, 2, 3, 4 and 6	<p>a) We have joint working arrangement with the police for roadside checks where evidence and intelligence identifies the need</p> <p>b) We are actively participating in the Rural Crime Group and Serious and Organised Crime Group so we are able to share intelligence and target partnership working to specific issues or perceived concerns.</p> <p>c) Only on basis of intelligence.</p> <p>Target; To actively participate in the Rural Crime Group and Serious and Organised Crime Groups, to promote intelligence driven partnership working and targeted actions, including joint roadside checks, where appropriate, with police and other agencies</p>
5.8 Vehicle biosecurity – cleansing and disinfecting compliance MIN	Checks on vehicles to ensure cleansing and disinfection carried out at premises other than where they have delivered livestock Outcomes 1, 5 and 6	<p>a) On-going routine checks at livestock market</p> <p>b) Specific checks will be made on vehicles where targeted intelligence identified issues and concerns or where disease is suspected</p> <p>c) Alternative enforcement and follow-up visits will be made to respond to any issues identified through market audits</p> <p>Target; interventions undertaken subject to our market intervention plan, concerns or intelligence-led</p>
5.9 Out of operating hours checks GP	Checks out of normal specified operating hours or subsequent days for: Markets Slaughter houses Premises used for collection of animals for slaughter or for further rearing or finishing Outcomes 1, 2, 5 and 6	<p>These will be inspected in accordance with their risk categorisation and in response to service requests or concerns. The market strategy requires work out with core hours (e.g. weekends etc.)</p> <p>Target; where necessary visits will be undertaken outwith core-hours.</p>
5.10 Stand by and on call arrangements GP	Emergency interagency contact regarding disease and other enforcement incidents Outcomes 1, 2, 3, 4 and 6	<p>a) Emergency out of hours contact procedure in place and notified to agencies</p> <p>b) Out-of-hours arrangements through Civil Contingencies Manager or Regulatory Services Manager/Senior Animal Health and Welfare Officer. These are reviewed annually and updated as required</p> <p>c) Contingency plans have full details of out-of-hours arrangements</p>

	Content and relevant outcome(s)	Local Authority Planned Level of Service Delivery
6. Partnership working and intelligence driven enforcement		
6.1 Identified Infringements MIN	Identified breaches of legislation, including biosecurity, licensing, welfare, livestock identification, standstill breaches, illegal imports, by products, and other disease control work. Irregularities found on documentary checks followed up Outcomes 1, 2, 5 and 6	<ul style="list-style-type: none"> a) We will respond to service requests received from the general public, industry and other agencies. These will be investigated and appropriate action taken in accordance with our Enforcement Policy b) Follow up checks will be undertaken on suspected irregularities identified on SAMU, BCMS, by SGRIPID, SSPCA and APHA
6.2 Intelligence / Information and systems BP/GP	Provision and collection of Intelligence Information Outcomes 1, 2, 5 and 6	<ul style="list-style-type: none"> a) We use the UNIFORM information management system to record all inspections, service requests and enforcement activity associated with this work. The system provides management information, and generates inspection programmes etc. It is effective in terms of work planning and reporting and is shared with other Regulatory Services staff. b) Liaison and other group, together with peer relationships, provide an opportunity to share intelligence in accordance with Data Protection requirements, and to develop collaborative and joint working. c) We use the national MEMEX intelligence systems to record animal health and welfare issues which may have a local or national interest but will consider use of the alternative IDB system. This information is collated and studied nationally and promotes an intelligence-led approach between local authorities, Police Scotland and other agencies. d) We have established local intelligence sharing protocols with Police Scotland and West Dunbartonshire Council, through the Serious and Organised Crime Group <p>Target: Continue use of and strengthen use of IDB and the local intelligence sharing systems</p>
6.3 Intelligence led actions GP	Infringements or suspected infringements reported from external enforcement sources or identified by use of data interrogation or intelligence sources; members of the public/complaints Outcomes 1, 2, 5 and 6	<ul style="list-style-type: none"> a) Enforcement policy in place and reviewed annually. This reflects the statutory work of the services and the actions to be taken in the investigation of animal health and welfare activity. The policy is consistent with the Governments Regulatory Strategic Framework b) We have monthly operational teleconferencing meeting with APHA, which are used to review priorities, work plans and identify/discuss any issues, trends or issues for investigation c) A formal RIPSA authorisation process is followed where directed surveillance may be required

	Content and relevant outcome(s)	Local Authority Planned Level of Service Delivery
6.4 Cross border and multi-agency working GP	Assessment and communication to interested parties of cross cutting issues Research/intelligence led activities including workshops Joint investigations/exercises/initiatives Mentoring arrangements Outcomes 1, 2, 3, 4 and 5	<p>a) We are integrated with EH and AHE within Regulatory Services which has considerable benefits in terms of resourcing and specific work, including links to public health and zoonosis (e.g. TB; contingency planning and ABP)</p> <p>b) Proactive work with other local authorities</p> <p>c) We manage and maintain the animal health incinerator for anthrax cases which is a shared resource between 8 local authorities</p> <p>d) Member of the National Framework Steering Group</p> <p>e) Membership of AH&W Regional and Chair of National Panels.</p> <p>f) Taking part in their cross cutting projects.</p> <p>g) Member of Animal Health and Welfare Strategy Group</p> <p>h) We have local arrangements in place with SGRPID to reduce multiple visits and promote joint working</p> <p>i) We have a formal Memorandum of Understanding in place between Argyll and Bute Council; Animal and Plant Health Agency (APHA), Scottish Society for the Prevention of Cruelty to Animals (SSPCA) relating to working arrangements and data sharing</p> <p>j) We have mutual support arrangements agreed with other neighbouring local authorities</p> <p>k) We have a working relationship with Quality Meat Scotland</p>
7. Post enforcement reporting and Animal Health and Welfare Management and Enforcement System (AMES) data entry activities		
7.1	REMOVED	
7.2 Management information GP	Collation of management information data for internal use and provision to the Scottish Government and Animal Health, Outcomes 3, 4 and 5	<p>Timely provision of information in particular submission of statutory returns</p> <p>Local performance measures in place and reported quarterly</p> <p>Information management system in place which generates Scottish Government Enforcement return</p> <p>We have a wide range of performance indicators relating to inspections and the resolution of service requests. These are reported quarterly across the Council via Pyramid, and we are working with other LA's to develop a benchmarking club so we can compare information with other similar authorities</p> <p>We have implemented an electronic document management system with links to our UNIFORM management systems.</p>
8. Contingency planning and emergency action		
8.1 Animal Health, Scottish Government, COSLA and local authority emergency preparedness GP	<p>Planning and contributing to emergency preparedness plans with APHA /Scottish Government and other agencies as appropriate</p> <p>Outcomes 1, 3, 5 and 6</p>	<p>We have a generic Animal Health Disease Plan which is approved by Council and the intention is to review and improve against the pending Scottish National Disease Plan</p> <p>We are working with the Regional Resilience Partnerships to develop a national AHW Contingency Plan for Scotland</p> <p>.</p> <p>Target</p> <ul style="list-style-type: none"> • Review and improve against the pending Scottish National Disease Plan • Deliver training to "up-skill" non-animal health and welfare officers to support in a response to an animal disease incident where the plan may be involved. • Participate in West of Scotland Resilience Partnership to ensure that animal health and welfare arrangements are comparable with local, regional and national plans. • We intend to make the new plans publically available through our website

	Content and relevant outcome(s)	Local Authority Planned Level of Service Delivery
8.2 Testing and Training BP	Testing, training, practising and evaluating activities in relation to the emergency plan Outcomes 1, 3, 5 and 6	Target We will participate in regional and national exercises, as appropriate. At a local level, we will develop a programme of exercise to ensure local resilience and deliver this.
8.3 Emergency Action MIN	Provision of full emergency range of services under the emergency plan, when disease emergency declared by the Scottish Government Outcomes 1, 3, 5 and 6	This would be a priority incident and the service would respond in accordance with the designated plans. Target We will investigate any suspected or confirmed case of animal disease and this is classed as priority 1 in terms of the AHW service priorities
9. Additional Activities		
9.1 National priorities	Provide details in Service Plan (Annex C) of identified priorities as agreed with APHA and the Scottish Government Outcomes 1, 2, 5 and 6	The general outcome are to effectively reduce the risk of animal disease incursion and spread, thereby protecting public and animal health; improve animal welfare and to meet the objective of <i>Delivering and enforcing standards</i> , of the Animal Health and Welfare Strategy; and the Scottish Government's objective ' <i>well treated and healthy farm (and domestic) animals</i>
9.2 Regional priorities	Agree regional priorities, with APHA at regional animal health and welfare panel meetings for consideration in annual service planning Outcomes 1, 2, 5 and 6	Regional priorities 1. APHA will visit markets in Argyll and Bute to support the Scottish Market Strategy 2. Work with APHA in respect of animal health and welfare at fish farms and associated animal by-product issues.. 3. APHA to undertake specific work in respect of the storage and disposal of animal by-products and international catering waste, working closely with Argyll and Bute Council 4. APHA to ensure that there are adequate arrangements in place to respond to any suspected or reported case of notifiable disease; incident or request for assistance from the local authority, either directly or through the use of local veterinary practices. 5. APHA to support LA officers in addressing on-farm/market and transport welfare issues within the response time for both organisations (48hr except where geographical / meteorological or transport issues prohibit this response time) 6. To ensure that there are effective arrangements in place between the local authorities, including the new FSS/ APHA enforcement team. Local priorities 7. Agree and deliver a joint programme of welfare checks by ABC and APHA to select high risk farms where there are concerns regarding welfare and possibly that intervention may be required. 8. Ensure that we continue to have effective working relationships with APHA at an operational level, particularly at a time of changes in personnel. 9. Continue to develop working relationships with SEPA, RPID and SSPCA 10. Review and implement workforce planning arrangements for animal health and welfare

	Content and relevant outcome(s)	Local Authority Planned Level of Service Delivery
9.2 Regional priorities (cont)	<p>Agree regional priorities, with APHA at regional animal health and welfare panel meetings for consideration in annual service planning</p> <p>Outcomes 1, 2, 5 and 6</p>	<p>Formal meeting arrangements between ABC and APHA</p> <ol style="list-style-type: none"> 1. Annual service meeting with APHA to discuss and agree service plan. 2. Framework Review meeting every 6 months 3. Monthly operational teleconference meetings are held between ABC and APHA to discuss operational issues 4. Other ad-hoc meetings as appropriate
9.3 Local priorities	<p>As determined by local authority in agreement with APHA</p> <p>Outcomes 1, 2, 5 and 6</p>	<p>The local priorities</p> <ol style="list-style-type: none"> (i) Achieve 95% of high risk planned interventions (ii) Audit markets as per the National Market strategy, work with market operators and achieve 100% of the programme (iii) Deliver the alternative enforcement strategy (iv) Review at a local level the new national contingency arrangements for animal health and welfare in Scotland and our local resilience (v) Improve operational liaison with APHA following their ongoing service changes
On Farm Welfare		
1(a) Authorisation	<p>Authorisation of inspectors under part 2 of the Animal Health and Welfare (Scotland) Act 2006</p>	<p>3 officers, with potential to authorise other officers within Regulatory Services, as necessary, and with agreement of the Regulatory Services Manager</p>
1(b) Response	<p>Response to farm welfare complaints received from a member of the public or another agency</p>	<p>The service standard is that service requests will be resolved within 20 working days and we have a target of 85% in 2015-16</p> <p>Service requests are prioritised in accordance with our rating scheme and high priority (Priority 1) requests are visited within 2 working days.</p> <p>The response to all service requests is proportionate to the nature of the complaint and may involve appoint inspections or a joint investigation with environmental health staff, police, APHA and/or SSPCA</p>
1(c) Enforcement Action	<p>Where an animal's welfare is being seriously compromised immediate enforcement action should be taken.</p>	<p>Where an animal's welfare is being seriously compromised immediate enforcement action will be taken working with partner agencies</p> <p>All enforcement action will be proportionate, risk based and in accordance with our enforcement policy</p>
1(d) Follow up where complaint received	<p>Follow up visits to premises against whom a welfare complaint is received</p>	<p>If necessary and in conjunction with VO the premises will be re-visited within an appropriate period of the initial visit</p>
1(e) Follow up where improvement notice is served		<p>Monitoring visits carried out during the compliance period appropriate to the severity of the complaint</p> <p>Revisit carried out within 20 working days of the end of the Compliance Period specified in the Notice or sooner dependent upon the severity of the complaint</p>

Animal and Plant Health Agency Activity Matrix (Scotland)

Content and relevant outcomes	Priority Activity
1. Planning the delivery of the local authority animal health and welfare function	
1.1 Provide a named local contact in addition to the Veterinary Lead (VL) for routine communication on local authority matters Outcomes: 3 and 5	Key contact identified and local authority notified of contact details and arrangements (including any changes to nominated personnel).
1.3 Local Authority Service Delivery Plan and Profile Outcomes: 3,4 and 5	Liaise with local authorities regarding service delivery and where necessary comment and provide veterinary input on service delivery plans. Deliver and support local authorities in the delivery of the service plans agreed.
1.4 Risk Assessment Outcomes: 1,2,5 and 6	Provide the veterinary assessment, where necessary, to support premise risk assessment in accordance with the local authority national risk scheme detailed in Section 4.
2. Training and development	
Content and relevant outcomes	Priority Activity
2.1 Train VLs and nominated local representatives Outcomes: 5	Provide appropriate Framework/AMES training to enable VLs and nominated representatives to provide support for local authorities on Framework issues.
2.2 Provide veterinary and/or technical staff support to the local authority Outcomes: 3 and 5	Provide programme of enforcement training for veterinary and technical field staff including procedures to support local authority staff when called upon to act as professional witnesses in prosecutions.
3. Licensing Activities	
Content and relevant outcomes	Priority Activity
3.1 Licensing of animal movements Outcomes: 1 and 4	To act on referrals to revoke the general licence.
4. Education and advice to maximise compliance	
Content and relevant outcomes	Priority Activity

<p>4.1 Support National and Regional Animal Health and Welfare Panels and the Strategy Group providing information and guidance to assist local authorities in addressing areas of concern in the region Outcomes: 1,2,5 and 6</p>	<p>Provide access to information in accordance with the requirements of the relevant legislation.</p> <p>Use of APHA's website to publicise services and provide information. VL to work with local authorities to secure a "standard" invitation to attend with agenda item at the regional panels. APHA will prioritise attendance to the Regional Panels when invited, and if asked to do so will provide speakers for suitable themes.</p>
<p>4.2 Hold liaison meetings with suitable representatives of local authorities and where appropriate, other interested parties; Outcomes: 3,4,5 and 6</p>	<p>Such liaison meetings to facilitate discussion on local, regional and national issues and take any necessary action on a local/regional level.</p>
<p>5. Enforcement Activities to maximise animal health and welfare compliance</p>	
<p>Content and relevant outcomes</p>	<p>Priority Activity</p>
<p>5.1 Provide veterinary and/or technical staff support to the local authority, or arrange suitable alternative support (for example, staff from another APHA field operations office or the services of an OV); Outcomes: 1,2,3,5 and 6</p>	<p>Respond immediately to reports of suspected notifiable disease which pose an immediate threat to human or animal health.</p> <p>Reports of adverse welfare of livestock will be assessed on receipt. All reports will be investigated, with field visits undertaken within 24 hours where there are suspicions of animals being caused unnecessary suffering. Investigations will be carried out according to the principles of the MOU with Scottish SPCA and local authorities.</p> <p>Approval/licensing procedures - liaise with local authority regarding applications and proposed visits e.g. ABP applications.</p> <p>Animal Health is responsible for the evaluation of BIP facilities, documentation and procedures in Great Britain.</p>
<p>6. Reactive and intelligence driven enforcement</p>	
<p>Content and relevant outcomes</p>	<p>Priority Activity</p>
<p>6.1 Provide up to date information on registered livestock keepers in the local authority area Outcomes: 1,2,3,4,5 and 6</p>	<p>Provide and receive information in accordance with the animal health & welfare data sharing statement between Local Government Regulation, Defra and its named executive agencies and the Scottish Government issued in August 2010. See Local Government Regulation and Defra websites.</p>
<p>6.2 Provide an overview of the national performance picture Outcomes: 1,2,3,4,5 and 6</p>	<p>Provide information/updates on current national issues affecting animal health and welfare.</p>
<p>7. Post enforcement reporting and AMES data entry activities</p>	
<p>Content and relevant outcomes</p>	<p>Priority Activity</p>

7.1 In those offices where Local Authorities are using AMES: Use AMES regularly to be informed of local authority work, and to help in any discussions regarding service delivery plan and profile Outcomes: 1,2,3,4,5 and 6	VLS or nominated representatives to extract activity reports on agreed basis for each local authority to help review enforcement activities within their region. Extract relevant AMES reports to support any discussions regarding local authority's service delivery plans. The APHA WIT (Welfare in Transit) team accesses AMES for information to assist with its action monitoring function relating to transporter authorisations and vehicle/container approval.
7.2 Provide feedback on performance Outcomes: 1,2,3,4,5 and 6	Performance issues arising from the AMES reports brought to the attention of the local authority for discussion

8. Contingency planning and emergency action	
Content and relevant outcomes	Priority Activity
8.1 Responding to emergencies Outcomes: 1,3,5 and 6	Provide a 24 hour reporting service for animal health and welfare emergencies by operating a duty Veterinary Officer system. Nightline numbers are published on the website at: https://www.gov.uk/government/organisations/animal-and-plant-health-agency Ensure a fully joined up response to outbreaks of disease and aim to build closer links with delivery partners to ensure they are appropriately engaged during incidents.
8.2 Participation in training exercises for emergency preparedness (or an alternative option, where the number of local authority participants is unwieldy); Outcomes: 1,3,5 and 6	Work closely with policy customers and operational partners; design and deliver a challenging programme of exotic animal disease exercises locally, regionally and nationally. To organise a regional or national exercise on an annual basis with multiagency partners.
9. Additional Activities	
Content and relevant outcomes	Priority Activity
9.1 National Priorities Outcomes: 1,2,3,5 and 6	Communicate policy and priority updates to local authority directly or via Strategy Group or Regional Panels.
9.2 Regional Priorities Outcomes: 1,2,3,5 and 6	. Agree regional priorities, including regional initiatives, with local authorities
9.3 Local Priorities Outcomes: 1,2,3,5 and 6	Agree local priorities with local authorities based on knowledge and intelligence.

ARGYLL AND BUTE COUNCIL**PLANNING, PROTECTIVE SERVICES AND
LICENSING COMMITTEE****DEVELOPMENT AND ECONOMIC GROWTH****20 SEPTEMBER 2023**

**REVIEW OF ARGYLL AND BUTE COUNCILS SHORT-TERM LET LICENSING
POLICY**

1.0 EXECUTIVE SUMMARY

- 1.1 This report recommends 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.
- 1.2 The licensing scheme was brought in by the Scottish Government under the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022, with the aim to ensure short-term lets are safe, address issues faced by neighbours, to facilitate local authorities knowing and understanding what is happening in their area, and handling complaints effectively. It also aims to balance the economic and tourism benefits from short-term lets with the needs and concerns of local communities to ensure the people providing short-term lets are suitable.
- 1.3 The Council's Short Term Let licensing scheme and Policy was approved by Council on the 29 September 2022 and has been in place since the 1 October 2022. Significant work was undertaken to establish a new team to take on this new statutory licensing scheme and this work has been challenging. As of the 28 August 2023, the Council had received 780 applications for short-term lets with 149 being from new hosts entering the sector, issued 158 licences with no refusals. The team are working through a backlog of applications. In response to representations by the sector, the Scottish Government extended the deadline for applications from existing hosts by six months to the 1 October 2023, and therefore the number of applications received is only 20% of predicted levels. This is a similar picture across Scotland and we await an influx of applications over September.
- 1.4 Amendments are necessary to the Council's Short-term Let Licensing Policy to address issues identified through operational work and a review by the Council's Legal Services in response to issues raised; the revised Scottish

Government Guidance to licensing authorities, and also to address the letter from a solicitor representing the ASSC, advising of a potential judicial review of the Council's Policy.

- 1.5 The licensing scheme is self-financing from fee income. Current application levels are only 20% of predicted levels due to the Scottish Government's six month extension, and a large number of applications from existing hosts are anticipated by the 1 October 2023.

ARGYLL AND BUTE COUNCIL

PLANNING, PROTECTIVE SERVICES AND
LICENSING COMMITTEE

DEVELOPMENT AND ECONOMIC GROWTH

20 SEPTEMBER 2023

REVIEW OF ARGYLL AND BUTE COUNCILS SHORT-TERM LET LICENSING POLICY

2.0 SUMMARY

- 2.1 The licensing scheme was brought in by the Scottish Government under the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022, with the aim to ensure short-term lets are safe, address issues faced by neighbours, to facilitate local authorities knowing and understanding what is happening in their area, and handling complaints effectively. It also aims to balance the economic and tourism benefits from short-term lets with the needs and concerns of local communities to ensure the people providing short-term lets are suitable.
- 2.2 This report recommends 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.
- 2.3 Amendments are necessary to the Council's Short-term Let Licensing Policy to address issues identified through operational work and a review by the Council's Legal Services in response to issues raised; the revised Scottish Government Guidance to licensing authorities, and also to address the letter from a solicitor representing the ASSC, advising of a potential judicial review of the Council's Policy.

3 RECOMMENDATIONS

- 3.1 Members of the Planning, Protective Services and Licensing Committee are invited to:-
1. Consider this report and the revised Short-Term Let Licensing Policy detailed in Appendix 1; and
 2. Recommend to the Council approval of the revised Short-Term Let Licensing Policy.

4 DETAIL

- 4.1 The Council agreed its Short Term Let Licensing Policy on the 29 September 2022 as part of a range of measures to implement the Scottish Government's new licensing regime by the 1 October 2022 deadline. This Policy was informed by legislation, Scottish Government guidance and feedback from public consultation. The intention was that this Policy would be reviewed over the first year of the licensing scheme.
- 4.2 A review of the Council's STL Policy is necessary to address issues identified from operation of the Policy, to reflect changes to Scottish Government guidance to local authorities, lessons from the judicial review against Edinburgh Council's STL Policy and a review by the Council's Legal Services in response to issues raised. The judicial review against Edinburgh City Council related to their STL Policy for secondary let within tenement properties and their STL planning control designation, amongst other issues. In reviewing the judgement, there is minimal impact on Argyll and Bute Council's STL Policy.
- 4.3 The review process has been further informed by a letter dated 11 August 2023 from a solicitor acting on behalf of the Association of Scottish Self Caterers, highlighting a number of issues with the Policy and referring to a possible judicial review. Specific comments were made to our Policy for variations (section 13), temporary exemptions (section 10), temporary licences in section 12.1.2, the need for revised wording for timescales and revisions to our pre-application checklist to confirm that formal architectural drawing are unnecessary, The Council reviewed matters along with its external legal advisers with the intention of minimising the potential risk of a judicial review. These issues have been addressed in this Policy review.
- 4.4 The revised Short Term Let Policy (see Appendix 1) is provided for members' consideration and approval. The key changes are as follows:
- a) Amendments to the text to reflect the Scottish Government extension to the 1 October 2023 for existing hosts to make application and to future proof the Policy in areas relating to fees and charges. Reference and links to the Council's fee and charges is provided, together with indicative fees for 23-24, to negate the need for the Policy to be amended and approved by Council annually.
 - b) To amend the Hearings process, in light of learning from the first STL hearings by PPSL Committee on the 21 June 2023, and to provide consistency with the Councils civil government licensing hearing procedures. This was approved by PPSL Committee on the 23 August 2023 and this decision is reflected in changes to section 6 of the revised Policy.
 - c) To remove the additional conditions relating to the provision of bicycles, boats and watercraft, and play equipment which were generally welcomed through the public consultation in 2022. Further consideration and legal advice has identified that these are covered by other legislation and do not specifically relate to the property. The sector also advise that these are covered by public liability insurance. Accordingly, Appendix 4 of the revised Policy is amended to remove these additional conditions.

If approved, these conditions will be removed from licences already issued and not enforced.

- d) To amend the Policy to remove temporary exemptions and replace section 10 to state that the Council will not consider temporary exemption. The outcome from the public consultation in 2022 identified that 78% of respondents supported the position that we did not provide temporary exemptions, but 22% indicated that this was important to support rural and island communities. Accordingly, the Policy approved by Council on the 29 September 2022, allowed for temporary exemptions to the requirement for a licence for a single continuous period not exceeding 6 weeks in any 12-month period to cover major events where accommodation is provided in homes and other properties for short periods. This aspect of our Policy is challenged by the ASSC and on review it is considered that there is a need to amend the definition to align to the new Scottish Government Guidance (August 23) and to identify criteria for assessment. To date we have not received any applications and we are entering the period of the year when applications are unlikely due to reduced festivals and events. The impact of removing temporary exemptions is minimal and further work is required to consider this matter in more detail and benchmark with other local authorities. There is a mixed picture across Scotland with many of the other rural authorities, including Scottish Borders and Dumfries and Galloway, not providing temporary exemptions. Therefore, to provide time to consider this matter in more detail, and to minimise the risk of judicial review, Section 10 of the Policy is replaced with **“The Council will not grant temporary exemptions. This position will be kept under review”**.
- e) Amendments to fees and charges in section 17.5 to remove reference to temporary exemption and the 50% of the fee.
- f) Addressing the issues raised in the letter from the ASSC solicitor, the wording on the pre-application checklist has been amended to provide clearer guidance to applicants and in particular, confirming that drawings provided need not be formal architectural drawings.
- g) Section 12 (complaints and enforcement) has been amended to reflect the current status and deadlines with the application process.
- h) Section 13 Variation to Licence was challenged by the ASSC. On review, the legal advice supports the Council’s position, but suggest that revised wording would assist to make the position clearer. The revised Policy adds the following wording to apply to variations of licence where “the short term host is a corporate entity and the incoming purchaser is added as a director to that body corporate”.

5 SHORT-TERM LET LICENSING UPDATE

- 5.1 The last year has been challenging as the team were not fully recruited until March 2023, despite the scheme coming into effect on the 1 October 2023.

The initial focus was on establishing and training the team, developing processes and testing the Council's in-house on-line STL information management system, whilst responding to enquiries from hosts and considering applications. Priority given to applications from new hosts as existing hosts could still operate. The Scottish Government's decision for a six-month extension to the deadline for existing hosts to apply for a licence to the 1 October 2023 was beneficial in managing workload although it has delayed any consideration of short-term let planning control areas to 2024-25 as the exact number and location of short-term lets will not be known until after 1 October 2023.

- 5.2 There is a period of learning with any new licensing scheme and the last year has seen amendments to procedures, information to hosts and improvements to our ICT system. The Scottish Government also issued revised guidance to local authorities in August 2023. The Council also established regular meetings with ASSC and Wild Argyll in an effort to work with these agencies, respond to issues and support the sector across Argyll and Bute.
- 5.3 As of the 28 August 2023, the Council had received 780 applications for short-term lets with 149 being from new hosts entering the sector, issued 158 licences with no refusals. The team are working through a backlog of applications.
- 5.4 With the 1 October 2023 deadline for existing hosts to apply for a licence, the Council have a communication strategy in place encouraging hosts to make an application. It is anticipated that there will be in the region of 3,500 hosts and recruitment is ongoing for temporary staff to augment the SLT team as the Council have 12 months to determine applications from existing hosts. Enforcement issues relating to hosts who do not apply but continue trading, are unknown at this stage but being considered.

6 CONCLUSIONS

- 6.1 The Council has adequate arrangements in place to provide a short-term licensing scheme and the year ahead will be extremely challenging as the team assess and determine an anticipated 3,500 applications. This is likely to be impacted by possible enforcement action, delay from hosts, or third party consultees, in providing the right information and resourcing of the team given the Government provided the council with no additional resources to do this work.
- 6.2 Revisions to the Council's Short-Term Let Policy are necessary to support the licensing regime, the sector and to minimise any potential risk of judicial review. Members are encouraged to approve the revised STL Policy as detailed in **Appendix 1**.

7 IMPLICATIONS

- | | | |
|-------|------------------|--|
| 7.1 | Policy | Consistent with the Council's Corporate Plan and statutory duty. |
| 7.2 | Financial | The licensing scheme is to be self-financing from income levels. Estimates used to set fees and will be closely monitored. Fees will be reviewed regularly and for the next three year licensing period. |
| 7.3 | Legal | (1) Meets Council's new mandatory duty under Civic Government (Scotland) Act 1982 (Licensing of Short-Term Lets) Order 2022, and associated guidance.
(2) Recognises expert legal opinion sought by the Council. |
| 7.4 | HR | Additional temporary posts are being recruited funded by income. |
| 7.5 | Fairer Scotland | |
| 7.5.1 | Equalities | No adverse impact on protected characteristics and scheme impacts on all providers. |
| 7.5.2 | Socio-economic | Ensures that let accommodation is safe, applies consistent standards across all sectors and protects communities. |
| 7.5.3 | Islands | Licensing scheme will be consistently applied across the whole of Argyll and Bute. |
| 7.6 | Climate change | Conditions support climate change and environment standards. |
| 7.7 | Risk | (1) Council's legal duty will be met on approval of the scheme.
(2) Inadequate resources are in place to deliver the full scheme as of the 1 October, and situation will be managed to ensure we can receive and determine applications from "new hosts".
(3) Income does not fully cover expenditure or over-recovery. This will be monitored.
(4) Reduces the risk of a potential judicial review against the Council's STL Policy. |
| 7.8 | Customer Service | Consistent with customer charter. |

Kirsty Flanagan, Executive Director with responsibility for Development and Economic Growth

Policy Lead: Councillor Kieron Green

For further information: Alan Morrison, Regulatory Services and Building Standards Manager (alan.morrison@argyll-bute.gov.uk)

13 September 2023.

Appendix I: Revised Argyll and Bute Short-term Let Licensing Policy

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Short-term Lets Licensing

Approved Policy Statement

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- Foreword
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Foreword

This policy statement is a revision of the document approved by Argyll and Bute Council on the 29 September 2022. A copy of the report is available online at [Meetings, agendas, and minutes - Argyll and Bute Council \(argyll-bute.gov.uk\)](#)

The revised Policy Statement policy provides guidance for applicants, licence holders, members of the public and Council officers on the licensing system for short-term lets.

This policy statement will be reviewed and revised when necessary.

Document Management

Revision	Date	Approved	Reason
STL Policy Statement v1	29 September 2022	Approved by Council	To implement scheme
STL Policy Statement 1.1	10 July 2023	Regulatory Services and Building Standards Manager	Clarification to STL hearing procedure Appendix 2
STL Policy Statement v2	September 2023		

1. Background

- 1.1. On 19th January 2022, The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 (“the Order”) was approved by the Scottish Parliament. The Order came into force on 1st March 2022 and inserts new legislative provisions into the Civic Government (Scotland) Act 1982 (“the Act”).
- 1.2. The Order introduces a new mandatory licensing system for short-term lets which local authorities are required to establish by 1st October 2022.
- 1.3. Prior to the introduction of the legislation, there was no requirement to licence short-term lets and, therefore, local authorities did not have the ability to regulate these types of premises.
- 1.4. The licensing scheme was brought in by the Scottish Government with the aim to ensure short-term lets are safe, address issues faced by neighbours, to facilitate local authorities in knowing and understanding what is happening in their area, and handling complaints effectively. It also enables local authorities to ensure the people providing short-term lets are suitable. The legislation aims to make sure that the economic and tourism benefits from short-term lets are balanced with the needs and concerns of local communities.

2. Timescales for applying

- 2.1. New hosts and operators require to have a licence. This means that, if you were not using your premises to provide short-term lets before 1st October 2022, you can advertise but not take bookings or receive guests until you have obtained a licence.
- 2.2. Existing hosts or operators (those using accommodation to provide short-term lets before 1st October 2022) have until 1 October 2023 to apply for a licence. During this period you can operate without a licence (by continuing to take bookings and receive guests) unless your licence application has been determined and refused.
- 2.3. After 1st October 2023, existing hosts can only continue to operate if they hold a short-term let licence, or hold a temporary licence, or have submitted an application for a licence which is pending determination by the Council.

3. Definitions

3.1. A short-term let is defined in the 2022 Order as the use of residential accommodation provided by a host in the course of business to a guest, where all the following criteria are met-

- (a) the guest does not use the accommodation as their only or principal home,
- (b) the short-term let is entered into for commercial consideration,
- (c) the guest is not-
 - (i) an immediate family member of the host,
 - (ii) sharing the accommodation with the host for the principal purpose of advancing the guest's education as part of an arrangement made or approved by a school, college, or further or higher educational institution, or
 - (iii) an owner or part owner of the accommodation,
- (d) the accommodation is not provided for the principal purpose of facilitating the provision of work or services by the guest to the host or to another member of the host's household,
- (e) the accommodation is not excluded accommodation,
- (f) the short-term let does not constitute an excluded tenancy.

Commercial consideration - this includes money and a benefit in kind (such as a provision of a service or reciprocal use of accommodation).

Guest – this means a person who occupies accommodation under a short-term let

Host – this means a person who is the owner, tenant or person otherwise in control over occupation and use of the accommodation

Immediate family member – a guest is deemed to be an immediate family member of the host if they are-

- (a) your partner (spouse, civil partner or someone you live with as if you were married to them),
- (b) you or your partner's parent, grandparent, child, grandchild or sibling,
- (c) the partner of one of your parents, grandparents, children, grandchildren or sibling.

Excluded accommodation – this means accommodation which is, or is part of-

- (a) an aparthotel,
- (b) premises in respect of which a premises licence within the meaning of section 17 of the Licensing (Scotland) Act 2005 has effect and where the provision of accommodation is an activity listed in the operating plan as defined in section 20(4) of the 2005 Act,
- (c) a hotel which has planning permission granted for use as a hotel,
- (d) a hostel,
- (e) residential accommodation where personal care is provided to residents,
- (f) a hospital or nursing home,
- (g) a residential school, college or training centre,
- (h) secure residential accommodation (including a prison, young offenders institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation, or accommodation used as military barracks),
- (i) a refuge,
- (j) student accommodation,
- (k) accommodation which otherwise requires a licence for use for hire for overnight stays,
- (l) accommodation which is provided by the guest,
- (m) accommodation which is capable, without modification, of transporting guests to another location,
- (n) a bothy, or
- (o) accommodation owned by an employer and provided to an employee in terms of a contract of employment or for the better performance of the employee's duties.

3.2. Please note that if you have an HMO licence for your property, you would still need a short-term let licence if it is also to be used for short-term lets. This is the case whether or not you live at the premises covered by your HMO licence.

3.3. Self-catering property in the grounds of a licensed hotel would be excluded.

It is recommended that short-term let hosts take their own independent legal advice on whether or not their accommodation would require a short-term let licence. The Licensing Authority cannot provide legal advice on whether or not a premises is excluded from requiring a short-term let licence.

Excluded tenancy – an excluded tenancy means a tenancy which falls within any of the following definitions:

- (a) protected tenancy (within the meaning of section 1 of the Rent (Scotland) Act 1984,
- (b) an assured tenancy (within the meaning of section 12 of the Housing (Scotland) 1988 Act),
- (c) a short assured tenancy (within the meaning of section 32 of the Housing (Scotland) Act 1988),
- (d) a tenancy of a croft (within the meaning of section 3 the Crofters (Scotland Act 1993),
- (e) a tenancy of a holding situated outwith the crofting counties (within the meaning of section 61 of the Crofters (Scotland Act 1993) to which any provisions of the Small Landholders (Scotland) Acts 1886 to 1931(g)) applies,
- (f) a Scottish secure tenancy (within the meaning of section 11 of the Housing (Scotland) Act 2001),
- (g) a short Scottish secure tenancy (within the meaning of section 34 of the Housing (Scotland) Act 2001),
- (h) a 1991 Act tenancy (within the meaning of section 1(4) of the Agricultural Holdings (Scotland) Act 2003),
- (i) a limited duration tenancy (within the meaning of section 93 of the Agricultural Holdings (Scotland) Act 2003),
- (j) a modern limited duration tenancy (within the meaning of section 5A of Agricultural Holdings (Scotland) Act 2003),
- (k) a short limited duration tenancy (within the meaning of section 4 of the Agricultural Holdings (Scotland) Act 2003),
- (l) a tenancy under a lease under which agricultural land is let for the purpose of its being used only for grazing or mowing during some specified period of the year (as described in section 3 of the Agricultural Holdings (Scotland) Act 2003),
- (m) a private residential tenancy (within the meaning of section 1 of the Private Housing (Tenancies) (Scotland) Act 2016),
- (n) a student residential tenancy.

3.4. There are four types of licences for short-term let accommodation. Any licence granted must be for either-

- (a) Secondary letting,
- (b) Home letting,
- (c) Home sharing, or
- (d) Home letting and home sharing.

3.5. The different types of licences are defined as follows-

- (a) **Secondary letting** – this means a short-term let involving the letting of property where you do not normally live,
- (b) **Home letting** - this means using all or part of your home for short-term lets whilst you are absent,
- (c) **Home sharing** – this means using all or part of your own home for short-term lets whilst you are there. This includes guest houses or bed-and-breakfast accommodation within the host's principal residence.

3.6. A separate licence is required for each of your premises. However, a single licence may be issued in respect of unconventional accommodation where there is more than one separately bookable property on the site.

3.7. Dwellinghouse means for these purposes, an independent dwelling (with its own front door, kitchen and bathroom) such as a house, flat, cottage etc.

3.8. You do not need a separate licence for short-term lets within the same dwellinghouse. For example, if you are letting out two rooms in your home, that would be covered by one licence.

3.9. Unconventional accommodation – this means residential accommodation that is not defined as a dwelling house and would include residential accommodation such as glamping pods and yurts.

4. Application and notification

- 4.1 All applicants must complete an online short-term let licence application form. The application should be submitted online at [Short term lets licence | Argyll and Bute Council \(argyll-bute.gov.uk\)](https://www.argyll-bute.gov.uk/short-term-lets-licence)–Paper applications will be made available upon request to short-termlets@argyll-bute.gov.uk or Tel: 01546 605519.
- 4.2 Applicants require to pay in full the application fee as part of the online application process or if submitting a paper application form by making a payment to Argyll and Bute Council by contacting Short-Term Lets on 01546 605519.
- 4.3 The Council provides a pre-application checklist on its website to assist applicants in ensuring that their application includes appropriate details and documentation. This documentation includes gas and electrical safety certificates, layout drawings of the property as required by Scottish Fire and Rescue.
- 4.4 Under the terms of the Act, all applicants who apply for a short-term let licence must display a notice for a period of 21 days beginning with the date on which the application was submitted to the licensing authority, at or near the property to which the application relates, so that it can be conveniently read by the public.
- 4.5 The notice shall state that an application has been made for a licence, the main facts of the application, that objections and representations in relation to the application may be made to the licensing authority and how to make objections or representations. A template will be provided to the applicant once an application is submitted.
- 4.6 Applicants are required to certify compliance that they have displayed the site notice as soon as possible after the 21 days has expired. A template will be provided to the applicant once an application is submitted.
- 4.7 A copy of the application will be sent to Police Scotland and the Scottish Fire and Rescue Service by the local authority. A copy will also be made available to:
- Argyll and Bute Council’s Planning Department
 - Argyll and Bute Council’s Building Standards service
 - Argyll and Bute Council’s Environmental Health service
 - Loch Lomond and the Trossachs Parks Authority (where the property is within the National Park)
- 4.8 All personal data will be processed in line with the following privacy notices:

<https://www.argyll-bute.gov.uk/privacy/civic-government-licensing>

- 4.9 Licensing authorities have 9 months to process applications from new hosts and 12 months for existing hosts during the transitional period.
- 4.10 The licensing authority will take into consideration the following when assessing occupancy – size and type of property, number of bedrooms, maximum number that can be accommodated safety and potential for noise and nuisance to neighbours.

5 Objections and representations

5.1 The 1982 Act permits any member of the public to submit an objection or representation in relation to an application for a short-term let licence.

5.2 To enable Argyll and Bute Council, as licensing authority (“the Council”) to entertain an objection or representation, it must be:

- (a) in writing (email is sufficient),
- (b) specify the grounds of the objection or the nature of the representation,
- (c) specify the name and address of the person making it,
- (d) be signed off by them or on their behalf,
- (e) be received by the Council within 28 days from when the notice of application is displayed.

5.3 Anonymous objections or representations will not be considered. “Anonymous” includes objections or representations where the person making the objection or representation cannot be contacted using the contact information provided.

5.4 Late objections or representations may be considered, entirely at the Council’s discretion, if the Council is satisfied that there is sufficient reason as to why it was not made in the time required.

5.5 The objection should be relevant to the statutory grounds that can be taken into consideration when refusing an application. These are set out in the 1982 Act-

- (a) the applicant or anyone else detailed in the application form is not a fit and proper person to be the holder of a licence,
- (b) the activity would be carried out by a person other than the applicant who, if he had made the application himself, would have been refused,
- (c) the premises is not suitable for the conduct of the activity, having regard to-
 - (i) the location, character or condition of the premises,
 - (ii) the nature and extent of the proposed activity,
 - (iii) the kind of persons likely to be in the premises,
 - (iv) the possibility of undue public nuisance, public order; or public safety,
 - (v) where there is other good reason

5.6 It should detail clearly the reasons for the objection/representation and why the applicant and/or the premises are not suitable.

5.7 A copy of the objection or representation will be provided to the applicant and will include your name and address. All personal data will be processed in line with the following privacy notice:

<https://www.argyll-bute.gov.uk/privacy/civic-government-licensing>

6 Determination of application

- 6.1 Everybody named on the application form will be subject to the fit and proper test. Every application form will require consultation with Police Scotland who will carry out background checks.
- 6.2 Licensing authorities are responsible for determining whether you are a fit and proper person to be the holder of a licence for short-term lets. Consideration will be given to a wide range of information including relevant criminal convictions, other relevant information provided by Police Scotland, any previous disqualifications from being a private landlord, previous revocations of a HMO licence and providing false or misleading information in your application form.
- 6.3 If there are no objections or adverse representations to a short-term let licence application, the application will be determined under delegated powers by the Executive Director with responsibility for Regulatory Services.
- 6.4 If an objection or adverse representation is submitted in relation to the short-term let licence application and, this cannot otherwise be resolved, the application will be subject to a hearing at a meeting of the Council's Planning, Protective Services and Licensing Committee.
- 6.5 The person submitting the objection or representation will be invited to attend the meeting of the Planning, Protective Services and Licensing Committee and speak to their objection/representation. You will be given at least 14 days' notice of the hearing date.
- 6.6 The applicant or their representative will be invited to attend the meeting and given the opportunity to state why the application should be granted.
- 6.7 The Committee will be able to ask questions of both parties and, thereafter, decide whether to grant or refuse the application. The grounds for refusing an application are set out at paragraph 5.5.
- 6.8 Applications will be heard in public unless required to be taken privately on the grounds of disclosure of exempt information as defined in Part 1, Schedule 7A of the Local Government (Scotland) Act 1973.
- 6.9 A copy of the Council's hearing procedure can be found at **Appendix 2**.
- 6.10 Both the applicant and the person(s) making an objection/representation can request a statement of reasons for the decision within 21 days of the date of the decision. The statement of reasons will be provided within 10 days of that request.

6.11 If your application for a licence is refused, you cannot reapply for a licence within 1 year of that decision, unless there has been a material change in your circumstances since then.

7 Right of appeal

7.1 The applicant and the person(s) making an objection/representation have a right of appeal to the Sheriff Court.

7.2 However, they only have this right if they have taken every opportunity to state their case to the Committee as has been made available.

7.3 The Sheriff can uphold an appeal only if the sheriff considers that the licensing authority erred in law, based their determination on any incorrect material fact, acted contrary to natural justice or exercised their discretion in an unreasonable manner.

7.4 Any appeal must be lodged by way of a summary application with the relevant Sheriff Clerk's office within 28 days of the date of the decision appealed against.

7.5 Parties should seek their own independent legal advice in relation to an appeal.

8 Licence duration and renewal

8.1 The duration of the licence applies from the date on which the licence comes into force. This will be specified on the licence together with the expiry date of the licence.

8.2 When an application is made to renew a licence timeously, the existing licence will continue in effect until such time as a decision is made on the renewal application.

8.3 A licence shall have effect-

- for a period of 3 years from the date when it comes into force; or
- for such shorter period as the licensing authority may decide at that time when they grant; or
- for such longer period as the licensing authority may decide at the time when they renew a short-term let licence

8.4 The Scottish Government's guidance for licensing authorities on short-term lets has made it clear that licensing authorities are encouraged to renew licences for a period of 3 years, unless they have good reasons to do otherwise.

8.5 Whilst each application will be decided on its own merits, it is not anticipated that licences will be renewed for a period of longer than 3 years.

9 Licence conditions

9.1 The Act sets out a number of mandatory licence conditions which apply to all short-term let across Scotland. A list of these conditions can be found at **Appendix 3**.

9.2 In addition to the mandatory licence conditions which apply to all short-term lets, licensing authorities may impose additional conditions. These enable the licensing authority to respond to local challenges and concerns relative to specific types of short-term letting.

9.3 There are a number of additional conditions which will apply to all short-term let properties. There also some specific additional conditions which may only apply to certain types of short-term let properties or to properties following investigation of concerns. A list of the additional licence conditions which may apply to your short-term let licence can be found at **Appendix 4**.

10 Temporary exemptions

10.1 The Council will not be granting temporary exemptions under any circumstances. This position will be kept under review

11 Temporary licences

11.1 The Council may consider granting temporary licences in limited circumstances. For example:-

- to ensure that short-term lets can continue as going concerns when being sold from one operator to another.

11.2 A temporary licence should be made online or where agreed, by way of paper application. Details for the application process are set out in Section 3.

11.3 Temporary licences may be granted for a duration of up to 6 weeks. A temporary licence cannot be renewed. However, if a host or operator applies for a full licence during the period of a temporary licence, the temporary licence duration will extend until their full licence application has been determined.

11.4 A temporary licence number will be given, and conditions attached to the licence must be complied with.

11.5 The Council must consult the Chief Constable and Scottish Fire and Rescue in respect of an application for a temporary licence.

12 Compliance and enforcement

12.1 Unlicensed short-term lets

12.1.1 It is a criminal offence to carry on an activity for which a licence is required without having a licence and without reasonable excuse.

12.1.2 The Scottish Government has set out the following timescales for hosts and operators. Please note the rules are different depending on whether you are a new host/operator or an existing host/operator-

New hosts/operators - you **cannot** operate while your short-term let application is being determined.

Existing hosts/operators

- Existing hosts/operators must apply for a short-term let licence by 1st October 2023, at the latest.
- If you have been trading on or before 30th September 2022, you may continue to operate if you have made a licence application by 1st October 2023 or hold a temporary licence..
- You can continue to operate for the time it takes for your licence application to be finally determined.
- A provisional licence number will be provided once the application is duly-made.
- It will be an offence to offer short-term let accommodation after 1st January 2025 unless you hold a licence or unless a sheriff has provided an extension to the processing time for an application from an existing host.

12.1.3 The Council will maintain a public register of short-term let licence applications and licences granted. This will allow members of the public to check the licensing status of a premises being used as a short-term let.

12.1.4 Complaints about suspected unlicensed hosts/operators should be directed to -short-termlets@argyll-bute.gov.uk

12.2 Licensed short-term lets

12.2.1 Hosts and operators must ensure that any advert or listing placed on or after they are granted a licence, or a provisional licence number, includes their licence number.

12.2.2 Hosts and operators must ensure that they comply with all the mandatory and any additional conditions on their licence. It is a criminal offence to fail to comply with a licence condition if a licence holder has not used all due diligence to prevent the offence.

12.2.3 It is also a criminal offence for a licence holder, without reasonable cause, to fail to notify the licensing authority of a material change of circumstances.

12.2.4 The Council may undertake premises site visits as part of the application process and throughout the duration of the licence to ensure compliance with licence conditions.

12.3 Complaints about licensed short-term lets

12.3.1 In the first instance, guests should raise any concerns about their short-term let with their host/operator or letting agent/platform. If the issue is sufficiently severe, then the Council may become involved.

12.3.2 A complaint must be relevant to the matters that the Council can take into consideration. Frivolous or vexatious complaints will not be considered.

12.3.3 The Council can consider matters relating to the suitability of the licence holder, threats to public safety or public order or whether a condition of the licence has been contravened.

12.3.4 These issues would include a host/operator exceeding the number of people staying at the premises, serious disturbance or antisocial

behaviour or concerns about the maintenance and safety of the premises. These complaints can be directed to **short-termlets@argyll-bute.gov.uk**

12.3.5 Please note that the Council cannot consider complaints in relation to the quality of a guest's stay or specific contractual matters between the guest and the host/operator as this is outside the scope of the licensing scheme.

12.3.6 Complaints will aim to be acknowledged within 5 working days. A full response advising you of the outcome may take some time if the complaint requires further investigation. The complaint may also need to be directed to other departments within the Council other services such as Police Scotland or Scottish Fire and Rescue Service for input. Complainants will be kept up to date with progress if there is a delay in a full response being provided.

12.3.7 Premises site visits may be undertaken by the Council as part of an investigation into a complaint.

12.4 Enforcement

12.4.1 It is possible that some complaints may require enforcement action from the Council.

12.4.2 The Act provides for several options for enforcement action if justified. This includes additional licence conditions being attached, enforcement notices or variation, suspension or revocation of the licence or in more serious circumstance pursuing a prosecution.

12.4.3 The Council recognises the importance of having compliance issues monitored in order to ensure licensed Short-term lets are complying with licence standards and not causing an unnecessary nuisance to the community, nearby residents or neighbours. As such it will carry out a risk-based approach to enforcement, using a range of escalating informal measures, prior to an Enforcement Notice being issued and subsequently a complaint being made to the Committee in relation to the STL licence.

12.4.4 An enforcement notice will set out the matters constituting a breach or likely breach, the action required to rectify or prevent the breach and the date by which the action must be taken.

12.4.5 If the matter is not addressed satisfactorily by the licence holder, the Council may then consider a variation, suspension or revocation of the licence.

12.4.6 You will not be charged a fee for a routine visit. However, you will be charged if a follow up visit is necessary because you have breached one of your licence conditions.

13 Variation of a licence

13.1 A licensing authority may, at any time, whether or not upon an application made to them by the holder of the licence, vary the terms on any grounds they think fit.

13.2 A variation application cannot, however, be used to substitute a new holder of the licence for the existing one (i.e. effectively to transfer a licence) but would apply where the *short-term let host is a corporate entity*, and the incoming

14 Suspension or revocation of a licence

14.1 A licensing authority may, whether upon a complaint made to them or not, suspend or revoke a licence.

14.2 A licensing authority may order the suspension or revocation of a licence if in their opinion-

- the holder of the licence is no longer a fit and proper person to hold the licence
- the licence holder is managing the property on behalf of someone who would have been refused the grant or renewal of the licence
- the short-term let is causing or is likely to cause undue public nuisance or a threat to public order or public safety; or
- a condition of the licence has been contravened

14.3 The period of suspension can be the unexpired portion of the duration of the licence, or such shorter period as the licensing authority may fix. The effect of the suspension shall be that the licence shall cease to have effect during the period of suspension.

15 Planning permission

15.1 The requirement for planning permission is a separate matter from licencing of short-term lets. Whether or not planning permission is required for the use of a dwelling for short-term let purposes will firstly depend on whether it is located within a Short-Term Letting Control Area. Outwith control areas, the requirement for planning permission would be a matter for the planning authority to determine on a case by case basis, depending on the nature and circumstances of the property and the manner in which it is operated. Hosts and operators must comply with both planning and licensing law.

15.2 The Council is the relevant planning authority for the Argyll and Bute area located outwith the Loch Lomond and the Trossachs National Park. The National Park Authority is the planning authority for the full extent of the Loch Lomond and the Trossachs National Park designation.

Short-Term Letting Control Areas:

15.3 There is a separate legislative process from licensing which allows the Council and the National Park Authorities, as planning authorities, to establish short-term let control areas. The purpose of control areas is to help planning authorities manage high concentrations of secondary letting (where it affects the availability of residential housing or the character of a neighbourhood) and to restrict or prevent short-term lets in places or types of buildings where it is not appropriate.

15.4 Within a control area designated by a planning authority, use of a property for short-term letting will always require express planning permission. The host or operator must make an application for planning permission or already have planning permission before they apply for a licence.

15.5 There are currently no Control Areas within Argyll and Bute and the Council and Loch Lomond and the Trossachs National Park does not propose to designate any Short-Term Letting Control Areas at this time, but will review this position in the course of 2023/25

15.6 Please note that planning authorities could designate control areas after a premise has already obtained a short-term let licence. Licence holders would be given a reasonable opportunity to comply with the mandatory condition by submitting a planning application or application for a Certificate of Lawful Use or Development (CLUD) as soon as possible after the control area is designated. If a CLUD or planning permission is refused, this may result in the licence being refused, varied or revoked as appropriate.

Outwith Control Areas:

15.7 Outside of a control area, it is for the planning authority to consider whether any change of use of a dwelling house is material and, therefore, requires planning permission, although you may also require permission where a premises has resulted in the subdivision of a residential plot where it is an annex or garage that has been converted. This is determined on a case by case basis and will depend very much on the nature of the dwelling to be let, its relationship to neighbouring land uses, its servicing arrangements, and the manner in which the property will be operated.

15.8 Hosts and operators are, therefore, encouraged to engage with the relevant planning authority **prior** to submitting a licence application to confirm whether they require planning permission or a certificate of lawful use of development.

Detailed enquiries can be submitted for review and assessment through the Council's chargeable pre-application advice service: [Pre-Application Guidance \(argyll-bute.gov.uk\)](http://argyll-bute.gov.uk)

Contact details for Loch Lomond and the Trossachs National Park planning service:
[Planning - #LetsDoNetZero -Loch Lomond & The Trossachs National Park \(lochlomond-trossachs.org\)](http://lochlomond-trossachs.org)

16 Equality

16.1 The Equality Act 2010 Act introduced a new public sector equality duty which requires public authorities, including the Committee, to try and eliminate discrimination, promote equality and good relations across a range of protected characteristics.

16.4 Prior to the Committee implementing this policy an equality impact assessment was undertaken. This can be viewed using the following link [[Equality and Socio-Economic Impact Assessments \(argyll-bute.gov.uk\)](http://argyll-bute.gov.uk)]

17 Fees

17.1 Licensing authorities are required to charge fees in respect of processing and determining, the consideration of applications, the issue of duplicate licences and other matters. They must ensure that the fees are sufficient to cover their administrative expenses and are reviewed periodically.

17.2 Licensing fees are non-refundable. Whether or not a licensing application is granted, the Council incurs significant costs in processing the application.

17.3 The Council has considered the following criteria in the process of determining the fees:

- The size of the premises
- The number of rooms at the premises
- The number of guests who can reside at the premises
- The type of short-term let

17.4 Licence fees are set by the Council annually as part of the budget process. Fees and charges is available via [this link](#) to the Councils website. ([Council fees and charges | Argyll and Bute Council \(argyll-bute.gov.uk\)](#))

17.5 For indicative purposes the application and renewal fees for short term let licensing for 2023/24 are shown below:

Application and renewal – full licence

Guest capacity applied for (including children under the age of 10)	Home sharing or home letting licence	Secondary letting licence
Up to 4	£239.55	£334.95
5 to 8	£334.95	£479.10
9 to 12	£526.80	£718.70
13 to 20	£671.00	£958.25
21 and over	£862.85	£1197.80

Other types of application	Fee
Temporary licence application	50% of fee
Temporary exemption application]	50% of fee
Variation of licence / change in circumstances	£81.60
Duplicate licence	£43.45

Enforcement costs	Fee
Officer hourly cost in 15 minute intervals (Inspection of a premises where concern is flagged at the application process by a consultee)	£99.50- /hour

****Where a fee is charged for such a visit, a report must be provided to the host or operator within 28 days of the inspection, unless otherwise agreed. Otherwise, the fee must be refunded to the licence holder****

- .17.6 The fee charged is weighted according to the following factors, where the unit fee is the cost of dealing with an application for 5-8 person secondary let licence. Applications for premises with larger numbers of guests are likely to require more enquiries, or attract more representations, or objections, which require to be dealt with as part of the application.

Guest capacity (People)	Home sharing and home letting licence	Secondary let licence
Up to 4	0.5	0.7
5 to 8	0.7	1.0
9 to 12	1.1	1.5
13 to 20	1.4	2.0
21 and over	1.8	2.5

Appendix 1 – Contact details

Telephone – 01546 605519

Email – Short-termlets@argyll-bute.gov.uk

Postal Address – Short-Term Lets Licensing, Argyll and Bute Council, Kilmory,
Lochgilphead, Argyll, PA31 8RT

Appendix 2 – Hearing procedure

SHORT TERM LET LICENSING PROCEDURE FOR HEARINGS

Applications will be heard in public unless required to be taken privately on the grounds of disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973.

1. The Chair will welcome, introduce everyone, outline the procedure and receive confirmation that both the Applicant and objector(s) accept the hearing procedure. If the representations/objection(s) were submitted timeously and there are no spent convictions to be considered, then proceed directly to number 4.

2. If the representation/objection (from the Police or any other party) has been received late the Committee must hear details as to why the representation / objection was late and be satisfied that there is sufficient reason why it was not made in the time required. If they agree that, then the representation/ objection can be heard, otherwise it should be disregarded. The process to be followed should be that the objector is invited to provide reasons as to why the submission was late. Members may ask any follow up questions of the objector. The applicant must then be asked if they have any objections to the late submission being accepted. The Committee must take all comments into account when deciding whether to accept the late submission.

3. If spent convictions are to be referred to then the guidance notes for spent convictions should be followed for each conviction.

4. The hearing procedure below should now be followed:

a	The Licensing Officer will present the report to the Committee
b	The applicant or Agent, will be given the opportunity to speak in support of their application.
C	Any objector, or Agents, will have the opportunity to question the Applicant or Agent on matters related only to their presentation.
d	Objectors, or their Agents, will have the opportunity to speak in support of their objection
E	The Applicant, or Agent, will have the opportunity to question any Objector, or Agent, on matters related only to their presentation.
f	The Committee Members, through the Chair may ask questions of the Applicant or Objector or their Agents for clarification
g	The Chair will invite the Objector, or Agent to briefly summarise their points if they wish.
h	The Chair will invite the Applicant, or Agent to briefly summarise their points if they wish.
I	The Chair will confirm that everyone has had a fair hearing

j	The Committee will debate and determine the application in the presence of Applicant/Objector.
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DECISION

1. A determination of the case will be made at the conclusion of the hearing and all parties will be notified of the decision in writing within 7 days of the hearing and shall be advised of his/her right to seek written reasons and appeal to the Sheriff Court.
2. If the decision of the Committee is to suspend, refuse or refuse to suspend a licence, a relevant person has a right to request within 28 days of the meeting, the Committee's reasons for arriving at their decision. Unless the circumstances of the case justify immediate suspension, the suspension shall not take effect for 28 days from the date of the decision.
3. Appeals against the decision of the Committee must be lodged with the Sheriff Clerk within 28 days of the date of the decision

Appendix 3 – Mandatory licence conditions

Agents

1. Only those named as a holder of the licence can carry out the day to day management of the short-term let of the premises.

Type of licence

2. The holder of the licence may only offer the type of short-term let for which the licence has been granted.

Fire safety

3. The holder of the licence must ensure the premises has satisfactory equipment installed for detecting, and for giving warning of—

(a) fire or suspected fire, and

(b) the presence of carbon monoxide in a concentration that is hazardous to health.

4. The holder of the licence must keep records showing that all upholstered furnishings and mattresses within the parts of the premises which are for guest use, or to which the guests are otherwise permitted to have access, comply with the Furniture and Furnishings (Fire Safety) Regulations 1988.

Gas safety

5. Where the premises has a gas supply—

(a) the holder of the licence must arrange for an annual gas safety inspection of all gas pipes, flues and appliances in the premises,

(b) if, after an annual inspection, any appliance does not meet the required safety standard, the holder of the licence must not allow a short-term let of the premises until the works necessary to bring the appliance to the required safety standard have been carried out.

Electrical safety

6. Where there are electrical fittings or items within the parts of the premises which are for guest use, or to which the guests are permitted to have access, the holder of the licence must—

(a) ensure that any electrical fittings and items are in—

(i) a reasonable state of repair, and

(ii) proper and safe working order,

(b) arrange for an electrical safety inspection to be carried out by a competent person at least every five years or more frequently if directed by the competent person,

(c) ensure that, following an electrical safety inspection, the competent person produces an Electrical Installation Condition Report on any fixed installations,

(d) arrange for a competent person to—

- (i) produce a Portable Appliance Testing Report on moveable appliances to which a guest has access, and
- (ii) date label and sign all moveable appliances which have been inspected.

7. In determining who is competent, the holder of the licence must have regard to guidance issued by the Scottish Ministers under section 19B(4) of the Housing (Scotland) Act 2006(2).

Water safety: private water supplies

8. Where the premises are served by a private water supply, the licence holder must comply with the requirements on the owners of private dwellings set out in the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017

Water safety: legionella

9. The holder of the licence must assess the risk from exposure to legionella within the premises, whether or not the premises are served by a private water supply.

Safety & repair standards

10.(1) The holder of the licence must take all reasonable steps to ensure the premises are safe for residential use.

(2) Where the premises are subject to the requirements of Chapter 4 of Part 1 of the Housing (Scotland) Act 2006, the holder of the licence must ensure that the premises meet the repairing standard.

Maximum Occupancy

11. The licence holder must ensure that the number of guests residing on the premises does not exceed the number specified in the licence.

Information to be displayed

12. The holder of the licence must make the following information available within the premises in a place where it is accessible to all guests—

- (a) a certified copy of the licence and the licence conditions,
- (b) fire, gas and electrical safety information,
- (c) details of how to summon the assistance of emergency services,
- (d) a copy of the gas safety report,
- (e) a copy of the Electrical Installation Condition Report, and
- (f) a copy of the Portable Appliance Testing Report.

Planning Permission

13. Where the premises is in a short-term let control area for the purposes of section 26B of the Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”), the holder of the licence must, where the use of the premises for a short-term let requires planning permission under the 1997 Act, ensure that either—

- (a) an application has been made for planning permission under the 1997 Act and has not yet been determined, or
- (b) planning permission under the 1997 Act is in force.

Listings

14.(1) The holder of the licence must ensure that any listing or advert (whether electronic or otherwise) for the short-term let of the premises includes—

(a) the licence number, and

(b) a valid Energy Performance Certificate rating if an Energy Performance Certificate is required for the premises, in accordance with the Energy Performance of Buildings (Scotland) Regulations 2008

(2) The holder of the licence must ensure that any listing or advert (whether electronic or otherwise) for the short-term let of the premises is consistent with the terms of the short-term let licence.

Insurance

15. The holder of the licence must ensure that there is in place for the premises—

(a) valid buildings insurance for the duration of the licence, and

(b) valid public liability insurance for the duration of each short-term let agreement.

Payment of fees

16. The holder of the licence must pay any fees due to the licensing authority in respect of the licence on demand.

False or misleading information

17. The holder of the licence must not provide any false or misleading information to the licensing authority.

Interpretation

18. In this schedule—

“Electrical Installation Condition Report” means a report containing the following information—

(a) the date on which the inspection was carried out,

(b) the address of the premises inspected,

(c) the name, address and relevant qualifications of the person who carried out the inspection,

(d) a description, and the location, of each installation, fixture, fitting and appliance inspected,

(e) any defect identified,

(f) any action taken to remedy a defect,

“Energy Performance Certificate” means a certificate which complies with regulation 6 of the Energy Performance of Buildings (Scotland) Regulations 2008,

“Gas safety report” means a report containing the following information—

(a) the date on which the appliance or flue was checked,

(b) the address of the premises at which the appliance or flue is installed,

(c) a description of and the location of each appliance or flue checked,

- (d) any safety defect identified,
- (e) any remedial action taken,
- (f) confirmation that the check undertaken complies with the requirements of an examination of—
 - (i) the effectiveness of any flue,
 - (ii) the supply of combustion air,
 - (iii) subject to head (iv), its operating pressure or heat input or, where necessary, both,
 - (iv) if it is not reasonably practicable to examine its operating pressure or heat input (or, where necessary, both), its combustion performance,
 - (v) its operation so as to ensure its safe functioning,
- (g) the name and signature of the individual carrying out the check, and
- (h) the registration number with which that individual, or that individual's employer, is registered with a body approved by the Health and Safety Executive for the purposes of regulation 3(3) of the Gas Safety (Installation and Use) Regulations 1998,

Appendix 4 – Additional licence conditions

Short-term Lets: Proposed Additional Conditions

Introduction

Argyll and Bute Council consider that additional conditions should be applied to short-term let licences in its area. These derive from (a) the Part 2 Guidance for licensing authorities and (b) issues relating to guest safety which the Council has identified in its area and for which it considers additional licence conditions are necessary and appropriate.

The “Part 2” additional conditions, are based closely upon the examples provided by the Scottish Government. These conditions would be generally-applicable to all licences, although some, for instance those relating to impact noise are not necessary for detached premises with no party structures.

The guest safety conditions are intended for specific premises where certain facilities and amenities are provided for the use of guests (this would require a declaration on the application form). Alternatively, the conditions could be generally-applied with a conditional clause; the draft guest safety conditions are in the latter form.

Antisocial behaviour

1. The licence holder must take reasonable steps to manage the premises in such a way as to seek to prevent and deal effectively with any antisocial behaviour by guests to anyone else in the short-term let and in the locality of the short-term let.
2. The licence holder must take reasonable steps to:
 - Ensure that no disturbance or nuisance arises within or from the premises, for example by explaining the house rules to the guests;
 - Deal effectively with any disturbance or nuisance arising within or from the premises, as soon as reasonably practicable after the licence holder is made aware of it; and
 - Ensure that any vehicles belonging to guests are parked lawfully, for example explaining where any designated parking spaces are to be found and highlighting any local rules.
4. The licence holder must take reasonable step to ensure that guests do not play amplified music within the garden or external areas where or at times it would impact neighbouring residents.

Privacy and security

1. The licence holder must manage the premises in such a way as to respect and protect the privacy and security of neighbours.
2. The licence holder must ensure:

- Guests know and understand any particular rules applying to shared areas and entrances;
- Guests understand that shared doors should be properly and securely closed after use; and
- The provision of access codes or keys to guests cannot be used by guests to gain access to shared areas after they have finally departed.

Noise control in flatted premises

1. Where the premises are a flat above another dwellinghouse, the licence holder must:
 - Fit and maintain carpets (with appropriate underlay) to the floors of bedrooms, living room and any hallway.
 - Take reasonable steps to ensure that guests do not first arrive or finally depart from the property between the hours of 2300 and 0700. The licence holder must advise guests of this condition as part of their booking terms and conditions.
2. The licensing authority may, at its own discretion, exempt any flatted premises from the requirement to carpet floors where the licence holder can demonstrate that they have been built to or been converted to Domestic Technical Standard 5.1.
3. Note that “reasonable steps” allows for unavoidable circumstances, such as significantly-delayed transport.

Littering and waste disposal

1. The licence holder must provide adequate information on, and the facilities for, the storage, recycling and disposal of waste.
2. The licence holder shall be responsible for advising residents of the refuse collection day and for making arrangements for the presentation of bins for collection at the appropriate time and day.
3. The licence holder must advise guests of:
 - Their responsibilities;
 - The use of the bins etc. provided for the premises; and
 - The location of the nearest recycling area or recycling point.
4. The licence holder must:
 - Clearly label bins as belonging to the premises;
 - Ensure that guests manage their waste in compliance with (2), including when they depart; and
 - Maintain the bins storage area and the exterior of the premises in a clean and tidy condition.

Damage to property

The licence holder shall not affix a key box, or any other device to facilitate guest entry to the premises, to any public or jointly-owned private structure or infrastructure without the prior written permission of the relevant authority or owner(s). The licence holder must be able to produce the written permission to the licensing authority on demand.

Additional Conditions for Guest Safety

Legionella risk assessment – spa pools/hot tubs

1. Where a spa pool, including any electric hot tub or wood-fired hot tub, is provided for the use of guests, the licence holder must install, maintain and operate it so it can be safely operated and used by guests.
2. The licence holder shall ensure, so far as is reasonably practicable:
 - That any such spa pool is installed and maintained in accordance with the guidance in HSE publication HSG282 *Control of legionella and other infectious agents in spa-pool systems*.
 - That there is a risk assessment and written scheme of control for *Legionella* in respect of any such spa pool.
 - That the risk assessment and written scheme of control are lodged with any application for a licence and are to the satisfaction of the licensing authority.
 - That, prior to any spa pool being brought into use for the first time during the period of the licence, at least 28 days' notice shall be given to the licensing authority and the risk assessment and written scheme of control shall be submitted at the time of such notice.
3. The licence holder shall provide guests with information on the safe use of the spa pool in accordance with the written scheme of control.
4. The licence holder shall not provide or install any inflatable hot tub for the use of guests without the prior written approval of the licensing authority. Note that the licensing authority will not give approval in respect of inflatable hot tubs not intended for commercial use and which cannot conform to the requirements of HSG282.

Guest safety – swimming pools and ponds

1. Where a swimming pool or swimming pond is installed and provided for the use of guests, the licence holder must take reasonable measures to ensure water quality and bather safety.
2. The licence holder shall ensure:
 - In the case of swimming pools, and swimming ponds, that a pool safety operating plan is prepared and lodged with any application for a licence

and is to the satisfaction of the licensing authority. The licence holder shall have regard to the guidance in HSE publication HSG179 *Health and safety in swimming pools*.

- In the case of swimming pools and swimming ponds, that a bather safety plan is prepared and lodged with any application for a licence and is to the satisfaction of the licensing authority. The bather safety plan shall include measures to minimise the risk of bathers getting into difficulty, to facilitate the rescue of bathers in difficulty and to call for the assistance of emergency services where necessary.
 - That, prior to any swimming pool or pond being brought into use for the first time during the period of the licence, at least 28 days' notice shall be given to the licensing authority and the pool safety operating plan and bather safety plan shall be submitted at the time of such notice.
3. In this condition, "swimming pond" means an outdoor body of untreated water in natural ground which has been excavated or modified to provide a facility for swimming. It does not include natural watercourses, fresh-water lochs or coastal waters.
 4. This condition does not apply to swimming pools which are staffed and operated with continuous poolside supervision by trained lifeguards.

Risk of Carbon monoxide – barbecue huts

1. Where a barbecue hut is installed and provided for the use of guests, the licence holder must take reasonable steps to ensure that the risk from Carbon monoxide is minimised.
2. The licence holder shall, so far as is reasonably practicable:
 - Install, maintain and operate the barbecue hut only in accordance with the manufacturer's instructions.
 - Install and maintain in proper working condition a Carbon monoxide monitor and alarm within the barbecue hut.
 - Provide guests with instructions on the safe use of the barbecue hut, the symptoms of Carbon monoxide poisoning and the actions to be taken in an emergency.
 - Not permit the use of the barbecue hut by persons under the age of 18 except in the presence of a person over the age of 18.
 - Not permit the use of a barbecue hut as sleeping accommodation.
3. For the purposes of this condition, a barbecue hut is a purpose-built, structure including a fixed hearth, and fixed ventilation supplying both fresh air to the hearth and extracting the products of combustion from the occupied space.

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ARGYLL AND BUTE COUNCIL

**PLANNING, PROTECTIVE SERVICES
AND LICENSING COMMITTEE**

LEGAL AND REGULATORY SUPPORT

20 SEPTEMBER 2023

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

1.0 EXECUTIVE SUMMARY

Part 6 of the Fireworks and Pyrotechnic Articles (Scotland) Act 2022 was brought into force on 22nd 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 those powers are to be exercised.

This report sets out:

1. Changes to existing legislation; and
2. The new discretionary powers available to the council.

ARGYLL AND BUTE COUNCIL

**PLANNING, PROTECTIVE SERVICES
AND LICENSING COMMITTEE**

LEGAL AND REGULATORY SUPPORT

20 SEPTEMBER 2023

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

2.0 INTRODUCTION

- 2.1 In 2019, the Scottish Government launched a national public consultation on fireworks. 16,420 responses were received, displaying a widespread interest from members of the public and stakeholder organisations. Analysis of these responses demonstrated a strong desire for change in the relationship that Scotland has with fireworks, and a desire for greater restrictions on the sale and use of fireworks.
- 2.2 In response, the Scottish Government established a Firework Control Group. This group considered legislative options for change, and made a series of recommendations.
- 2.3 These recommendations have resulted in new enforcement responsibilities being placed on both Police Scotland & Argyll & Bute Council.

3.0 RECOMMENDATIONS

- 3.1 That Members;
- 3.1.1 Note the provisions of the Fireworks and Pyrotechnic Articles (Scotland) Act 2022 and particularly the matter of Firework Control Zones;
- 3.1.2 Agree that there is, currently, no requirement to designate any area as a Firework Control Zone; and
- 3.1.3 Agree that officers will look at establishing a portal with supporting information for “Community Requests” for a Firework Control Zone as set out in para 4.10.

4.0 DETAIL

- 4.1 A number of the Fireworks Control Group's recommendations were taken forward through The Fireworks (Scotland) Miscellaneous Amendments Regulations 2021. These regulations restrict the hours that fireworks can be supplied to and used by the general public, and limit the quantity of fireworks that can be supplied to a purchaser at any one time.
- 4.2 These Regulations were in force in time for the 2021 fireworks season. Enforcement duties were placed upon Police Scotland and Local Authorities. The Scottish Government provided funding for a programme of advice visits and test purchases at retailers. The Council's Trading Standards team (TS) visited all registered fireworks premises in Argyll & Bute, to both provide advice and to determine compliance. This proactive approach assisted in ensuring widespread compliance with the new requirements across Argyll & Bute, and more generally across Scotland.
- 4.3 The Fireworks and Pyrotechnic Articles (Scotland) Act 2022 (the Act) was brought into effect in stages. The first stage related to definitions of fireworks, to redefining ages at which fireworks could be purchased and by introducing a proxy purchasing offence. Again, enforcement duties were placed upon Police Scotland and Local Authorities.
- 4.4 The second stage came into force on 22nd June 2023 and is more wide-ranging than stage 1, as it introduces the concept of FCZs.

Firework Control Zones

- 4.5 The Act enables a local authority to designate a place within its area as a Firework Control Zone. The place designated under this section may typically be a small identifiable place within the local authority area. While it is a matter for local judgement, it is not expected that a local authority could designate the whole local authority area as a Firework Control Zone. It is an offence to ignite a firework within a Firework Control Zone, or knowingly or recklessly throw or cast a lit firework, or fire a firework, into the zone. Previously, the Explosives Act 1875 made it an offence to light or to throw a firework in or into a public place. A FCZ will extend this prohibition into private land (including domestic gardens). However, even if a FCZ is established, it will not completely ban fireworks within the zone, as there is an exemption from FCZ requirements for public fireworks displays on behalf of charitable, religious, youth, recreational, community, political or other similar organisations.
- 4.6 There is a duty on local authorities to prepare and publish key details of any proposal for the designation of a Firework Control Zone, or any proposal to amend or revoke any such zone. Each proposal must set out the reasons behind what is proposed, the boundaries of the zone, the date from which it is to have effect, how long it is to have effect and details of the consultation that the authority is to conduct. The local authority is then required to consult persons who are likely to be affected by or have an interest in the proposed Firework Control Zone. This is

not limited to just residents and businesses located within the proposed Firework Control Zone, but also other members of the community in or near the proposed Firework Control Zone as well as organisations that would be affected by firework activity such as Police Scotland, the Scottish Fire and Rescue Service and the Scottish Ambulance Service. A local authority to publish a decision on a proposal for a Firework Control Zone (or its amendment or revocation) as soon as practicable after the decision is made, and at least 60 days before the proposal is to have effect, in order to give the local community sufficient notice of the designation.

- 4.7 The Scottish Government has established a limited pot of funding to allow local authorities to establish FCZ's. This is available on a first come first served basis, and will be a one-off payment. The guidance relating to this payment also states that local authorities should only express intent to establish FCZ's where there is confidence that they can facilitate a the process of community engagement in the terms set out in the statutory guidance.
- 4.8 There are a number of public displays in Argyll and Bute which are, for the most part, well organised and enjoyed by many. It is unlikely that a FCZ would affect these, as these would likely fall under an exemption. There is, currently, no evidence of significant numbers of complaints in relation to public order matters relating to fireworks and their use in Argyll and Bute and in the event that such complaints do arise these can likely be dealt with by use of powers already available to Police Scotland under the 1875 Explosives Act'.

Community Requests for a FCZ

- 4.9 Guidance from the Scottish Government provides that there should be a mechanism whereby a "community request" can be made to the council.

Local authorities should, where possible, establish a local process to give communities the ability to make the case for the designation of a Firework Control Zone, through a "community request".

The purpose of a community request is to provide communities themselves with a route to ask a local authority to formally consider whether a zone should be designated, amended or revoked in a particular place within its area. The Act does not make provision about community requests, however they can be a valuable tool for a local authority to become aware of local concerns about fireworks use.

It is expected that the Council will provide

- Published and accessible details of how to submit a community request, including advising of the format in which community requests should be made;
- Clearly communicated timings involved with submitting a community request, including the overall timing of a FCZ being fully considered and consulted on to manage expectations;
- Who to contact within the local authority to make the request; and

- Where a request is made, an acknowledgement email to be sent within five working days wherever possible, although this may vary due to local circumstances.
- 4.10 Officers will consider an appropriate portal with supporting information to address Community Requests in the expectation that this will be led by the Council's Anti-Social behaviour Co-Ordinator who, in processing any request, will likely liaise across appropriate Council Services such as Legal, Trading Standards; the blue light Services; and relevant communities and community interests.

Further Provisions

- 4.11 Two further provisions of the 2022 Act are still to be brought into force. The Scottish Government intend to bring a licensing scheme for purchasers of fireworks into effect in 2024. This will result in further duties being placed upon both Police Scotland & upon the Local Weights & Measures Authority. Some one-off funding may be available to Trading Standards for trader education and test purchasing initiatives
- 4.12 Finally, "all year round" fireworks licences will be discontinued on a date to be determined. Fireworks will only be available for general sale at specific times of the year. This is unlikely to have any effect in Argyll & Bute, as we currently have no retailers of this type, and are unlikely to receive any new applications, as withdrawal of these licences may be imminent

5.0 CONCLUSION

- 5.1 While the Act enables a local authority to designate a place within its area as a FCZ , there are a number of public displays in Argyll and Bute which are, for the most part, well organised and enjoyed by many. It is unlikely that a FCZ would affect these, as these would likely fall under an exemption. There is, currently, no evidence of significant numbers of complaints in relation to public order matters relating to fireworks and their use in Argyll and Bute and in the event that such complaints do arise these can likely be dealt with by use of powers already available to Police Scotland under the 1875 Explosives Act'. Officers will consider an appropriate portal with supporting information to address Community Requests in the expectation that this will be led by the Council's Anti-Social behaviour Co-Ordinator.

6.0 IMPLICATIONS

6.1 Policy – None

- 6.2 Financial** – There should be minimal costs which can be covered through existing budgets.

- 6.3 Legal** – The proposals in this report are in line with the legislation.

6.4 HR – Will be covered through existing officer resource.

6.5 Fairer Scotland Duty - None

6.5.1 Equalities - protected characteristics – None

6.5.2 Socio-Economic Duty - None

6.5.3 Islands - None

6.6 Climate Change - None

6.7 Risk – None

6.8 Customer Service – takes forward the new legislation and gives the option for residents to send in community requests for FCZs.

Douglas Hendry - Executive Director with responsibility for Legal and Regulatory Support

Policy Lead: Councillor Kieron Green

18th August 2023

For further information contact **David Logan - Head of Legal and Regulatory Support**

ARGYLL AND BUTE COUNCIL**PLANNING, PROTECTIVE
SERVICES AND LICENSING
COMMITTEE****LEGAL AND REGULATORY
SUPPORT****20th September 2023**

CIVIC GOVERNMENT (SCOTLAND) ACT 1982**TAXI FARE SCALE REVIEW**

1.0 EXECUTIVE SUMMARY

- 1.1 In terms of Section 17 of the Civic Government (Scotland) Act 1982, the Local Authority requires to fix maximum fares and other charges in connection with the hire of taxis operating in their area and to review the scales for taxi fares and other charges on a regular basis. Members are advised that the review has now been concluded and the fares fixed with effect from 22 October 2023.

2.0 RECOMMENDATION

- 2.1 The Committee is asked to note the above and that a further review of the taxi fares will take place within 18 months of 22nd October 2023 as required in terms of section 17 of the Act.

CIVIC GOVERNMENT (SCOTLAND) ACT 1982**TAXI FARE SCALE REVIEW**

1.0 INTRODUCTION

- 1.1 In terms of Section 17 of the Civic Government (Scotland) Act 1982, the Local Authority requires to fix maximum fares and other charges in connection with the hire of taxis operating in their area and to review the scales for taxi fares and other charges on a regular basis. Members are advised that the review has now been concluded and the fares fixed with effect from 22nd October 2023.

2.0 RECOMMENDATION

- 2.1 The Committee is asked to note the above and that a further review of the taxi fares will take place within 18 months of 22nd October 2023 as required in terms of section 17 of the Act.

3.0 DETAIL

- 3.1 In terms of Section 17 of the Civic Government (Scotland) Act 1982, the Local Authority requires to fix maximum fares and other charges in connection with the hire of taxis operating in their area and to review the scales for taxi fares and other charges on a regular basis. Members agreed to commence with the review process on 19th April 2023. At their meeting on 21st June 2023 the Committee agreed:

1. To propose that there be no change to the existing scales and that this take effect from 22nd October 2023;
2. To authorise the Head of Legal and Regulatory Support to advertise this proposal and to invite any responses within one month of the advertisement and report back to Members at their meeting on 20th September 2023; and
3. Should no objections or representations be received in relation to the proposal, to delegate to the Head of Legal and Regulatory Support, in consultation with the Chair of the PPSL Committee to conclude the review without the requirement for the Committee to consider a further report on the review.

- 3.2 Following the Committee's decision on 21st June 2023 adverts were placed in local newspapers week commencing 3rd July 2023 proposing that there be no changes to the existing fares. In terms of this any representations had to be made by 7th August 2023.

- 3.3 As no representations were received by that date the Head of Legal and Regulatory Support in consultation with the Chair of PPSL agreed that no changes to the fares take place.
- 3.4 All operators were notified by letter on 9th August 2023 of the decision and were provided with a new tariff card. They were advised they had 14 days to appeal against the scales to the Traffic Commissioner for Scotland.
- 3.5 The Traffic Commissioner for Scotland were contacted and confirmed on 24th August 2023 that no appeal had been received.
- 3.6 Adverts were placed week commencing 28th August 2023 in the local press confirming that no change to the existing scales and that this takes effect on 22nd October 2023 as required in terms of section 18A of the Act.

4.0 CONCLUSION

- 4.1 The review of the taxi fares has now been completed. The next review will require to be concluded within 18 months of 22nd October 2023 in terms of section 18 of the Act.

5.0 IMPLICATIONS

- 5.1 Policy- None
- 5.2 Financial -none
- 5.3 Legal – The Council require to review taxi fares in terms of the Civic Government (Scotland) Act 1982
- 5.4 HR -none
- 5.5 Fairer Scotland Duty:-none
 - 5.5.1 Equalities - protected characteristics-none
 - 5.5.2 Socio-economic Duty-none
 - 5.5.3 Islands -none
- 5.6 Climate Change-none
- 5.7 Risk-none
- 5.8 Customer Service-none

Douglas Hendry

Executive Director with responsibility for Legal and Regulatory Support

Policy Lead: Cllr Kieron Green

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