

Public Document Pack

Argyll and Bute Council

Comhairle Earra-Ghàidheal Agus Bhòid

Executive Director: Douglas Hendry



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11 October 2023

NOTICE OF MEETING

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

Douglas Hendry
Executive Director

BUSINESS

1. APOLOGIES FOR ABSENCE

2. DECLARATIONS OF INTEREST

3. MINUTES

- (a) Planning, Protective Services and Licensing Committee held on 20 September 2023 at 10.30 am (Pages 3 - 14)
- (b) Planning, Protective Services and Licensing Committee held on 20 September 2023 at 2.00 pm (Pages 15 - 20)
- (c) Planning, Protective Services and Licensing Committee held on 20 September 2023 at 2.45 pm (Pages 21 - 24)
- (d) Planning, Protective Services and Licensing Committee held on 20 September 2023 at 3.30 pm (Pages 25 - 26)

* 4. CONSUMPTION OF ALCOHOL IN DESIGNATED PLACES BYELAWS (Pages 27 - 28)

Report by Executive Director with responsibility for Legal and Regulatory Support

5. PRIVATE HIRE CARS AND TAXIS LICENSED IN ARGYLL & BUTE (Pages 29 - 34)

Report by Executive Director with responsibility for Legal and Regulatory Support

6. MS GAIL CRAWFORD: ALTERATIONS AND EXTENSIONS: 4 WEST LENNOX DRIVE, HELENSBURGH (REF: 23/00652/PP) (Pages 35 - 62)

Report by Head of Development and Economic Growth

7. LOCAL DEVELOPMENT PLAN 2 TECHNICAL NOTES (Pages 63 - 150)
Report by Executive Director with responsibility for Development and Economic Growth

8. FOOD CONTROL LAW ENFORCEMENT PLAN 2023-2025 (Pages 151 - 178)
Report by Executive Director with responsibility for Environmental Health
REPORT FOR NOTING

9. UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING APPEAL DECISION (Pages 179 - 190)
Report by Head of Development and Economic Growth
EXEMPT REPORT FOR DECISION

E1 10. REQUEST FOR A TREE PRESERVATION ORDER (Pages 191 - 198)
Report by Executive Director with responsibility for Development and Economic Growth

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.

The Committee will be asked to pass a resolution in terms of Section 50(A)(4) of the Local Government (Scotland) Act 1973 to exclude the public for items of business with an “E” on the grounds that it is likely to involve the disclosure of exempt information as defined in the appropriate paragraph of Part I of Schedule 7a to the Local Government (Scotland) Act 1973.

The appropriate paragraph is:-

E1 Paragraph 13 Information which, if disclosed to the public, would reveal that the authority proposes-

- (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
- (a) to make an order or direction under any enactment.

Planning, Protective Services and Licensing Committee

Councillor John Armour
Councillor Jan Brown
Councillor Kieron Green (Chair)
Councillor Daniel Hampsey
Councillor Mark Irvine
Councillor Paul Donald Kennedy
Councillor Luna Martin
Councillor Peter Wallace

Councillor Gordon Blair
Councillor Audrey Forrest
Councillor Amanda Hampsey (Vice-Chair)
Councillor Graham Hardie
Councillor Andrew Kain
Councillor Liz McCabe
Councillor Dougie Philand

Contact: Fiona McCallum

Tel. No. 01546 604392

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

Present: Councillor Kieron Green (Chair)

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

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

1. APOLOGIES FOR ABSENCE

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

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. MINUTES

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

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

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

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

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

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

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

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

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

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

Motion

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

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

Amendment

To agree to hold a discretionary hearing for this application.

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

A vote was taken by calling the roll.

Motion

Amendment

Councillor Green
Councillor McCabe
Councillor Martin

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

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

Decision

The Committee agreed:

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

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

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

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

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

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

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

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

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

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

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

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

Decision

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

Standard Time Limit Condition (as defined by Regulation)

Standard Condition on Soil Management During Construction

Additional Conditions

1. PP - Approved Details & Standard Notes

The development shall be implemented in accordance with the details specified on the application form dated 12th December 2022, supporting information and, the approved drawings listed in the table below unless the prior written approval of the planning authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Plan Title.	Plan Ref. No.	Version	Date Received
Location Plan	807(L)000A	-	25.01.2023
Existing Site Plan	807(L)002A	-	25.01.2023
Proposed Site Plan	807(L)002	Rev. B	09.08.2023
Proposed Plans, Sections and Elevations	807(L)003A	-	25.01.2023

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

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

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

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

Reason: In the interest of road safety.

3. PP - Junction with public road:

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

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

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

Prior to work starting on site the access hereby approved shall be formed to at least base course standard and the visibility splays shall be cleared of all obstructions such that nothing shall disrupt visibility from a point 1.05 metres above the access at point X to a point 0.6 metres above the public road carriageway at point Y. The final wearing surface on the access shall be completed prior to the development first being brought into use and the visibility splays shall be maintained clear of all obstructions thereafter.

Reason: In the interests of road safety.

Note to Applicant:

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

4. PP - Access Gradient

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

Reason: In the interest of road safety.

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

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

Reason: In the interest of road safety.

6. PP - Parking and Turning Further Details Required

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

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

The duly approved scheme shall be implemented in full prior to the development first being occupied and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

Reason: In the interest of road safety.

7. PP – Submission of Details of Materials

Notwithstanding the effect of Condition 1, no development shall commence until written details of the type and colour of materials to be used for the external wall finishes and the roof slate have been submitted to and approved in writing by the Planning Authority. The development shall thereafter be completed using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.

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

8. PP – Full Landscaping Scheme

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

- i) Existing and proposed ground levels in relation to an identified fixed datum;
- ii) Existing landscaping features and vegetation to be retained;
- iii) Location design and materials of proposed walls, fences and gates;
- iv) Proposed soft and hard landscaping works including the location, species and size of every tree/shrub to be planted;

- v) A biodiversity statement demonstrating how the proposal will contribute to conservation/restoration/enhancement of biodiversity, and how these benefits will be maintained for the lifetime of the development;
- vi) A programme for the timing, method of implementation, completion and subsequent on-going maintenance.

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

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

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

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

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

No development or other work shall be carried out on the site until a pre-commencement survey for the presence of Bats has been carried out by an appropriately qualified person and has been submitted for the written approval of the Planning Authority in consultation with Nature.Scot. In circumstances where species of interest are identified as being present, or at risk from construction works, the survey shall further provide suggested avoidance and or mitigation measures, including timing constraints, to address such presence or risk. The development shall be implemented in accordance with the measures identified in the duly approved scheme.

Reason: In order to establish that the circumstances of the site have not changed significantly between approval and implementation of the development for the purpose of protecting natural heritage assets in the interest of nature conservation.

10. PP – Surface Water Drainage – Further detail required

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

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

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

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

11.PP – Tree Retention and Protection

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

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

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

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

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

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

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

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

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

Decision

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

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

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

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

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

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

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

Decision

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

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

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

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

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

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

Decision

The Committee agreed:

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

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

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

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

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

Decision

The Committee agreed to:

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

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

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

10. ANIMAL HEALTH & WELFARE WORK PLAN 2023/25

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

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

Decision

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

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

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

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

Decision

The Committee:

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

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

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

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

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

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

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

Decision

The Committee agreed:

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

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

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

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

Decision

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

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

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held BY MICROSOFT TEAMS on WEDNESDAY, 20 SEPTEMBER 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 Audrey Forrest	Councillor Luna Martin
Councillor Graham Hardie	Councillor Peter Wallace

Attending: Shona Barton, Governance Manager
Fiona Macdonald, Solicitor
Morgan Romilly, Applicant
Hayley Romilly, Applicant
Stephen McIntyre-Stewart, Objector

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Amanda Hampsey, 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 A TAXI CAR LICENCE (M ROMILLY AND H ROMILLY, HELENSBURGH)

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

Stephen McIntyre-Stewart, Objector, also opted to proceed by way of audio call and joined the meeting by telephone.

All of the other objectors (Mark Franks, Paul Dornan, Colin McNeill and Kimberley Clerk) were unable to attend today and had asked Mr McIntyre-Stewart to speak on their behalf.

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

APPLICANT

Mrs Romilly read out the contents of an email which Mr Romilly had submitted to the Licensing Team prior to the start of this hearing. The email addressed their concerns about the objections that had been submitted in respect of this application.

Mr Romilly then spoke in support of their application. He advised that they had been operating successfully in the town for a number of years and it had come to the point that demand exceeded their capacity. He said they no longer had the spare capacity and that their regular customers sometimes had to wait for around 40 minutes for a taxi, especially on Friday and Saturday nights. He referred to issues in the past with the current vehicle needing repairs and that the dealer was in Edinburgh. He advised that an extra plate would also act as a safety net when the other vehicle was transporting customers to Glasgow and further afield. He advised that quite regularly after 2 am when the trains stopped there were no taxis available in town. He said that their vehicle was regularly the only taxi active around 2 am – 6 am. He said that they regularly took fares to Edinburgh and Glasgow which left Helensburgh without a taxi for up to an hour in the middle of the night. He said there was plenty trade during the night.

He advised that this vehicle was a fully electric Nissan Leaf. He said that they'd had great success with their current vehicle.

Mr Romilly referred to the LVSA survey and commented that it was a number of years out of date. He said that this was a busy town and he could justify the need for a second car. He said he was confused as to why Mr McIntyre-Stewart was objecting as he was just granted a plate himself. Referring to the number of plates in Helensburgh, he advised that these vehicles were not available 24 hours as a lot of the Operators had full time jobs and seen taxi work as a hobby.

QUESTIONS FROM OBJECTOR

Mr McIntyre-Stewart referred to claims made that he had taken photographs of Mrs Romilly and her vehicle. He asked Mr Romilly if he had a copy of the photograph he took. Mr Romilly advised there was CCTV footage. Mr McIntyre-Stewart asked if that footage had been submitted today. Mr Romilly advised that it could be submitted.

Mr McIntyre-Stewart referred to comments that he reversed into a petrol pump. He commented that Mrs Romilly was hanging onto his vehicle at that point and this could be seen from the CCTV footage. He asked Mr Romilly to confirm if this was the CCTV footage that he had seen. Mr Romilly replied that Mr McIntyre-Stewart would need to ask the Police and Tesco about that.

Mr McIntyre-Stewart questioned Mr Romilly about whether his current vehicle was an electric vehicle or a plug in hybrid, commenting that he advertised his vehicle as fully electric. Mr Romilly commented that he could not see why this was being brought up at this meeting.

Mr McIntyre-Stewart asked Mr Romilly to confirm if he had phoned Mr McNeil last night to ask him to withdraw his complaint. Mr Romilly advised that he had tried to contact him about covering a job.

Councillor Gordon Blair raised a point of order on the relevancy of the questions.

The Governance Manager, Mrs Barton, pointed out to Mr McIntyre-Stewart that his questions should relate to the submission from the Applicant and she encouraged Mr McIntyre-Stewart to remain focussed on the points that have been made by Mr Romilly.

The Council's Solicitor, Ms Macdonald, referred to both parties alluding to previous complaints which did not form part of this hearing. She advised that complaints had been

made against Mr Romilly to the Licensing Team and that these had been investigated and not upheld. She advised that Mr McIntyre-Stewart was bringing up some of those complaints again in this forum and reiterated that he should be focussing on the application and matters relevant to this hearing and the application.

The Chair supported the points made in the point of order. He advised that he was trying to give both parties a full opportunity to present their case and asked that they could both keep to points that were really relevant.

Mr McIntyre-Stewart asked Mr Romilly if he was aware of where these complaints came from.

Councillor Mark Irvine raised a point of order and said he was struggling to see the relevancy of these complaints and allegations. He said this appeared to be a civil matter between 2 parties and that he did not think it was relevant to this application and should be taken offline between the 2 parties.

The Chair advised that he was trying to give both parties the fullest opportunity to present their case. He said he had given the Applicant the opportunity to raise a number of points which he had and in the interests natural justice it was only right that the Objector should also be able to put reasonable questions to the Applicant in terms of their submission.

Councillor Irvine said he was uncomfortable with the unsubstantiated allegations and questioned whether the constant back and forth was advancing the process of determining this application.

OBJECTOR

Mr McIntyre-Stewart referred to there being a lack of trade. He commented on the cost of living crisis and said that the full difficulty of that had still to be seen. He advised that people were already stopping using taxis in the Helensburgh and Lomond area. He said that his business chose to go out to Arrochar and Kilcreggan for short journeys and that they were losing money just to fill these gaps. He said that he has heard nothing in Mr Romilly's submission that he would be prepared to do the same.

He referred to the points raised in relation to the allegations made by a member of the public. He said he had sought advice from the Council and had been told to refer to this person as a member of the public rather than naming them. He said that Mr and Mrs Romilly had given names in their statement and he said these were quite serious allegations. He commented that the Committee had a duty of care to the public and he hoped that they would not ignore these for other reasons.

Mr McIntyre-Stewart said there was clearly a lot of money being made by Mr Romilly's business and he questioned why he was not VAT registered.

Mr McIntyre-Stewart advised that Mr McNeil had called him today to advise that Mr Romilly had asked him to submit an email to say that he was withdrawing his objection. Mr McIntyre-Stewart said he was clearly not withdrawing his objection. He commented that Mr Romilly had also asked Mr Dornan to do the same. Mr McIntyre-Stewart advised that Mr Dornan had asked him to inform the Committee of an incident that had occurred when Mr Dornan had been at Mr Romilly's house and he explained the circumstances around that. Mr McIntyre-Stewart said there were clearly questions as to whether or not Mr Romilly was a fit and proper person. Mr McIntyre-Stewart said he was not saying the

same of Mrs Romilly as he did not know her well enough and that he had no reason to say she was not a fit and proper person.

Mr McIntyre-Stewart alleged of times when Mr Romilly had been intimidating toward the other objectors. He said that Mr Romilly had a reputation for not being suited to the taxi industry and said that summed up what everyone had been saying to him.

Mr McIntyre-Stewart referred to the minutes from a previous meeting in respect of the application for his current vehicle, and said that Mr Romilly had contradicted himself in respect of a number of issues. He said this pointed to the fact that Mr Romilly was known to embellish the truth and he advised that he believed he had done so again today.

QUESTIONS FROM APPLICANT

Mr Romilly referred to Mr McIntyre-Stewart continuing to go back to a past meeting of the PPSL Committee and to him making allegations that he was not a fit and proper person. He asked Mr McIntyre-Stewart to point out where these allegations have come from as he had not received anything about them. Mr McIntyre-Stewart said that on the day the 5 letters of objection were submitted someone from Garelochhead had come forward with allegations and he explained what these were. He also referred to an incident which he had witnessed at the taxi rank. He said he was aware of at least one complaint that had been submitted to the Council about Mr Romilly's behaviour.

Mr Romilly sought and received confirmation from Mr McIntyre-Stewart that he had hand delivered the 5 objections to the Council. Mr McIntyre-Stewart said the wording of the objections was given to him and that he had typed them up. He said that Mr McNeil, Mr Franks and Ms Clerk had come together to decide the best wording and that was why the contents of their objections were similar. Mr McIntyre-Stewart said that he had not met with the objectors to discuss the wording. He advised that they had sent the wording to him via WhatsApp and he had then typed the objections up and sent them back for them to sign off.

MEMBERS' QUESTIONS

Councillor Kain sought and received confirmation from Officers that this hearing was being held to consider the application for a taxi car licence for car registration T400 WLF and the next hearing scheduled for 2.45 pm being held to consider the application for a taxi car licence for car registration T500 WLF.

Councillor Kain referred to a photograph contained within the Agenda packs which showed a licence plate T300 WLF. Mr Romilly confirmed that this was his electric London Taxi which he held a licence plate for (no. 6578). He said the current plate was under his name.

Councillor Brown sought and received confirmation from Mr Romilly that he currently held one Taxi Car Licence and that he was applying for 2 more car licences to add to his business.

Councillor Wallace referred to claims about inappropriate behaviour and sought and received confirmation from Mr Romilly that he'd had no involvement with either the Police or the Licensing Team in regard to any claims made.

Councillor Green asked Officers if Police Scotland would have been made aware of this application and given the opportunity to comment if they wished. Ms Macdonald confirmed that Police Scotland had not submitted a representation or objection in respect of this application. In relation to any allegations of impropriety, she said that the Council would not disregard any allegations in that regard.

Councillor Irvine sought and received confirmation from Ms Macdonald that there were currently 47 car licences in the Helensburgh and Lomond area and at the time of the LVSA report in 2014 there were 48.

SUMMING UP

Objector

Mr McIntyre-Stewart said that complaints have been made to Police Scotland. He said that one of these was some years ago when Mr Romilly first arrived in Helensburgh. He referred to the details of this and said that nothing had come of it. He also referred to the details of another complaint submitted. He said he could not name the person from Garelochhead but knew that they had made an approach to the Council and had received no response. He said it was important for the Committee to be aware that there had been some Police involvement.

Applicant

Mr Romilly thanked the Committee for their time. He said he hoped the Committee could see how much of a witch hunt this was. He said that he has had no involvement with the Police and that he was not aware of any of the allegations mentioned.

He said that all the vehicles he would run would have internal tracking systems installed. He advised that this plate would allow his business to operate to the high standard they have been rated as. He advised that he had a lot of regular customers and that the current vehicle was wheelchair accessible. He said that they could not serve the amount of customers they had at the moment. He said he hoped the Committee would see how much of a witch hunt this was and that all of the claims were just hearsay.

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

DEBATE

Councillor Irvine raised a point of order. He asked if Officers could confirm if any written objection against the Applicant had gone unanswered. Ms Macdonald advised that there had been previous complaints in relation to the Applicant along similar lines to those raised today. She said these were investigated by the Licensing Team and Legal Services and it was considered that there were no arguable points in relation to these complaints that would be taken to the Committee and that the complaints lodged were not upheld. She referred to comments about a couple of complaints submitted recently which she said she was unaware of. She confirmed that the complaints that have been investigated were not upheld.

Councillor Armour commented on hearing a lot that had little to do with this application. He said that he would assume that it would be normal for Police Scotland to have had sight of this application and that they would have had sight of these objections. He commented that some of these objections and allegations were pretty serious and had the

Police thought they needed investigating, he would have thought they would have put an objection in. The fact that they had not done so, he said, led him to believe that the application was valid and that the taxi provision would allow it. He said he could see no problem in accepting that this application go through.

Councillor Hardie commented that there was no Police objection and a lot of hearsay. He said he would be happy to grant this application.

Councillor Martin agreed that on the basis of what had been stated and also being comforted that the Police had no objection, she would be happy to grant the application.

Councillor Blair said that it was important to take complaints seriously. He commented that the Committee wanted the best quality vehicles and drivers in all areas. He said that he felt there was a lot of conjecture today. He added that if there were any issues about taxi drivers or vehicles there were procedures there to deal with these. He confirmed he would be happy to grant the application.

DECISION

The Committee unanimously agreed to grant a Taxi Car Licence to Mr and Mrs Romilly for Car Registration T400 WLF and noted that they 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, 20 SEPTEMBER 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 Audrey Forrest	Councillor Luna Martin
Councillor Graham Hardie	Councillor Peter Wallace

Attending: Shona Barton, Governance Manager
Fiona Macdonald, Solicitor
Morgan Romilly, Applicant
Hayley Romilly, Applicant
Stephen McIntyre-Stewart, Objector

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Amanda Hampsey, 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 A TAXI CAR LICENCE (M ROMILLY AND H ROMILLY, HELENSBURGH)

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

Stephen McIntyre-Stewart, Objector also opted to proceed by way of audio call and joined the meeting by telephone.

All of the other objectors (Mark Franks, Paul Dornan, Colin McNeill and Kimberley Clerk) were unable to attend today and had asked Mr McIntyre-Stewart to speak on their behalf.

The Chair then outlined the procedure that would be followed and invited the Applicants to speak in support of their application. He advised that as the same parties were present for this hearing as the previous one held at 2.00 pm, the Committee would take account of the information presented before.

APPLICANT

Mr Romilly advised that this application was for a Taxi Car Licence for a 9 seater vehicle (registration number T500 WLF), capable of carrying 8 passengers. He said that it was fully diesel at this time. The sole purpose of this vehicle, as well as supporting the others,

would be to stay on the Loch side. He referred to the LVSA survey report and everything referring to Helensburgh and Lomond and to Mr McIntyre-Stewart advising at the previous hearing of the need to serve Arrochar, Luss and Tarbet. He said that you could constantly see West Dunbartonshire cars going up and down so some did provide a service there. He commented that Mr McIntyre-Stewart had previously referred to the difficulties of serving an area 35 minutes up the road from where a vehicle was located. Mr Romilly advised that if this plate was granted they had contracts in place up the Loch side and that the vehicle would permanently reside in Arrochar. He said that he and his wife were considering a move to Arrochar.

He said that he had received massive support for this vehicle from businesses such as Luss Estates, Lennox of Lomond and the Golf Club. Mr Romilly advised that he had also received fantastic support from the Three Villages Hall Committee.

He advised that the vehicle may appear in Helensburgh on occasions but the sole purpose would be to be based in Arrochar and serve the people of the three villages from there. He referred to regularly getting customers looking for transport from Arrochar train station to distances of less than half a mile and that it could not be justified sending a car up there for a £3 or £4 hire. He said it seemed that the people of these villages had been forgotten about.

He said there was huge support for a taxi dedicated to these villages. He referred to the local bus service being infrequent and did not allow locals and tourists to move about. He said this 8 seater vehicle would be capable of carrying people between businesses and he believed the Council would have received an email about how much this service was needed in the area.

QUESTIONS FROM OBJECTOR

Mr McIntyre-Stewart asked Mr Romilly if he would intend charging a call out fee and, if not, how would he make his business model work. Mr Romilly advised that he did not intend to charge a call out fee. He said the vehicle would remain in the area and that the driver would live there so the vehicle would have a permanent base in the village.

Mr McIntyre-Stewart referred to Mr Romilly's plans to move to Arrochar and asked how that would work for him covering the whole of Helensburgh and Lomond. He said it did not make a lot of sense. Mr Romilly said he would use his vehicles wherever they were needed and that if wanted to operate dead mileage he would.

Mr McIntyre-Stewart referred to Mr Romilly saying he operated a 24 hour service and asked if he had received many complaints about calls going unanswered. Mr Romilly said that he always returns calls to customers. He referred to loss of mobile signal at times when driving.

OBJECTOR

Mr McIntyre-Stewart said the main point was that as a plate was granted at the previous hearing this brought the number of plates for the Helensburgh and Lomond up to 48. He said that business in Helensburgh and Lomond had dramatically reduced compared to pre Covid times and he advised that it was likely to fall further due to the cost of living crisis. He said that he was seeing taxi drivers dropping out. He said that what was needed was competition and that he believed granting another plate to an already operating business, instead of a separate individual, would stifle competition.

QUESTIONS FROM APPLICANT

Mr Romilly advised that he had no questions.

MEMBERS' QUESTIONS

Councillor Blair asked the Applicant how many taxis in total there were in Arrochar and if the area was now up to capacity. Mr Romilly advised that as far as he was aware there were no taxis operating in the area. He referred to a survey carried out by the Three Villages Hall Committee, which stated they found it extremely difficult to get a taxi and that there was no taxi service based in Arrochar or Tarbet. He referred to the LVSA report saying there was 48 taxis and said this was heavily focussed on Helensburgh.

Mr McIntyre-Stewart advised of having one taxi for the Arrochar and Tarbet area. He said the difficulty people had was not about getting a taxi, it was about not getting a taxi without being charged a call out. He said his business was affected by this.

SUMMING UP

Objector

Mr McIntyre-Stewart referred to Mr Romilly indicating that he intended to work in the Arrochar area and that he understood he had work coming out from some parts of Arrochar and Tarbet. He said that this new taxi licence would severely curtail his opportunities. He said that he had one vehicle designated for that area and that they also covered the Loch side. He said that the only service that Mr Romilly would add to the area was that this vehicle could take 8 passengers. He suggested that due to the short journeys, customers were quite happy to hire 2 vehicles to do a run.

Applicant

Mr Romilly said that this 8 seater vehicle would be dedicated to the north of Loch Lomond, Arrochar, Tarbet and Luss. He said there were contracts in place to make this a sustainable vehicle for the area. He advised that he had received positive responses from the Three Villages Hall Committee and the evidence of this had been submitted to the Licensing Team this morning. He referred to 48 vehicles now covering the Helensburgh and Lomond area and he said that he believed this area should be seen as 2 separate areas. He said that Luss and Tarbet were the forgotten villages.

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

DEBATE

Councillor Brown sought and received confirmation that the total number of taxi licences in the Helensburgh and Lomond area was 48, following the granting of a licence at the previous hearing. This brought the total to the same number of taxis that operated when the LVSA survey was carried out.

Councillor Brown asked if there was any leeway for the Committee to grant another licence, given the intention to only run this taxi at the north end of Loch Lomond.

Councillor Green said that the Committee always had leeway. He said it was up to the Committee to determine whether or not it would be appropriate and the Committee could choose whatever information was relevant to determine whether an exception could be made.

The Governance Manager, Mrs Barton, advised that the LVSA survey was taken forward by the PPSL Committee and an agreement was made that any future applications for taxi car licences would come to the Committee for consideration regardless of any objections. She said it was not her view that the report was binding in terms of numbers and that it was there for information. She said that she believed there had been occasions when the Committee have granted licences that have taken an area above the numbers in the report.

Councillor Kain said he would be inclined to approve this application as it seemed that it would benefit Arrochar and other smaller locations which were not properly served at the moment.

Councillor Irvine agreed with Councillor Kain and said he would be happy to support the application. He said that Arrochar was within his Ward and that he was familiar with the geography of the area. He said there were lots of short-term lets and Airbnbs in the area and that there had been a lot of local support for a taxi based in Arrochar at a Community Council meeting and on social media. He said he was sure there was demand and that it would be up to the Applicant to justify his business model and, if he could support that, then he was minded to support the employment of a driver in these areas.

Councillor Blair said he was minded to support this application on the basis of support from the community and the rural nature of that area. He questioned whether a condition could be put on the licence or if the Committee should just take the Applicant's word about where the taxi would operate. He said that a taxi in this area would help service the public transport network and from a connectivity aspect that was good. He commented that it was only up and over the hill to Lochgoilhead and that he was minded to support the application on this occasion.

Councillor Green said that he thought placing a condition on the licence would be overly onerous on the Operator and this would prevent them from picking anyone up from Helensburgh after dropping someone off from Arrochar.

DECISION

The Committee unanimously agreed to grant a Taxi Car Licence to Mr and Mrs Romilly for Car Registration T500 WLF and noted that they 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, 20 SEPTEMBER 2023**

Present: Councillor Kieron Green (Chair)

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

Attending: Shona Barton, Governance Manager
Fiona Macdonald, Solicitor
Sergeant David Holmes, Police Scotland
Licence Holder

1. APOLOGIES FOR ABSENCE

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

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: REQUEST FOR SUSPENSION OF TAXI DRIVER LICENCE

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

The Licence Holder opted to proceed by way of audio call and joined the meeting by telephone.

The Chair outlined the procedure that would be followed and invited Police Scotland to speak in support of the Chief Constable's complaint.

POLICE SCOTLAND

Sergeant Holmes read out the contents of a letter from the Divisional Commander dated 4 August 2023 which requested the immediate suspension of the licence and outlined the reasons for this.

QUESTIONS FROM LICENCE HOLDER

The Licence Holder was given the opportunity of asking Police Scotland questions.

LICENCE HOLDER

The Licence Holder spoke in support of his Licence.

QUESTIONS FROM POLICE SCOTLAND

There were no questions from Police Scotland.

MEMBERS' QUESTIONS

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

SUMMING UP

Police Scotland

Police Scotland were given the opportunity to sum up.

Licence Holder

The Licence Holder was given the opportunity to sum up.

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

DEBATE

The Members debated the request for suspension of the Taxi Driver Licence.

DECISION

The Committee unanimously agreed to suspend the Taxi Driver Licence with immediate effect until 21 February 2024 when it would be considered again by the PPSL Committee, and it was noted that the Licence Holder would receive written confirmation of this decision within 7 days.

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

CONSUMPTION OF ALCOHOL IN DESIGNATED PLACES BYELAWS

1.0 INTRODUCTION

The purpose of this report is to report to members on a review on the Consumption of Alcohol in designated places Byelaws which is due for review in 2024.

Argyll and Bute Council made byelaws in relation to the consumption of alcohol in designated places which came into force in 1999. They were amended in 2009.

The byelaws were most recently reviewed in 2014 when, following information provided by the police, areas in Oban were added namely Soroba, Glengallan and Pulpit Hill.

- 1.1 In terms of Section 201 of the Local Government (Scotland) Act 1973, byelaws require to be reviewed not later than ten years from the coming into force of the byelaw and every 10 years thereafter

2.0 RECOMMENDATIONS

- 2.1 Members are requested to

- a) Note the position with regards to the review of the Byelaw prohibiting consumption of alcohol in designated areas in Argyll and Bute which is due for review in 2024.
- b) Agree to recommend to the Council that no change to the byelaw is required at this time, in the knowledge that should there be any changes in circumstances that a formal review could take place at any point before the next period of review subject to adherence to Scottish Government Guidelines and their consequent approval and confirmation.

3.0 DETAIL

- 3.1 This report advises the Council on the Byelaws prohibiting consumption of alcohol in designated areas which is due for review in February 2024
- 3.2 Under section 201(1) of the Local Government (Scotland) Act 1973 (“the 1973 Act”), a local authority may make byelaws for the good rule and government of the whole or part of their area, and for the prevention and suppression of nuisances therein. Almost all local authorities in Scotland have an alcohol byelaw that covers a population or geographical area.
- 3.3 The Council resolved to make bye-laws to prohibit the consumption of alcohol within designated public places in Argyll and Bute in 1999. The consumption of Alcohol Byelaws were reviewed most recently in 2014 when, following information from the police, areas in Oban were added namely Soroba, Glengallan and Pulpit Hill.

The designated areas covered by the Consumption of Alcohol Byelaw are on the website. There is a separate byelaw for Luss [Public drinking byelaws | Argyll and Bute Council \(argyll-bute.gov.uk\)](#)

- 3.4 Byelaws, once reviewed and established, are in situ for a period of 10 years. If a change of circumstances emerge within the designated areas, byelaws can be reviewed within the 10 year period in line with Scottish Government Guidelines. Changes to the byelaws would be subject to public consultation and require approval and confirmation by the Scottish Government.
- 3.5 Enforcement of the byelaw is provided for in sections 128 and 129 of the Antisocial Behaviour etc. (Scotland) Act 2004 which gives police powers to issue a fixed penalty notice for drinking alcohol in contravention of byelaws made under sections 201-203 of the 1973 Act. If an offender refuses to pay the fixed penalty notice or wishes to challenge the allegation in court and is found guilty, the offender is liable on summary conviction to a fine not exceeding level 2 (£500) on the standard scale.
- 3.6 Police Scotland have been consulted on a review of the Consumption of Alcohol Byelaw given their knowledge of crime figures and powers of arrest to tackle alcohol related anti- social behavior. They have not provided any comment.

4.0 CONCLUSION

- 4.1 The Byelaws in respect of consumption of alcohol designated places in Argyll and Bute is due for review in February 2024. In light of the fact that no comments have been received from Police Scotland, it is recommended that no change to the Byelaws is made at this time. Having completed the regulatory element of the review process we will update the local community councils on the outcome and confirm that should there be any changes in circumstances within the area in the future, it is possible that a formal review could take place before the next period of review. This would be subject to adherence to Scottish Government Guidelines and their consequent approval and confirmation.

5.0 IMPLICATIONS

- 5.1 Policy: The application of the Byelaw process is consistent across all areas of Argyll and Bute.
- 5.2 Financial : None
- 5.3 Legal; Byelaws are a legal process subject to section 201(1) of the Local Government (Scotland) Act 1973 and Scottish Government guidance, approval and confirmation.
- 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 Risk: Process ensures byelaw continues to be fit for purpose
- 5.7 Customer Service: None.

Douglas Hendry

Executive Director with responsibility for Legal and Regulatory Support

Councillor Kieron Green Policy Lead

18th October 2023

For further information contact: David Logan, Head of Legal and Regulatory Support

ARGYLL AND BUTE COUNCIL

**PLANNING, PROTECTIVE SERVICES &
LICENSING COMMITTEE**

LEGAL AND REGULATORY SUPPORT 18 OCTOBER 2023

PRIVATE HIRE CARS AND TAXIS LICENSED IN ARGYLL & BUTE

1.0 EXECUTIVE SUMMARY

The Planning, Protective Services and Licensing Committee agreed at their meeting on 18 November 2020 that Officers should prepare periodic reports at least every six months providing updates on the number of private hire cars and taxis across the licensing authority's area.

ARGYLL AND BUTE COUNCIL

**PLANNING, PROTECTIVE SERVICES &
LICENSING COMMITTEE**

LEGAL AND REGULATORY SUPPORT 18 OCTOBER 2023

PRIVATE HIRE CARS AND TAXIS LICENSED IN ARGYLL & BUTE

2.0 INTRODUCTION

2.1 Following publication of the Scottish Government's best practice guidance on the power to refuse to grant private hire licences on the grounds of over provision, consideration was given to a report inviting Members to amend the procedure for determining private hire car licence applications.

The Committee agreed at their meeting on 18th November 2020:

- a) that all future unopposed applications for private hire car licences may be granted by Officers on a delegated basis; and
- b) that Officers should prepare periodic reports at least every six months, for the Planning, Protective Services and Licensing Committee providing updates on the number of private hire cars and taxis across the licensing authority's area.

The last report was considered by the Committee on 19th April 2023.

3.0 RECOMMENDATIONS

3.1 That the members note and consider the number of private hire cars and taxis across the licensing authority's area as detailed in Appendix 1 and 2.

4.0 DETAIL

4.1 The purpose of this report is to provide an update on the numbers.

5.0 CONCLUSION

5.1 An update of these figures will be provided on a 6 monthly basis.

6.0 IMPLICATIONS

6.1 Policy: None

6.2 Financial: None

6.3 Legal: None

6.4 HR: None

6.5 Fairer Scotland Duty:

6.5.1 Equalities - protected characteristics

6.5.2 Socio-economic Duty

6.5.3 Islands

6.6 Climate Change: None

6.7 Risk: none

6.8 Customer Service: None

Douglas Hendry

Executive Director with responsibility for Legal and Regulatory Support

Policy Lead Kieron Green

2nd October 2023

For further information contact: Sheila MacFadyen Ext: 4265

Appendix 1 – STATISTICS ON NUMBER OF TAXI LICENCES – ARGYLL AND BUTE – October 1
2023

Appendix 2 - STATISTICS ON NUMBER OF PRIVATE HIRE CAR LICENCES (with addresses in
the areas) – ARGYLL AND BUTE – Oct 2023

Appendix 1

STATISTICS ON NUMBER OF TAXI LICENCES – ARGYLL AND BUTE – October 2023

Area	No. Taxis referenced in LVSA Report 2019	No. Licences lapsed since LVSA report	New licences granted since LVSA report	Licences surrendered since LVSA report	Current Total	No. Licences as at Sept 2023
Bute & Cowal	57 Mistake on report Actual no. 54	0	1	0	55	55
Helensburgh & Lomond	48	5	12	6	49	49
Mid Argyll, Kintyre & Islay	24	1	1	1	23	23
Oban, Lorn & Isles	52	3	4	2	51	51

Appendix 2

STATISTICS ON NUMBER OF PRIVATE HIRE CAR LICENCES (with addresses in the areas) – ARGYLL AND BUTE –Oct 2023

Area	No. Private Hire Car referenced in LVSA Report 2019	No. Licences lapsed since LVSA report	New licences granted since LVSA report	Licences surrendered since LVSA report	Current Total	No. as at September 2023
Bute & Cowal	1	2	5	0	4	4
Helensburgh & Lomond	14	8	7	5	8	8
Mid Argyll, Kintyre & Islay	37	11	15	5	33	33
Oban, Lorn & Isles	16	3	2	4	10	10

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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: 23/00652/PP

Planning Hierarchy: Local Application

Applicant: Ms Gail Crawford

Proposal: Alterations and extensions

Site Address: 4 West Lennox Drive Helensburgh Argyll And Bute G84 9AD

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

i) Development Requiring Express Planning Permission

Alterations and extensions

Ground engineering works to repair and alter surface water drainage within the site

ii) Other Specified Operations

None

(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission be granted subject to the conditions and reasons appended to this report.

(C) HISTORY:

12/01550/TPO - Felling of one Cypress tree and one Silver Birch tree - Agreed 21.08.2012

18/01894/TPO - Proposed felling of 2 trees- Agreed 13.09.2018

(D) CONSULTATIONS:

Environmental Health - Helensburgh And Lomond – 28.09.2023 - No objection subject to conditions

Roads Helensburgh And Lomond - 31.07.2023 – No objection

Historic Environment Scotland - 10.07.2023 – No objection – consultation response notes;

The Hill House is several streets away, with no inter-visibility with 4 West Lennox Drive, and is not likely to experience any impacts on its setting. As well as Red Towers, we have also considered potential impacts on nearby Category A-listed Brantwoode on Munro Drive West. We have considered how the surroundings of Red Towers and Brantwoode contribute to an understanding, appreciation, and experience of their cultural significance and do not think the proposed extensions at 4 West Lennox Drive would have a significant adverse impact on their settings.

Helensburgh Community Council - 10.07.2023 – objection – consultation response summarises;

This planning application should be rejected by A&BC. The design of the extension to 'Redholm's' western elevation is unattractive and inappropriate. It will make the house appear lop-sided and destroy the attractive symmetry from its present central relationship with the site overall. And, it is likely there will be serious negative impacts on the amenity of its 'Whincroft' neighbours. Finally, it will damage – not enhance – the contribution 'Redholm' makes to the HCCA. Because of the strongly-held, vociferous and well-argued opposition from neighbouring residents and with 'Redholm' sitting in the HCCA HCC asks that this application be determined by a public hearing of Argyll & Bute Council's PPSL committee. And not be behind closed doors. The residents deserve no less and have full support of Helensburgh Community Council in their opposition to this planning application.

Built Heritage Conservation Officer - 23.06.2023, 03.08.2023, 26.09.2023 & 05.10.2023 – The conservation officer's key responses are detailed within the main body of this report.

(E) PUBLICITY:

Advert Type: Listed Building/Conservation Advert

Expiry Date: 29.06.2023

(F) REPRESENTATIONS:

A total of 29 representations have been received from third parties. 28 of these are objections to the proposal and the remaining one is a representation.

i) Representations received from:

Objection

Suzanne Hamilton Whincroft 2A Upper Colquhoun Street Helensburgh 07.06.2023, 16.08.2023, 22.09.2023, 05.10.2023

Scott Hamilton Whincroft, 2A Upper Colquhoun Street Helensburgh Argyll And Bute G84 9AQ 07.06.2023, 05.10.2023

Lesley Carruthers Address Not Provided 13.06.2023

Ron Cromar Lower Culverden 2 West Lennox Drive Helensburgh Argyll And Bute 13.06.2023

Anne Cromar Lower Culverden 2 West Lennox Drive Helensburgh Argyll And Bute 13.06.2023

Russell Vallance Redtowers 4 West Douglas Drive Helensburgh Argyll And Bute 08.06.2023, 30.08.2023

Sally Butt Upper Culverden 2A West Lennox Drive Helensburgh Argyll And Bute 13.06.2023, 31.08.2023

Gillian Sproul Redtowers 4 West Douglas Drive Helensburgh Argyll And Bute 08.06.2023, 30.08.2023

Corinne Henderson Brantwoode 4 Munro Drive West Helensburgh G84 9AA 12.06.2023, 05.10.2023

Ruth Munro 2 Upper Colquhoun Street Helensburgh Argyll And Bute G84 9AQ 12.06.2023

David Henderson Brantwoode 4 Munro Drive West Helensburgh G84 9AA 12.06.2023,
20.07.2023, 05.10.2023
Theresa Fury 11 Upper Colquhoun Street Helensburgh Argyll And Bute G84 9AQ
01.07.2023
Michael Davis 79 Main Street Ochiltree East Ayrshire KA18 2PE 10.07.2023
Sonia Sharp 17 Harris Grove East Kilbride Glasgow G75 8TU 24.06.2023
John Butt Upper Culverden 2A West Lennox Drive Helensburgh Argyll And Bute
13.06.2023, 31.08.2023
Neil Douglas 4 Upper Colquhoun Street Helensburgh Argyll And Bute G84 9AH 15.07.2023
Max Carruthers 5 Upper Colquhoun Street Helensburgh Argyll And Bute G84 9AQ
13.06.2023
Alastair Wilson 7 Upper Colquhoun Street Helensburgh Argyll And Bute G84 9AQ
04.06.2023, 05.10.2023
Janette Wilson 7 Upper Colquhoun Street Helensburgh Argyll And Bute G84 9AQ
12.06.2023
Ruth Munro 2 Upper Colquhoun Street Helensburgh Argyll And Bute G84 9AQ 13.06.2023
Liliana Sheychenko 6 West Munro Drive Helensburgh Argyll And Bute G84 9AA 08.06.2023
Mr Garry Sharp 17 Harris Grove East Kilbride Glasgow G75 8TU 23.06.2023
John Shelton 3 West Douglas Drive Helensburgh Argyll And Bute G84 9AL 26.06.2023,
18.07.2023, 11.06.2023, 25.09.2023, 28.09.2023, 02.10.2023
San Choi Wong 1 West Douglas Drive Helensburgh Argyll And Bute G84 9AL 13.06.2023
Sally Shelton 3 West Douglas Drive Helensburgh Argyll And Bute G84 9AL 13.06.2023,
28.09.2023
Sheila Clarke 25 Larchfield Colquhoun Street Helensburgh Argyll And Bute 01.07.2023
Alistair McLuskey 6 West Munro Drive Helensburgh Argyll And Bute G84 9AA 05.07.2023,
07.06.2023, 24.09.2023, 02.10.2023

Representation

Gary Mulvaney No Address Given 16.08.2023

ii) Summary of issues raised:

Note that the massing of the proposed extensions is not in keeping with the existing property

Comment; *Please see full assessment below*

Concern that the modern extensions will be out of keeping with the existing traditional property

Comment; *Please see full assessment below*

Concern about the impact of the proposals on the setting of the nearby A listed properties as well as the neighbouring B listed property

Comment; *Please see full assessment below*

Note that the footprint of the proposed extension and garage will negatively affect the existing surface water drainage for the site

Comment; *The applicants have submitted drainage plans which indicate proposed repairs and alterations to the existing drainage which are considered acceptable. The increased size of the built element on the site is approximately 80sqm which is not considered to be significant enough to result in the requirement for additional surface water drainage*

Concern that the proposed drainage for surface water is insufficient

Comment; *Plans have been submitted to show a re-routed and repaired method of surface water drainage for the site which will tie back into the existing surface water drainage for*

the site. I have been to site and viewed the issues with the current broken surface water drainage and I am content that the proposed alterations to reinstate this are sufficient. As this is a proposed extension and not a new build there is no requirement for the applicants to install a new SUDS system. They do however require consent to alter the existing drainage which is broken given this involves engineering works. They intend to do this by digging a new french drain at the rear of the site to pick up the broken field drains which were discharging water into the solum of the property and then route the new field drain to the front of the property to tie in with the existing drainage discharge

Concern that the existing combined sewerage pipe could be compromised by the proposed repairs and alterations to surface water drainage

Comment: *this is noted however, should this occur then this would be a private civil matter*

Concern that the proposed hard landscaping will cause further issues with surface water drainage

Comment: *this is noted and I would note that a safeguarding condition should be added to the decision notice requiring that a scheme of hard and soft landscaping is submitted to and approved by the authority prior to works starting on site and that any hard landscaping proposed must be permeable*

Concern that the proposed extension and drainage works will affect the roots of an important copper beech tree located within the neighbouring garden

Comment: *This is noted and I have visited the site to understand where the extension will lay in relation to the tree roots. It is confirmed that the proposed extension is out with this trees canopy. However, a safe guarding condition will be added to the decision notice requiring that this tree is protected at all times during construction works. It is also noted that a TPO is being sought by the authority to further safeguard this tree*

Concern that the proposed extension will result in the overshadowing and loss of privacy to neighbouring properties

Comment: *Please see full assessment below*

Note that trees have been removed within the proposals site without consent

Comment: *This is being dealt with as a separate enforcement matter*

Note that the property is not as neglected as the application portrays

Comment: *I have visited site and viewed the property both internally and externally and therefore have a good understanding of the current state of the property to inform my recommendations*

Note that the existing rooms on the floor plans are mislabelled by way of an existing study being marked as a bathroom

Comment: *As the property is not listed any internal alterations to the existing property do not require consent*

Concern that the trees indicated on submitted plans are not correctly shown

Comment: *I have visited the site and therefore have a good understanding of the existing trees within the site and surrounding the property*

Concern in regards to unauthorised ground works that have taken place on the site and are yet to be rectified

Comment; *This is being dealt with as a separate enforcement matter*

Concern that the drawings submitted do not show the finished external ground levels on the site in particular to the rear where the unauthorised ground works have taken place

Comment; *The applicants have provided updated sections which adequately show the proposals for these areas*

Concern that the viewpoints used by the applicants in showing the impacts of the proposal on the wider conservation area are inaccurate

Comment; *I have visited the site and the surrounding conservation area with the design and conservation officer and therefore have a good understanding of the surrounding conservation area and viewpoints used and do not consider the viewpoints used by the applicant to be inaccurate*

Note that neighbours would request a site visit from committee members so they best understand the site prior to determining the application

Comment; *This is noted and members will be informed that this has been requested*

Note that neighbours also request a public hearing to voice their concerns

Comment; *This is noted and members will be informed that this has been requested however, we are not recommending this*

Concern that extension will overlook neighbouring properties and in particular the first floor terrace will overlook the front garden and bedroom window of Whincroft (2a Upper Colquhoun).

Comment; *Please see full assessment below*

Concern that the property might be sub-divided in the future

Comment; *no subdivision has been applied for or indicated at this time. Should the applicants chose to peruse this in the future, this would result in the need for a further application*

Concern that the proposals will harm the character of the surrounding conservation area

Comment; *The design and conservation officer as well as Historic Environment Scotland have been consulted on the proposals and I will summarise their views in my assessment below*

Concern that the precedents used by the applicants within their submission are not within the immediate conservation area

Comment; *This is noted*

Concern that the setting of the A listed Hill House will be effected by the proposals indirectly as visitors will pass the site on route to the Hill House and this has not been considered

Comment; *Historic Environment Scotland have been consulted on the proposals (summary of their comment in Section D above and I will summarise their views in my assessment below in relation to the setting of the Hill House*

Concern that the planting within the site does not positively contribute to the wider conservation area

Comment; A safe guarding condition will be appended to the decision notice to require that a scheme of planting is submitted to and approved by the authority prior to works starting on site. It is further noted that the bio-diversity officer will be consulted on this

Note that the drainage is shared within neighbouring title deeds

Comment; this is a private civil matter

Concern that the perforated metal cladding which is to be used on section of the first floor extension will affect the privacy of neighbouring properties

Comment; This is noted however it is not considered that this material will allow the glazing to act as a window as it is a form off screening. A safeguarding condition will be added to the decision notice requiring samples of all external materials are submitted to and approved by the authority prior to work starting on site and a further safeguarding condition will be added to require that the gazing behind this screening is to be opaque

Concern about the scale of the extensions in terms of overdevelopment of the plot as a whole

Comment; This is noted however, the proposed extensions are not considered to be overdevelopment of the site as the resultant built element on the site is not more than 33% of the overall site

Note that the removal of the existing chimneys, removal of the existing single story extension and alterations to the existing apex roof will affect the character of the existing property and wider conservation area

Comment; Please note that the applicants have amended their proposals and have omitted the proposed roof alterations, they have also amended the design to show to the retention of the two front chimneys, please see full assessment below for further details on this

Note that the revisions to retain two of the chimneys is still not acceptable

Comment; Please see full assessment below

Concern about the proposed repairs to the stonework

Comment; Please see full assessment below, it is also noted that any replacement to the stonework will require samples by way of a recommended condition and that no consent is required to undertake repairs to the property as it is not listed such as the proposed lithomix repairs

Concern that the proposed rear canopy will affect the central stained glass window to the rear elevation

Comment; This is noted however the applicants have submitted drawings to show that the canopy proposed will not harm the stained glass window as it is set proud

Concern that approval of this application would set a precedent

Comment; This noted however each application is assessed on its own merits

Note that the flat roof extensions are not in keeping with the surrounding conservation area or the existing property

Comment; Please see detailed assessment below

Note that the proposed external materials are not in keeping with the existing building or wider conservation area and note that traditional material should be used

Comment; *Please see detailed assessment below*

Note that the existing detached garage should not be demolished to preserve the character of the conservation area

Comment; *The existing garage is not considered to enhance the wider conservation area and is of low quality design, the replacement of this garage with a more appropriate alternative would be considered to enhance the wider conservation area*

Concern that the proposed garage is larger in scale, has a flat roof and does not have the same level of separation that the existing garage affords

Comment; *Please see detailed assessment below*

Concern that the proposed gym which is close to neighbouring properties will result in noise

Comment; *Environmental health have been consulted and have raised no objection in this regard*

Note that the internal fireplaces could be lost

Comment; *the existing property is not listed therefore no permission is required for any internal alterations*

Note that the existing windows are in good condition and do not require replacement

Comment; *this is noted however I have visited site and viewed the condition of the windows in person, the proposed replacements as detailed are timber sash and case replicas but with double glazing, these are considered to be high quality*

Note that the applicants have noted that no trees or on or adjacent to the proposals on the application form and that the drawings showing trees are also incorrect

Comment; *I have visited the site and therefore have a good understanding of the existing trees within the site and surrounding the property and please see the detailed assessment below*

Note that the property is not in the sole ownership of the applicant as indicated on the application form

Comment; *This is a private civil matter*

Note that the application form also notes that no work has started on site and this is not correct as ground works have begun

Comment; *This is noted and the unauthorised works are being dealt with as a separate enforcement matter*

Concern that the proposals will negatively affect the daylight levels to surrounding properties

Comment; *Please see full assessment below*

Note that one of the gate posts has been dismantled and set aside

Comment; *this is noted, the applicants have updated the drawings to show this gate post being reinstated on completion of the works*

Note that the removal of two number windows to the East Elevation of the existing building is unacceptable

Comment; *Please see full assessment below*

Note that the original internal ceiling details should not be lost

Comment; *the existing property is not listed therefore no permission is required for any internal alterations*

Concern in regards to the use of the temporary enclosure of the Hill House as a design precedent

Comment; *This would not be taken into account as this is a temporary structure*

Query as to how far the proposed extension will be to the adjacent properties boundary

Comment; *Drawings indicate that the ground floor of the proposed extension will be approximately just over 5m from the boundary*

Note that the boundary hedge as shown on the drawings is in joint ownership and not in the sole ownership of the applicants property's as indicated on the drawings

Comment; *This is a private civil matter*

Note that the original ridge tiles should not be replaced with zinc

Comment; *Please see full assessment below*

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.

(G) SUPPORTING INFORMATION

- i) Environmental Statement: **N/A**
- ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: **N/A**
- iii) A design or design/access statement: The applicants have provided a summary of their proposals within the opening statement of their original and revised D&A statement as follows;

The proposal is a full internal refurbishment and large contemporary extension to the rear of an unlisted Victorian villa which sits in the Hill House Conservation Area. The existing property consists of a series of grand rooms with significant decorative features, arranged in a formal manner reflective of the time in which it was built. In addition to a full renovation of the existing building to suit a growing family, the client's brief required a new open-plan, light filled kitchen and dining space suited to modern living, with a connection to the garden. The main design changes are proposed for the ground floor. We propose the removal of the existing extension to the north-west corner of the property, allowing us to radically transform the internal space, opening up the corner of the site to create a large central heart to the new home. This new generous open-plan layout will aim to rationalise how one moves and circulates throughout the house, which currently is disadvantaged by the disconnected cellular spaces of the traditional layout. Albeit striking, the scheme seeks to deliver a balanced contemporary interpretation of a house extension to a traditional Scottish Architecture that reflects and respects the original

guise of the building by modernising, yet not overpowering it. To create such a building of this flexibility, a high level of nuanced design in terms of materiality and massing articulation had to be considered. There are also a number of holding works we have proposed to the house to ensure its long term survival;

- Removal of redundant chimneys
- Localised roof repairs
- Refurbishment / Replacement of existing windows
- Localised Sandstone repairs
- Damp treatment

This document also includes; a contextual analysis, an overview of the proposals, a visual impact assessment and the proposed tree protection measures.

- iv) A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: **N/A**

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: N

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

-
- (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 6 – Forestry, Woodland and Trees
- NPF4 Policy 7 – Historic Assets and Places

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 9 – Development Setting, Layout and Design

Local Development Plan Schedules

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

[2016 & December 2016](#)

Natural Environment

SG LDP ENV 6 – Impact on Trees / Woodland

Historic Environment and Archaeology

SG LDP ENV 16(a) – Impact on Listed Buildings

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

SG LDP ENV 18 – Demolition in Conservation Areas

Sustainable Siting and Design

SG LDP Sustainable – Sustainable Siting and Design Principles

Resources and Consumption

SG LDP SERV 2 – Incorporation of Natural Features / SuDS

(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
- Planning History
- [ABC draft Technical Note – Argyll and Bute Windows \(April 2018\)](#)

[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 15 – Protection, Conservation and Enhancement of Our Historic Environment

Policy 16 – Listed Buildings

Policy 17 – Conservation Areas

Sustainable Communities

Policy 61 – Sustainable Urban Drainage Systems (SUDS)

High Quality Environment

Policy 77 – Forestry, Woodland and Trees

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

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

No Pre-application consultation required .

(M) Has a sustainability check list been submitted: N/A**(N) Does the Council have an interest in the site: No****(O) Requirement for a pre-determination hearing: No****(P)(i) Key Constraints/Designations Affected by the Development:**

- Conservation Area
- Listed Buildings

(P)(ii) SoilsAgricultural Land Classification: Built Up AreaPeatland/Carbon Rich Soils Classification: N/APeat Depth Classification: N/A

Does the development relate to croft land? No

Would the development restrict access to croft or better quality agricultural land? N/A

Would the development result in fragmentation of croft / better quality agricultural land? N/A

(P)(iii) Woodland

Will the proposal result in loss of trees/woodland? No

(If yes, detail in summary assessment)

Does the proposal include any replacement or compensatory planting? N/A

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

Status of Land within the Application Brownfield

ABC LDP 2015 Settlement Strategy

Main Town Settlement Area

ABC pLDP2 Settlement Strategy

Settlement Area

ABC LDP 2015 Allocations/PDAs/AFAs etc: N/A**ABC pLDP2 Allocations/PDAs/AFAs etc: N/A****(P)(v) Summary of Assessment and summary of determining issues and material considerations:***Site Description*

Planning permission is sought for the alterations and extensions to an existing detached two storey traditional villa located at; 4 West Lennox Drive, Helensburgh. The existing property is located within the Helensburgh Hill House Conservation Area and is directly adjacent to a category B listed property. Located on the opposite side of the street from the site is A listed Brantwoode and adjacent to this is B listed Strathmoyn. Furthermore, located on the street behind the site is A listed Red Towers and adjacent to this is B listed Tordarroch. It is noted that historically the site was subdivided and a modern dwelling was

built within the rear garden grounds. The area surrounding the property is a well-established residential area consisting of several listed properties as noted above, set with large plots as well as some modern dwellings which have been built within the garden grounds of the original villas.

The house plot measures approximately 2165sqm, the existing house including the single storey element has a footprint of approximately 216sqm, with the single storey element having a footprint of 55sqm. The existing garage has a footprint of approximately 30sqm and the timber sheds have a combined footprint of approximately 18sqm bringing the total built element on site to approximately 264sqm. The existing house is sited towards the rear of the plot with a large front garden. The site gently slopes downhill from North to South.

Proposal Description

The proposal seeks to remove the single storey hipped roof element and replace this with a new two storey extension. This proposed extension has a footprint of 90sqm whereas the original single storey element had a footprint of 55sqm. The proposal also seeks to remove the existing garage which has a footprint of 30sqm and replace this with a larger garage / gym which has a footprint of 70sqm. The proposal also seeks to introduce a covered external 'link' canopy between the garage / gym and the new extension, this has a footprint of 25sqm. The proposals also seek to remove the timber garden sheds. In summary the resultant total built element on the site would be approximately 346sqm in lieu of the 264sqm at present (an increase of 82sqm). This would represent less than 20% of the site being built up which is well under the 33% threshold considered to be overdevelopment. It is also noted that the footprint of the proposed first floor of the extension extends to approximately 50sqm.

The single storey elements of the proposals have a roof height of 3.2m and the two storey element has a roof height of 6.4m. In contrast the existing single storey element has an eaves height of approximately 2.5m and a ridge height of approximately 4.3m.

It is also proposed to alter the existing property on site by replacing 35 existing windows, repairing any stained glass windows, repairing the existing masonry / render, repairing / replacing the existing cast iron rainwater goods to match existing, removal of two first floor windows to West elevation and openings infilled with reclaimed sandstone, removal of existing ground floor window opening to West elevation and opening to be utilised as an internal doorway into the proposed extension, removal of a double ground floor window to North elevation and opening infilled with reclaimed sandstone, removing two of the four chimneys and also roof repairs including lead repairs and replacement, replacement of the existing cement ridge tiles with zinc ridge sheets and replacement of the existing chimney pots. It is noted that the applicants have revised their proposals as originally they had sought to remove three chimneys and had also sought to alter the roof design. The proposals have been revised to omit the originally proposed roof design alterations and also now seek to remove two chimneys as opposed to the three originally applied for. The proposed window replacements are double glazed timber sash and case to match the design of the originals.

The proposed external finishes for the extensions and garage are as follows; external walls including retaining walls (ground floor) - muted pink colour external render finish, external walls (first floor) - perforated 'scalloped' powder coated aluminium sheets colour muted green, external canopy - dark weathering steel finish, flat roofs - dark grey Sarnafil, windows – framed PPC aluminium, first floor terrace balustrade – glazed and roof flashing to garage - PPC flashing to colour match external canopy.

Summary of Assessment

The proposed extensions and replacement garage are located to the sides and rear of the existing property. In terms of the design of the proposed extensions these are

contemporary in materials and massing and seek to create a clear and defined stance on what is new and what is old. In this regards the following policies are considered.

It should be noted that the full assessment is contained within Appendix 1 of this report.

NPF4 Policy 14 sets out 6 qualities of successful places. Of particular note is *'Distinctive – supporting attention to detail of local architectural styles and natural landscapes to be interpreted, literally or creatively, into designs to reinforce identity.'* NPF4 Policy 16 states that householder developments will be supported where they *'do not have a detrimental impact on the character or environmental quality of the home and the surrounding area in terms of size, design and materials'*.

LDP Sustainable Siting and Design Principles requires that the development should integrate into the existing built form, and also to reflect the character of the original dwellinghouse.

Furthermore the design and conservation officer has noted within her consultation response that; *'LDP2 design policy has changed from the current LDP and is generally more supporting of contemporary design. Rather than requiring that the character of the original dwellinghouse is reflected, LDP2 Policy 10 requires that development responds appropriately to the site and wider context but that materials are legible as being contemporary design. Additionally, LDP2 places a requirement to consider the embodied energy and durability of proposed materials.'*

The proposed new extension seeks to use the heavier appearing finishes to the ground floor with the lightweight materials to the first floor. This is to make the design appear lighter as it increase a storey. This coupled with the reduced footprint of the propped first floor and the set back at first floor allows the proposed first floor extension to appear subservient to the existing property and does not dominate it.

NPF4 policy 7 (d) requires that the character and appearance of the conservation area be preserved or enhanced. It sets out relevant considerations of: architectural and historic character; existing density, built form and layout; and context and siting, quality of design and suitable materials. LDP SG ENV 17 also requires that the character or appearance of the conservation area be preserved or enhanced, and LDP2 Policy 17 is substantially the same.

In terms of the proposed window replacements I would the design and conservation officer has provided comments on this and notes; *'There is a preference for retaining historic windows where possible however the policy test is whether the proposal preserves the character or appearance of the conservation area. In this case I must concede that suitable replacements could be fitted without being contrary to this policy. To clarify, the house makes a contribution towards Helensburgh's conservation area but as it is an individual house type rather than a uniform townscape block, and as the building is not listed and there is no requirement to preserve the special historic or architectural interest of the building, whether or not the existing windows remain and are repaired, or new high quality windows that have a similar appearance, will not affect the overall character or appearance of the conservation area.'*

In relation to the existing building and in terms of the removal of the existing single storey element along with the existing non-original detached garage the Design and Conservation Area officer has further noted; *'Justification has been provided in terms of the viability of repair of the garage and side extension including the limited potential of thermal upgrades. In this case I therefore have no further comment on, or objection to, their removal.'*

In terms of the proposed alterations to the existing building is it considered that these when considered cumulatively do not have an adverse effect on the character of the existing

property nor on the wider conservation area. Again the design and conservation officer has further comment on this as follows; *'The policy test is whether the development would preserve or enhance the character or appearance of the conservation area, and whether it would preserve the character, special architectural or historic interest of the setting of any listed buildings. As noted in my consultation responses I feel that the design of the contemporary extension is well thought through and is a positive contribution within the conservation area. I have had concerns over chimney removal and roof reconfiguration and these have been discussed with the agent. The planning officer and myself agreed that the cumulative impact pushed the change in character and appearance to be contrary to policy, however the settled proposal of retaining 2 chimneys and the rear roof reconfiguration is in my view, satisfactory in policy terms as the overall character and appearance of the conservation area will be preserved. Whilst the contemporary extension obviously changes the appearance of the house, I believe that it is complimentary and complies in policy terms with NPF4 Policy 7 (d) and LDP2 Policy 16.'*

External landscaping has also been proposed which is mix of dark and light grey pavers and concrete along with raised planting beds and areas of indicated planting. This information is limited and I would propose to attach a safeguarding condition to any approval requiring that a scheme of hard and soft landscaping is submitted to and approved by the authority prior to works starting on site. This would include any planting which would be considered by the biodiversity officer. I would also note that any hard landscaping would require to be permeable as to not affect the surface water drainage. A retaining wall is also proposed along the Northern boundary that will return around the East and West boundaries to the rear of the existing property. Within the site there are approximately 12 trees that bound the eastern boundary, a single large tree at the southern boundary and 3 trees along the western boundary, no works or removals have been proposed to any trees within the site. In terms of the existing trees on site and any neighbouring trees that may be effected by the proposals such as the large copper beach tree within the adjoining garden of 2 Upper Colquhoun Street, Helensburgh which will have its roots within the sites boundary, it is recommended that these trees will be protected by safeguarding conditions that special protection measures are put in place and maintained during all construction as follows; no excavation shall be undertaken below the canopy of any tree to be retained including the neighbouring copper beach tree and that a 1.2 metre high fence is to be erected at least one metre beyond the canopy of each tree to be retained including the neighbouring copper beach tree.

It is noted that Historic Environment Scotland have been consulted on the proposals due to the possible effects on surrounding listed properties and they have noted; *'The Hill House is several streets away, with no intervisibility with 4 West Lennox Drive, and is not likely to experience any impacts on its setting. As well as Red Towers, we have also considered potential impacts on nearby Category A-listed Brantwoode on Munro Drive West. We have considered how the surroundings of Red Towers and Brantwoode contribute to an understanding, appreciation, and experience of their cultural significance and do not think the proposed extensions at 4 West Lennox Drive would have a significant adverse impact on their settings.'*

NPF4 Policy 16 and LDP SG Sustainable siting and design guide require that proposals do not have a detrimental effect on neighbouring properties in terms of overshadowing or overlooking. It is considered that the proposed extensions will not effect daylight into neighbouring properties or gardens by way of overshadowing as they are set back far enough from the boundaries that when the 45 degreed daylight test is applied the existing hedge screening mitigates any potential impacts including the first floor element. It is also noted that window to window and privacy issues have been considered and I would confirm that following; there are no privacy issues arising form the proposed areas of additional glazing from the front elevation, there are no privacy issues arising on the East elevation as no additional glazing is proposed, to the rear at ground level a double window will be removed and a large area of glazing installed to the proposed extension this will not create any privacy issues as there is existing screening along the Northern boundary and to the

first floor of the proposed extension glazing is proposed to the new shower room which is over 18m from the neighbouring property to the rear, furthermore, the shower room is not a habitable room (a safeguarding condition is proposed to require that this window be of opaque glazing), to the West elevation at ground level glazing is proposed to the gym this is over 18m from neighbouring properties and glazing is also proposed to the ground floor extension, the existing extension to be removed had glazing on this elevation also and the new glazing is successfully screened by existing planting, lastly to the first floor of the proposed extension on the West elevation perforated steel cladding is proposed, this cladding is a form of screening and is not considered to create any issues with privacy (a safeguarding condition has been recommend to request samples of this material to be approved prior to works starting on site – this again will be to ensure that this screening is adequate it is also recommended that a safeguarding condition is added that requires the glazing behind this section of screening be opaque), furthermore, two existing windows are to be removed from this elevation which again mitigates privacy concerns. Lastly the first floor terrace that is proposed is minimal in size and is screened by the existing large copper beach tree located within the neighbouring garden (subject to separate TPO consideration), furthermore, there is an existing level of overlook from the first floor windows, therefore, the limited additional element of overlooking is considered to be within acceptable limits.

Lastly, I would add that during the determination process the applicants have submitted plans to show a re-routed and repaired surface water drainage scheme for the site. It is noted that consent is not required for the repair of existing drainage but is required if there are proposed alterations to this. As such the applicant has submitted drawing to show the surface water drainage alterations. I have been to site and viewed the issues with the current broken surface water drainage and I am content that the proposed alterations to reinstate and alter this are sufficient. As this is a proposed extension and not a new build there is no requirement for the applicants to install a new SUDS system. The submitted drawings show a new french drain running along the northern boundary of the rear site to pick up the broken field drains which where discharging water into the solum of the property and then route the new field drain to the front of the property to tie in with the existing drainage discharge. These proposals would accord with NPF4 Policy 22, SG LDP SERV 2 and LDP2 Policy 61.

To summarise the proposed extensions and replacement garage are not considered to be overdevelopment of the site, the proposed design is considered to be subservient to the donor house as does not dominate it, the clear and deliberate design delineation between the old and the new is welcomed as is in line with policy, the proposed materials are high quality and respect the character of the existing property and wider conservation area, it is not considered that the proposals negatively affect the setting of surrounding listed properties and it is considered that this contemporary extension to a traditional villa is in keeping with the character of the wider conservation area and successfully enhances it. Furthermore, the proposals raise no issues in terms of overlooking, loss of daylight / privacy or amenity to surrounding properties. It is therefore considered that the proposal is in accordance with NPF 4 polices; 1, 2, 3, 6, 7,14, 16 and 22 and Policies LDP STRAT 1, LDP DM1, LDP 3, LDP 9, SG LDP ENV 6, SG LDP ENV 16(a), SG LDP ENV 17, SG LDP ENV 18, SG LDP SERV 2 and SG LDP - Sustainable Siting and Design Principles of the Argyll & Bute Council Local Development Plan as well as Policies 01, 04, 05, 08, 09, 10, 15, 16, 17, 61 and 77 of LDP 2. Taking account of the above, it is recommended that planning permission be granted.

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

(R) Reasons why Planning Permission or a Planning Permission in Principle should be granted:

The proposal accords with NPF 4 polices; 1, 2, 3, 6, 7, 14, 16 and 22 and Policies LDP STRAT 1, LDP DM1, LDP 3, LDP 9, SG LDP ENV 6, SG LDP ENV 16(a), SG LDP ENV 17,

SG LDP ENV 18, SG LDP SERV 2 and SG LDP - Sustainable Siting and Design Principles of the Argyll & Bute Council Local Development Plan as well as Policies 01, 04, 05, 08, 09, 10, 15, 16, 17, 61 and 77 of LDP 2 and there are no other material considerations which would warrant anything other than the application being determined in accordance with the provisions of the development plan.

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

No Departure

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

Author of Report: Emma Jane

Date: 18.09.2023

Reviewing Officer:

Kirsty Sweeney
Area Team Leader
Dated: 29.09.2023

Fergus Murray
Head of Development and Economic Growth

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 23/00652/PP**Standard Time Limit Condition** (as defined by Regulation)**Standard Condition on Soil Management During Construction****Additional Conditions**

1. The development shall be implemented in accordance with the details specified on the application form dated **23/04/2023**, 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
(PL)001 Existing location plan & Block plan	1 of 32	B	28.07.2023
(PL)002 Existing ground floor plan	2 of 32	A	30.03.2023
(PL)003 Existing first floor plan	3 of 32	A	22.05.2023
(PL)004 Existing roof plan	4 of 32	B	18.09.2023
(PL)005 Existing South elevation	5 of 32	B	18.09.2023
(PL)006 Existing West elevation	6 of 32	B	18.09.2023
(PL)007 Existing North elevation	7 of 32	B	18.09.2023
(PL)008 Existing East elevation	8 of 32	B	18.09.2023
(PL)010 Proposed location plan & Block plan	9 of 32	C	18.09.2023
(PL)011 Proposed ground floor plan	10 of 32	B	28.07.2023
(PL)012 Proposed first floor plan	11 of 32	B	28.07.2023
(PL)013 Proposed roof plan	12 of 32	C	18.09.2023
(PL)014 Proposed South elevation	13 of 32	C	18.09.2023
(PL)015 Proposed West elevation	14 of 32	C	18.09.2023
(PL)016 Proposed North elevation	15 of 32	C	18.09.2023
(PL)017 Proposed East elevation	16 of 32	C	18.09.2023
(PL)018 Proposed section A-A	17 of 32	A	28.07.2023
(PL)020 Existing window schedule	18 of 32	A	22.05.2023
(PL)021 Proposed	19 of 32	A	24.04.2023

window replacements			
(PL)030 Existing door schedule	20 of 32	A	22.05.2023
(PL)040 Images of areas for demolition	21 of 32	A	24.04.2023
(PL)050 Existing section A-A	22 of 32	A	18.09.2023
(PL)051 Existing section B-B	23 of 32	A	18.09.2023
(PL)052 Proposed section C-C	24 of 32	A	18.09.2023
(PL)053 Proposed section B-B	25 of 32	A	18.09.2023
(PL)054 Proposed section C-C	26 of 32	A	18.09.2023
(PL)055 Proposed section D-D	27 of 32	A	18.09.2023
(PL)056 Proposed section E-E	28 of 32	A	18.09.2023
Proposed drainage drawing	29 of 32	C	28.07.2023
Windows design & access statement	30 of 32	A	24.04.2023
Design & access statement	31 of 32	B	28.07.2023
Visual impact assessment	32 of 32	A	22.09.2023

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

2. Notwithstanding the effect of condition 1; Prior to work starting on site samples of the proposed materials to be used for the external finishes of the development hereby granted consent shall be submitted to and approved in writing by the Planning Authority prior to any work starting on site. Samples to include; canopy finishes, render finish to external walls, retaining wall finish, garage door finish, perforated 'scaloped' powder coated aluminium cladding finish, roof finish, window frame finish and flashing finish.

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

3. Notwithstanding the effect of condition 1; Prior to work starting on site full details of the design of doors/windows to the proposed extension and garage shall be submitted to and approved in writing by the Planning Authority in the form of drawings at a scale of 1:20.

Reasons: To ensure appropriate detailing and to maintain the overall quality and character of the development and the surrounding environment.

4. Notwithstanding the effect of condition 1; Prior to work starting on site samples of the natural stone proposed to be used for window infills and repairs to the existing building shall be submitted to and approved in writing by the Planning Authority.

Reason: *To ensure that the materials to be used on the external surfaces of the existing building match the existing building.*

5. Notwithstanding the effect of condition 1; Notwithstanding the details on the approved plans the window replacements to the existing building shall be vertically sliding timber sash and casement windows. Details of all the windows, including the size of windows, size of mullions, number of astragals, which shall physically divide the window into separate panes, method of opening, depth of recess and colour shall be submitted in the form of drawings scale 1:20 and shall be submitted to and approved in writing by the Planning Authority prior to work starting on site.

Reason: *In the interests of visual amenity and to ensure that the proposals do not adversely affect the architectural and historic character of the building.*

6. Notwithstanding the effect of condition 1; Prior to work commencing on site full details of the proposed reconstruction of the wall ends and any piers or gate posts and gate shall be submitted to and approved in writing by the Planning Authority.

Reason: *To ensure that the development is undertaken in a manner which minimises the visual impact of the alterations in the streetscape and preserves as far as possible the integrity of the boundary wall in question.*

7. Notwithstanding the effect of condition 1; Development shall not begin until details of a scheme of hard and soft landscaping works has been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:

- i) location and design, including materials, of walls, fences and gates
- ii) Existing landscaping features and trees/vegetation to be retained;
- iii) soft and hard landscaping works, including the location, type and size of each individual tree and/or shrub
- iv) programme for completion and subsequent on-going maintenance.

All the hard and soft landscaping works shall be carried out in accordance with the scheme approved in writing by the Planning Authority. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of the development unless otherwise agreed in writing with the Planning Authority.

Any trees or plants which within a period of ten years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species, unless otherwise agreed in writing with the Planning Authority.

Please note that any hard landscaping proposed shall be permeable as to not impact on the surface water drainage for the site.

Reason: *To ensure the implementation of a satisfactory scheme of landscaping.*

8. Notwithstanding the effect of condition 1; During construction work on site, including the laying of services, no excavation shall be undertaken below the canopy of any tree to be retained including the copper beach tree located within the neighbouring garden of 2 Upper Colquhoun Street, Helensburgh who's roots and canopy are partially within the application site.

Reason: To ensure that no damage is caused to trees during development operations.

9. Notwithstanding the effect of condition 1; All existing trees on site shall be protected at all times during the construction period by means of the erection of a 1.2 metre high fence in accordance with Clause 8.2.2 of BS 5837 "Trees in Relation to Construction" at least one metre beyond the canopy of each tree including the copper beach tree located within the neighbouring garden of 2 Upper Colquhoun Street, Helensburgh who's roots and canopy are partially within the application site.

Reason: *The landscape features to be protected are important to the appearance and character of the site and the surrounding area and are required to successfully integrate the proposal with its surroundings.*

10. Notwithstanding the effect of condition 1; Prior to work starting on site, full details of any external lighting to be used within the site or along its access shall be submitted to and approved in writing by the Planning Authority. Such details shall include full details of the location, type, angle of direction and wattage of each light which shall be so positioned and angled to prevent any glare or light spillage outwith the site boundary.

Reason: *In order to avoid the potential of light pollution infringing on surrounding land uses/properties.*

11. Notwithstanding the effect of condition 1; The first floor glazing to the North elevation (shower room window) and the first floor glazing to the West elevation (behind the proposed screening) of the proposed extension shall be of obscure glass and maintained in perpetuity in obscure glass to the satisfaction of the Planning Authority.

Reason: *In order to protect the privacy and amenity of adjacent properties.*

12. Notwithstanding the effect of condition 1; Prior to work starting on site details of the replacement chimney pots to the existing building shall be submitted to and approved in writing by the Planning Authority.

Reason: *In the interests of visual amenity and to ensure that the proposals do not adversely affect the architectural and historic character of the building.*

13. Notwithstanding the effect of condition 1; Prior to work starting on site identification and assessment of all potential sources of nuisance, including noise/ vibration, dust, and any temporary lighting provided, which may cause disturbance to nearby residents during the demolition / construction process should be undertaken by the applicant. This should include consideration of intended hours of operation, movement of vehicles, use of plant and storage of equipment and materials on site.

For all potential sources of nuisance the applicant will be required to provide a management plan with details of suitable control measures to be put in place so as to ensure that construction does not cause loss of amenity to local residents and/or statutory nuisance.

Reason: *In order to avoid sources of nuisance in the interest of amenity.*

14. Notwithstanding the effect of condition 1; In order to minimise, as far as necessary, the level of noise and/or vibration to which nearby existing residents will be exposed during the construction process the hours of operation of the site should be restricted to 08.00 to 18:30 Monday to Friday and 08.00 to 13.00 on Saturdays. There should be no operation on Sundays or Bank Holidays.

Reason: *In order to avoid sources of nuisance in the interest of amenity.*

NOTE TO APPLICANT

n/a

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 23/00652/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A Settlement Strategy

- 1.1. The site is located within the Main Town Settlement Zone of Helensburgh 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. 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.
- 1.3. 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.
- 1.4. 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.

B. Location, Nature and Design of Proposed Development

- 2.1 4 West Lennox Drive, Helensburgh is located within the Helensburgh Hill House Conservation Area and is directly adjacent to a category B listed property. The existing property is a detached unlisted two storey traditional villa. Located on the opposite side of the street is A listed Brantwoode and adjacent to this is B listed Strathmoyn. Furthermore, located on the street behind the site is A listed Red Towers and adjacent to this is B listed Tordarroch. It is noted that historically the proposals site was subdivided and a modern dwelling was built within the rear garden grounds. The area surrounding the property is a well-established residential area consisting of several listed properties as noted above, set with large plots as well as some modern dwellings which have been built within the garden grounds of the original villas.
- 2.2 The existing plot measures approximately 2165sqm, the existing house including the single storey element has a footprint of approximately 216sqm, with the single storey element having a footprint of 55sqm. The existing garage has a footprint of approximately 30sqm and the timber sheds have a combined footprint of approximately 18sqm bringing the total built element on site to approximately 264sqm. The existing house is sited towards the rear of the plot with a large front garden. The site gently slopes downhill from North to South and is bounded by mature hedges to all boundaries.
- 2.3 The proposal seeks to remove the existing single storey element to the side / rear of the property and replace this with a new two storey extension. This proposed extension has a footprint of 90sqm whereas the original single storey element had a foot print of 55sqm. The proposal also sees to remove the existing garage to the side / rear of the property which has a footprint of 30sqm and replace this with a larger garage / gym which has a footprint of 70sqm. The proposal also seeks to introduce a covered external 'link' canopy to the rear between the garage / gym and the new extension, this has a footprint of 25sqm. The proposals also seek to remove the timber garden sheds. In summary the resultant total built element on the site would be approximately 346sqm in lieu of the 264sqm at present (an increase of 82sqm). This would represent less than 20% of the site being built up which is well under the 33% threshold

considered to be overdevelopment. It is also noted that the footprint of the proposed first floor of the extension extends to approximately 50sqm.

- 2.4 NPF4 Policy 16 requires that development proposals will be supported where they '*do not have a detrimental impact on the character or environmental quality of the home and the surrounding area in terms of size, design and materials*'.
- 2.5 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.
- 2.6 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. The Supplementary Guidance also establishes design criteria that seeks to protect the residential amenities and daylight enjoyed by the occupiers of neighbouring properties.
- 2.7 The design of the proposed extensions and garage are contemporary in design and are considered to be subservient to the donor house and do not dominate it, the clear delineation between the old and the new is welcomed as is in line with policy, the proposed materials are high quality and respect the character of the existing property and wider conservation area.
- 2.8 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 proposed extensions being an increase of 82sqm to the overall built element on the site is comparatively small and it is considered that the siting, form, massing and material finishes will respect and enhance 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.
- 2.9 The proposed extension and garage will be screened from surrounding properties at ground floor level 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 surrounding properties by reason of overlooking. In terms of the first floor element the window on the north elevation of the proposed extension is in excess of the minimum 18 metres guideline (SG – Sustainable) from windows on the front elevation of the property to the rear, it is also noted that the proposed window is to a non-habitable room and that furthermore, a condition has been recommended that this window be obscure glass and maintained in perpetuity in obscure glass to protect the privacy and amenity of adjacent property. It is also noted that there was concern that the perforated steel cladding to the first floor of the West elevation of the proposed extension could impact on the privacy and amenity of the neighbouring property, it is noted that a safeguarding condition has been recommended that requires samples of this material be approved by the authority and that further a condition has been recommended that requires the glazing behind this screening be of obscure glass to protect the privacy and amenity of adjacent property. Lastly, the proposed windows to the south elevation of the first floor extension and the proposed terrace at this location; these will be screened by the exiting large copper beach tree which is sited within the neighbouring garden (this tree subject to separate TPO consideration), furthermore, there is an existing level of overlook from the existing first floor windows in this location, therefore, the limited additional element of overlooking is considered to be within acceptable limits. 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.

C. 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 with the majority of the proposals being built on previously developed land where the existing garage and single storey element are to be removed.
- 3.5 It is advised that submission, assessment and approval of a scheme of hard and soft landscaping be required by planning condition which the council's Local Biodiversity Officer will have opportunity to assess. It is further recommended that this condition requires that any hard landscaping proposed be of permeable materials as to not impact on the surface water drainage for the site.

D. Built Environment

- 4.1 The site is located within the Helensburgh Hill House Conservation Area.
- 4.2 The existing property is not listed though it is a traditional detached villa.
- 4.3 The exiting property is sited directly adjacent to a category B listed property. Located on the opposite side of the street from the site to the South is A listed Brantwoode and adjacent to this is B listed Strathmoyne. Furthermore, located on the street behind the site to the North is A listed Red Towers and adjacent to this is B listed Tordarroch. For this reason Historic Environment Scotland have been consulted on the proposals due to the possible effects on setting of surrounding listed properties and they have noted; 'The Hill House is several streets away, with no intervisibility with 4 West Lennox Drive, and is not likely to experience any impacts on its setting. As well as Red Towers, we have also considered potential impacts on nearby Category A-listed Brantwoode on Munro Drive West. We have considered how the surroundings of Red Towers and Brantwoode contribute to an understanding, appreciation, and experience of their cultural significance and do not think the proposed extensions at 4 West Lennox Drive would have a significant adverse impact on their settings.'
- 4.4 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.

- 4.5 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 which was requested by the councils design and conservation officer within their original consultation response. The applicants have taken this on board and have submitted a revised design and access statement as well as the submission of a visual impact assessment which is considered acceptable under the requirements of the above.
- 4.6 Officers are satisfied that the proposed development, by reason of siting, scale, form and design is of a sufficiently high standard and will preserve and enhance the character and appearance of this part of the Hill House 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.

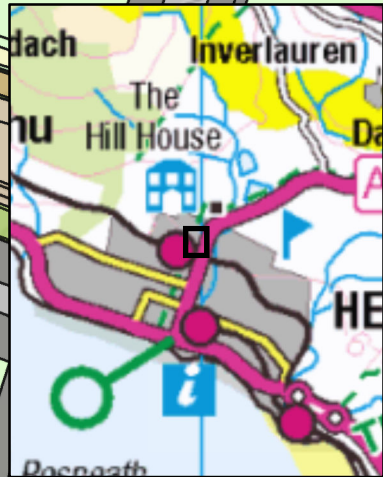
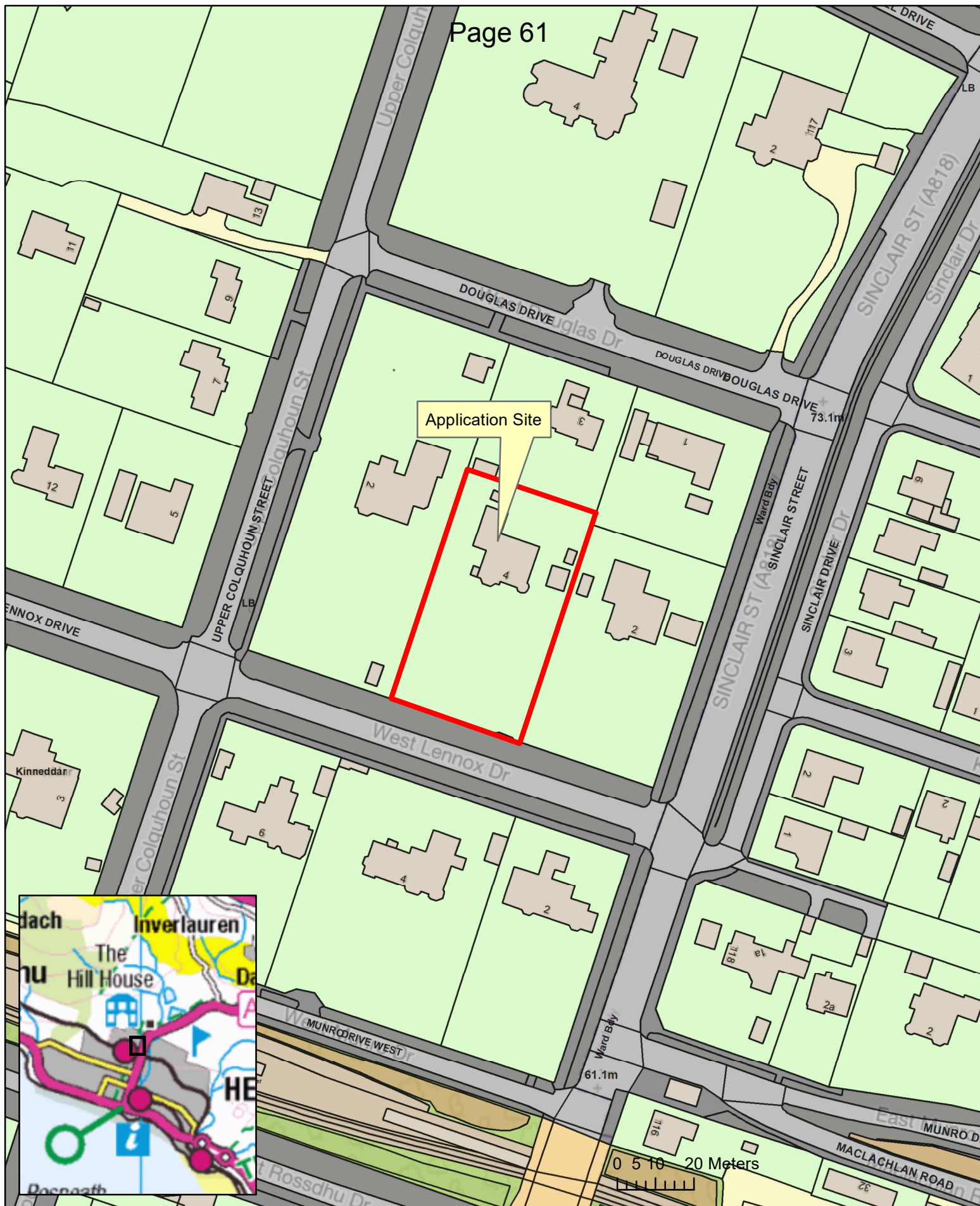
F. Impact on Woodland

- 5.1 As the site is located within a conservation area any works to the existing trees within the site would require tree works consent. Within the site there are approximately 12 trees that bound the eastern boundary, a single large tree at the southern boundary and 3 trees along the western boundary, no works or removals have been proposed to any trees within the site. However given the close proximity of the extension to the boundary trees and neighbouring trees (including the copper beech at 2 Upper Colquhoun St) and the works to install new drains then the tree roots may be affected.
- 5.2 It is advised that during construction work on site, including the laying of services, that no excavation shall be undertaken below the canopy of any tree to be retained including the copper beach tree located within the neighbouring garden of 2 Upper Colquhoun Street, Helensburgh who's roots and canopy are partially within the application site by way of a planning condition.
- 5.3 Furthermore, it is also advised that all existing trees on site shall be protected at all times during the construction period by means of the erection of a 1.2 metre high fence in accordance with Clause 8.2.2 of BS 5837 "Trees in Relation to Construction" at least one metre beyond the canopy of each tree including the copper beach tree located within the neighbouring garden of 2 Upper Colquhoun Street, Helensburgh who's roots and canopy are partially within the application site by way of a further planning condition.
- 5.4 It should be noted that the aforementioned copper beach tree which is sited within the neighbouring properties garden at; 2 Upper Colquhoun Street form part of a separate TPO application which the council is recommending as this particular tree is a key landscape feature which is to be protected and is important to the appearance and character of the surrounding conservation area.
- 5.5 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.

K. Infrastructure

- 6.1 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 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.

- 6.2 During the determination process the applicant has submitted plans to show a re-routed and repaired surface water drainage scheme for the site. It is noted that consent is not required for the repair of existing drainage but is required if there are proposed alterations to the existing drainage. As such the applicant has submitted drawing to show the surface water drainage alterations. I have been to site and viewed the issues with the current broken surface water drainage and I am content that the proposed alterations to reinstate and alter this are sufficient. As this is a proposed extension and not a new build there is no requirement for the applicants to install a new SUDS system. The submitted drawings show a new french drain running along the northern boundary of the rear site to pick up the broken field drains which were discharging water into the solum of the property and then route the new field drain to the front of the property to tie in with the existing drainage discharge.
- 6.3 Subject to the above, it is considered that the proposal makes adequate provision for services infrastructure in accordance with the provisions of NPF4 Policy 22, SG LDP SERV 2 and LDP2 Policy 61.



Location Plan Relative to Planning Application:23/00652/PP



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ARGYLL AND BUTE COUNCIL

PPSL Committee

DEVELOPMENT AND ECONOMIC GROWTH

18th October 2023

LOCAL DEVELOPMENT PLAN 2 TECHNICAL NOTES

1.0 EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to invite Members of the PPSL Committee to approve technical notes as planning guidance to Argyll and Bute Local Development Plan 2 (LDP2).
- 1.2 On 28th September 2023 Council agreed to the submission LDP2 as modified by the reporters to the Scottish Ministers stating intent to adopt. The Plan will be adopted within 28 days of submission unless otherwise directed by the Scottish Ministers.
- 1.3 Once adopted, 2015 LDP and its Supplementary Guidance will no longer be part of the Development Plan. LDP2 will require supporting guidance to assist applicants and decision makers in the interpretation of policy. However, formal Supplementary Guidance has now been abolished by the changes to the planning system, with a few exceptions to this noted under transitional provisions. As such a range of Technical Notes will be produced to provide further guidance and the LDP2 document notes this. When approved these Technical Notes will be a material consideration when assessing planning applications.
- 1.4 Three technical notes are being presented with this report, namely TN06 Sustainability Technical Note and Checklist (see **Appendix 1**); TN21 Visual Impact Illustration and Landscape and Visual Assessment (Light) Technical Note (**Appendix 2**) as well as supporting documents (**Appendices 3, 4 and 5**); and TN07 Sustainable Buildings Technical Note and Checklist (Appendix 6)

RECOMMENDATION

1.4 It is recommended that Members note and approve the content of the following proposed technical notes and supporting documents as non-statutory guidance which will be a material consideration to support LDP2.

- TN06 Sustainability Technical Note and Checklist (Appendix 1)
- TN21 VII and LVIA (Light) Technical Note (Appendix 2)
- TN21 Appendix 1 Sample Visualisations for VII and LVIA (Light) (Appendix 3)
- TN21 Appendix 2 VII Template (Appendix 4)
- TN21 Appendix 3 LVIA (Light) Template (Appendix 5)
- TN07 Sustainable Buildings Technical Note and Checklist (Appendix 6)

ARGYLL AND BUTE COUNCIL
DEVELOPMENT AND ECONOMIC GROWTH

PPSL Committee
18th October 2023

LOCAL DEVELOPMENT PLAN 2 TECHNICAL NOTES

2.0 INTRODUCTION

2.1 The purpose of this report is to invite Members of the PPSL Committee to approve technical notes as planning guidance to Argyll and Bute Local Development Plan 2 (LDP2).

3.0 RECOMMENDATION

3.1 It is recommended that Members note and approve the content of the following proposed technical notes and supporting documents as non-statutory guidance to support LDP2.

- TN06 Sustainability Technical Note and Checklist (Appendix 1)
- TN21 VII and LVIA (Light) Technical Note (Appendix 2)
- TN21 Appendix 1 Sample Visualisations for VII and LVIA (Light) (Appendix 3)
- TN21 Appendix 2 VII Template (Appendix 4)
- TN21 Appendix 3 LVIA (Light) Template (Appendix 5)
- TN07 Sustainable Buildings Technical Note and Checklist (Appendix 6)

4.0 DETAIL

4.1 LDP2 aims to provide a flexible policy framework to support sustainable growth across Argyll and Bute. Outwith settlement areas, there are two key differences between the 2015 LDP DM1 and LDP2 Policy 2, namely:

- there are no longer Rural Opportunity Areas where appropriate small scale development was supported; and
- there is no longer the Area Capacity Evaluation (ACE) process which has

been previously carried out by the Planning Authority.

Instead, LDP2 Policy 2 (Outwith Settlement Areas) allows a more flexible approach to where in the Countryside Area development may be allowed, however development proposals will be required to demonstrate that there will be no unacceptable adverse effects (either individually, or cumulatively) on natural heritage resources, built and/or cultural heritage resources, and landscape and visual amenity. Where there is preliminary evidence that there may be such adverse effects (and where a formal Environmental Impact Assessment (EIA) is not required) a landscape and visual impact assessment, natural heritage assessment, or built and/or cultural heritage assessment may be required.

- 4.2 Policy 70 (Development Impact on National Scenic Areas (NSAs)) and Policy 71 (Development Impact on Local Landscape Areas (LLAs)) require proposals within these designations to be supported by a Landscape and Visual Impact Assessment (LVIA).
- 4.3 LVIA is a tool used to identify and evaluate the potential effects of change resulting from proposed development on the character of the landscape as well as on people's views and visual amenity. The emphasis is on the identification of, and degree of, this effect.
- 4.4 The Landscape Institute set out guidance for LVIA which is used within the EIA process. However, the Planning Authority recognises the need for a proportionate approach for smaller scale development or on sites that are considered to be less sensitive. Therefore, three levels of this process have been defined – basic Visual Impact Illustrations (VII); LVIA (Light); and full LVIA as required for EIA.
- 4.5 It is proposed that the need for VII or LVIA will be determined through the submission of a Sustainability Checklist (TN06 – see **Appendix 1**) which is required for all applications for development, and it is recommended that this be completed at Pre-Application stage and updated as required should a planning application be made.
- 4.6 TN06 Sustainability (**Appendix 1**) provides guidance on the wider considerations of siting a development in the natural or built landscape as well as the impact of a development on the community, economy and environment. The guidance and checklist are intended to guide developers to meet the requirements of policies 04 (Sustainable Development), 05 (Design and Placemaking) and 08 (Sustainable Siting) as well as to consider whether a VII or LVIA (Light or Full) may be required through Policies 02, 70 and 71. This replaces an existing Sustainability Checklist within the 2015 LDP with one requiring more detail, given the increased emphasis on climate change in

NPF4.

- 4.7 TN21 (VII and LVIA (Light) (see **Appendix 2**) provides detail on the proportionate approach that the Planning Authority would expect for developments within the Countryside Area, National Scenic Area or Local Landscape Area. It is supported by appendices by way of Sample Visualisations and Templates (see **Appendices 3, 4 and 5**).
- 4.8 TN07 – Sustainable Buildings Technical Note and Checklist (**Appendix 6**) goes into more detail on the proposed building itself. It is proposed to be mandatory that this is completed for all applications for development. The content of this technical note and checklist provides additional detail to policy 09 (Sustainable Design).

5.0 CONCLUSION

- 5.1 Technical notes are non-statutory but are a material consideration when assessing planning applications. They provide detail to policies within the LDP2. The three technical notes presented with this report will assist with consistency of decision making when applying policies 02, 70, 71, 04, 05, 08 and 09. On this basis Members are recommended to approve the following technical notes and supporting information:
- TN06 Sustainability Technical Note and Checklist (Appendix 1)
 - TN21 VII and LVIA (Light) Technical Note (Appendix 2)
 - TN21 Appendix 1 Sample Visualisations for VII and LVIA (Light) (Appendix 3)
 - TN21 Appendix 2 VII Template (Appendix 4)
 - TN21 Appendix 3 LVIA (Light) Template (Appendix 5)
 - TN07 Sustainable Buildings Technical Note and Checklist (Appendix 6)

6.0 IMPLICATIONS

- 6.1 Policy: Once adopted, Local Development Plan 2 will be part of the Development Plan for Argyll and Bute (excluding Loch Lomond and the Trossachs National Park) alongside National Planning Framework 4. The planning authority, in the determination of planning applications, shall have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations. Technical Notes are non-statutory material considerations when assessing planning applications which provide further detail to the policies in the Plan.

- 6.2 Financial: None

6.3 Legal : Once adopted the planning authority is required to have regard to the provisions of the local development plan as part of the Development Plan for the area, so far as material to the application, and to any other material considerations, in the determination of planning applications.

6.4 HR: None

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: TN06 and TN07 will provide guidance to encourage, promote and facilitate development that adapts to current and future impacts of climate change.

6.7 Risk: Failure to approve Technical Notes as a non-statutory material consideration could result in lack of clarity in interpreting statutory planning policy.

6.8 Customer Service: None

Executive Director with responsibility for Development and Economic Growth:

Kirsty Flanagan

Policy Lead: Kieron Green

18th October 2023

For further information contact:

Kim de Buitel ir – Design and Conservation Officer

Fergus Murray – Head of Economic Development and Strategic Transport,
Development and Infrastructure Services

APPENDICES

Appendix 1: *TN06 Sustainability Technical Note and Checklist*

Appendix 2: *TN21 VII and LVIA (Light) Technical Note*

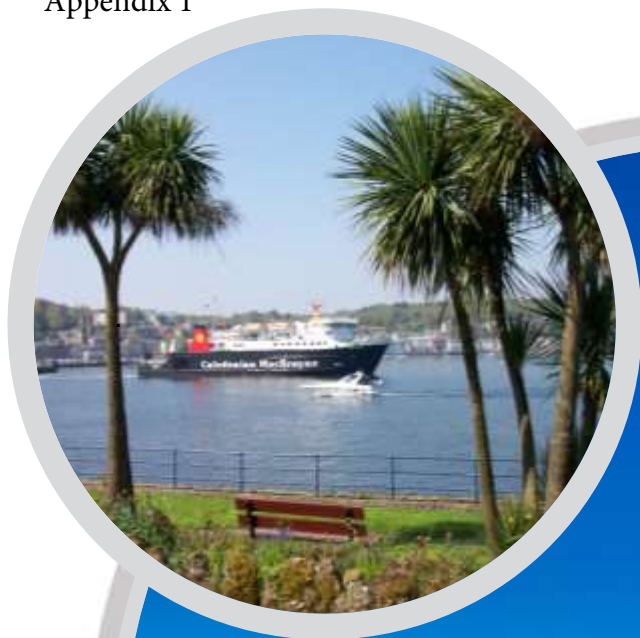
Appendix 3: *TN21 Appendix 1 Sample Visualisations for VII and LVIA (Light)*

Appendix 4: *TN21 Appendix 2 VII Template*

Appendix 5: *TN21 Appendix 3 LVIA (Light) Template*

Appendix 6: *TN07 Sustainable Buildings Technical Note and Checklist*

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TN06 SUSTAINABILITY

Argyll and Bute Local Development Plan 2

TN06 SUSTAINABILITY

Sustainable Development can be defined as being “development that meets the needs of the present without compromising the ability of future generations to meet their own needs” (The Brundtland Definition, as sourced in Appendix F of NPF4).

This technical note provides additional detail to policies 04 - *Sustainable Development*, 05 - *Design and Placemaking* and 08 - *Sustainable Siting* of the adopted Argyll and Bute Local Development Plan 2 (LDP2), and NPF4 policies 14 - *Design, Quality and Place*, 15 – *Local Living and 20 Minute Neighbourhoods* and 29 *Rural Development*. This technical note provides guidance on the wider considerations of siting a development in the natural or built landscape as well as the impact of a development on the community, economy and environment.

Following this technical note is a Sustainability Checklist. **It is mandatory that potential developers complete this for all applications for development, and it is recommended that this be completed at Pre-Application stage and updated as required should a planning application be made.** In some cases a Visual Impact Illustration (VII) or Landscape and Visual Impact Assessment (LVIA) may be required under LDP2 policies 02, 70 and 71 as a separate, but inter-related, assessment. To allow a proportionate approach this will not always be a full LVIA as set out by the Landscape Institute, but in appropriate cases will be a “light” version. This requirement will be decided by the Planning Authority on the basis of the information provided within the Sustainability Checklist and other relevant considerations.

Related Issues

Technical Note TN07 - *Sustainable Buildings* should be read in conjunction with TN06, which provides guidance on the sustainable design of the building itself.

Aesthetic design considerations will follow and compliment sustainable building considerations, and this is covered in Policy 10 *Design- All Development* and the council’s Design Guidance (which is intended to be consolidated and updated during the Plan period).

1.0 SITE APPRAISAL

The initial step to be undertaken by anyone proposing a new development, is a comprehensive site appraisal which will help identify the limitations and opportunities of the site at an early stage. This is the starting point of any design process. Some surveys may be required to be carried out by specialists.

1.1 SUITABILITY OF THE SITE – COMMUNITY, ECONOMY AND ENVIRONMENT (LIVEABLE, PRODUCTIVE & SUSTAINABLE PLACES)

- Development should maximise the opportunity for local community benefit
- Development should maximise the use of existing infrastructure and services and minimise the need for people to travel for essential services. Where travel is required active travel routes or public transport should be available.
- Most of the agricultural land in Argyll and Bute is of low quality, however agriculture remains an important part of Argyll and Bute’s economy and provides continuous land management. Therefore countryside development should not result in the loss of better quality agricultural land or result in the fragmentation of field systems or the loss of access to better quality agricultural land.
- Development will not be supported on land that is subject to flooding or land erosion
- Landscape designations of the site itself or area around this must be considered and policies within the High Quality Environment section of the LDP2 taken into account
- Historic Built Environment designations – where applicable reference should be made to the Historic Built Environment policies within the LDP2 as well as Conservation Area Appraisals
- Habitats and/or protected species - The biodiversity within and adjacent to development sites should be maintained and improved where possible – further detail can be found in LDP2 policy 73 *Development Impact on Habitats, Species and Biodiversity*) and the associated Biodiversity Checklist Technical Note TN04)

1.2 CHARACTER OF THE SITE AND WIDER AREA

1.2.1 NATURAL RESOURCES

- Microclimate, prevailing winds, daylight/sunlight
- Topography
- Trees and planting
- Key views in, from and across the site
- Boundary treatments

1.2.3. MANMADE RESOURCES

- Layout and density of the built context and building lines – development should integrate within this existing built form in terms of urban grain and density and also ridge height, scale and massing.
- Key views in, from and across the site
- Boundary treatments
- Access and existing infrastructure

2.0 SUSTAINABLE SITING

2.0.1 LANDSCAPE CHARACTER

Landscape is about the relationship between people and place. The term **does not mean just special or designated landscape and does not only apply to the countryside**. It results from the way that different components of our environment – both natural and cultural– interact together and are perceived

Examples of key characteristics within a landscape character area might be:

- landform, drainage and water bodies; vegetation and tree cover; human activity such as land management and use, settlements and buildings;
- The context or setting of the urban area and its relationship to the wider landscape;
- The layout, scale and density of buildings
- Settings of listed buildings (see HES guidance)
- Access and connectivity, including streets and footways/pavements;
- water bodies, water courses and other water features;
- The nature and location of vegetation, including the different types of green space and tree cover and their relationships to buildings and streets;
- Coastal features;
- Views to and from the sea;

The Sustainability Checklist which follows this Technical Note, requires basic information to determine the landscape character. Should the Planning Authority determine that there is preliminary evidence that there may be adverse effects on landscape and visual amenity (in Countryside Areas) or the site is located in a National Scenic Area (NSA) or Local Landscape Area (LLA) then a VII or LVIA (light or full) will be required.

2.0.2 INTEGRATION INTO THE NATURAL LANDSCAPE – this will minimise the detrimental impact on the landscape and minimise environmental disturbance

- The development should be positioned within the landscape to make the best use of solar gain, natural ventilation and shelter from the elements.
- Hilltop, skyline or ridge locations should be avoided not only for visual reasons but to avoid exposure to high winds. The siting must respect existing landforms and key views. Only in some exceptional cases will there be a case for landmark development, which would require a high quality design and would still be based on robust site analysis and understanding.
- Existing trees and hedgerows on the site should be retained where possible
- Large un-fenestrated under-buildings generally are detrimental to buildings and look inappropriate in most settings. They also generally increase construction costs while not providing useable accommodation on sloping sites. On sloping sites, careful positioning

combined with minor excavation works often provides a cheaper and more attractive design solution than under-building and can also give a house added shelter from prevailing winds. If a 1 ½ or 2 storey house is required, on a sloping site a split level solution could be designed, which will minimise both visual and physical impact.

- The extent of any under-building or excavations should be clearly shown on submitted plans including the use of cross sections. Any waste material from excavations should be re-graded, landscaped and utilised to backfill against areas of under-build that would otherwise remain exposed or alternatively be removed from the site, restoring the site to its natural condition.

2.0.3 INTEGRATION INTO THE BUILT LANDSCAPE – in order to respect existing development patterns and the amenity of other dwellings.

- The layout of new development must reflect the local character and building patterns and be compatible with neighbouring uses.
- New development must be sympathetic to traditional building forms as well as landmarks, historical features and key views.
- New development must be compatible with, and consolidate, the existing settlement. The relationship with neighbouring properties is paramount, as issues such as loss of daylight and overlooking could arise:
 - Householders can legitimately expect a reasonable amount of direct daylight into all or at least some living room windows, and this should be protected as far as possible in order to maintain reasonable levels of household amenity.
 - When considering a site for a new house, or an extension to an existing house, applicants should ensure that the house will not significantly affect daylight and direct sunlight to existing neighbouring properties. Applicants should refer to published standards “Site Layout Planning for Sunlight and Daylight” BRE 1991 (check date)
 - No main window of a habitable room (i.e. all rooms except bathrooms and hallways) within a dwelling shall overlook (directly face) the main windows of habitable rooms in neighbouring dwellings at a distance of less than 18 metres*. Plans submitted with planning applications will be required to show the location of all adjoining properties and the exact position of their main windows. A distance of 12 metres is required between habitable room windows and gable ends or elevations with only non-habitable room windows. These standards may be relaxed where the angle of view or the design (i.e. use of frosted glass) of the windows allows privacy to be maintained.

- The use of windows that are taller than they are wide can greatly reduce problems of overlooking in built up areas.
- Existing infrastructure should be utilised where possible such as access roads and tracks as well as services. The remaining capacity of infrastructure such as private water supplies must be taken into account.

*this may not be possible in densely built areas or “courtyard-type” schemes

3.0 PRESENTATION OF THE APPRAISAL AND THE DESIGN SOLUTION

A Sustainability [checklist](#) has been prepared as an Appendix to this Technical Note which **must be completed and submitted with all applications. It is recommended that this be completed at Pre-Application stage and updated as required should a planning application be made.** Should the Planning Authority determine that a VII or LVIA (light or full) is required then this should form a separate but inter-related assessment.

Separately, a Sustainable Buildings Checklist (TN07) covering the design of the building itself must be completed.

Additionally, the Scottish Government Planning Advice Note 68 *Design Statements* provides detailed advice on the presentation of the information gathered, considered and developed. Whilst Design Statements are only a requirement with certain categories of planning applications, it is advisable to include one with every application for new development as good practice. A Design Statement may either be integrated with the VII or LVIA (light) (where required) or submitted as an accompanying document. Due to the nature of a full LVIA in those limited cases they would require to be kept as separate documents.

TN06: SUSTAINABILITY CHECKLIST

It is mandatory that potential developers complete this checklist for all applications for development. It is recommended that this be completed at Pre-Application stage and updated as required should a planning application be made.

It is intended that by completing the checklist the applicant could take the opportunity to review the sustainability of their project and make changes to their application, where appropriate and to ensure compliance with LDP policies. Not every criterion will be relevant for every development, for example extensions, in which case “not applicable” should be noted in the details column.

Where applicable, additional supporting information should be appended to this document and the relevant appendix number should be noted in the details column.

COMMUNITY – LIVEABLE PLACES	Give details
Demonstrate how the project contribute to the viability, sustainability and diversity of the community, including but not limited to the creation or diversification of businesses; essential community services; digital infrastructure skills training or education; healthcare or social support; play and recreation facilities; a district (renewable) heat network.	
Demonstrate how the project support new ways of working such as home working, remote working or community hubs.	
Demonstrate how the proposal minimise the need for people to travel to access employment, food, education, recreation and other essential services.	
Provide details of any existing public transport or active travel routes. Demonstrate how the proposal incorporates new active travel proposals.	

Does the proposal involve the resettlement of previously inhabited areas?	
Any other comments	

ECONOMY – PRODUCTIVE PLACES	Give details
Demonstrate how this is considered an appropriate location for regeneration and growth. (refer to national and local spatial strategies and policies)	
Provide details of how the project has any effect (positive or negative) on any existing organisations.	
Demonstrate how the proposal maximises the use of existing infrastructure capacity or contributes towards new essential infrastructure.	
Would the proposal result in the loss of agricultural land, or the fragmentation of farm units? If so, provide details.	
Any other comments	

ENVIRONMENT – SUSTAINABLE PLACES <i>Additionally, a Biodiversity Checklist must be completed as required by Policy 73 and TN04, and/or a Flood Risk Assessment must be completed as required by SEPA or the Planning Authority</i>	Give details
Is the site brownfield? If so, what is the extent of naturalisation on the site?	

Or does the proposal re-use a redundant or unused building? If so, provide details.	
What measures are proposed to improve or restore the natural environment?	
Would the proposal involve the loss of trees and/or woodland? If so, provide details. And would the proposal involve the loss of a protected open space? If so, provide details.	
Would the proposal disturb carbon rich soils such as peat? If so, provide details.	
Would the proposal result in the loss of an existing waste site? If so, provide details.	
Provide details of any specific measures in place to protect existing landscape and vegetation from damage or degradation during construction. Provide details of any specific measures in place to protect the water environment during construction?	
Any other comments	

LANDSCAPE CHARACTER	Give Details
Is the proposed site in a settlement area or countryside area?	
Is the proposed site within a National Scenic Area (NSA) or Local Landscape Area (LLA)?	

<p>Describe the landscape character, referring to section 2.0.1 for examples of key characteristics that may need to be considered.</p> <p>Please identify any relevant landscape studies, conservation area appraisals etc that you have taken into consideration.</p> <p>Where appropriate, it is recommended that maps highlighting designations and sensitive non-designated receptors, as well as related photos, are appended to this document. Please note relevant appendix numbers within the details section.</p>	
<p>List any unimplemented but live planning consents in the vicinity of the site which will be considered in terms of cumulative effects.</p>	

<p>INTEGRATION OF THE BUILDING INTO THE NATURAL OR BUILT LANDSCAPE <i>It is recommended that this section is detailed more fully within a Design Statement</i></p>	<p>Give Details</p>
<p>Describe the number of units (plus ancillary buildings) proposed along with the proposed floor areas, heights (to ridge) and materials</p>	
<p>Outline how the building has been designed on the site to make the best use of solar gain, natural ventilation and shelter from the elements</p>	
<p>Does the development avoid land engineering works such as cut and fill?</p> <p>How has the building been designed to integrate into the topography?</p>	
<p>Are any trees or hedgerows to be removed to allow for the</p>	

development and if so is there any compensatory tree planting proposed?	
How has the character, form and design of any surrounding buildings been taken into account in the design and siting of the building?	
How has existing infrastructure been utilised?	

Should the Planning Authority determine that there is preliminary evidence that there may be adverse effects on landscape and visual amenity (in Countryside Areas) or the site is located in a National Scenic Area (NSA) or Local Landscape Area (LLA) then a VII or LVIA (light or full) will be required.

TO BE COMPLETED BY THE PLANNING AUTHORITY	
On the basis of the information provided in the Sustainability Checklist is further landscape and/or visual information required?	Nothing further <input type="checkbox"/> VII <input type="checkbox"/> LVIA (light) <input type="checkbox"/> LVIA (full) <input type="checkbox"/>
Reason for decision	

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TN21 VII AND LVIA (LIGHT)

Argyll and Bute Local Development Plan 2

TN21 Visual Impact Illustration (VII) and Simplified Landscape Visual Impact Assessments (LVIA Light) – Technical Note

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1.0 BACKGROUND INFORMATION

1.1 THE POLICY CONEXT THAT REQUIRES VII or LVIA

Sustainable development requires finding an appropriate balance between economic, social and environmental matters, and so protecting and enhancing the natural, built and historic environment is an important part of this. The LDP2 seeks to promote a flexible approach to small scale development in the Countryside, including National Scenic Areas (NSA's) and Local Landscape Areas (LLA's) through Policies 02, 70 and 71 which clarify when the planning authority may require submission of an LVIA.

LVIA is a tool used to identify and evaluate the potential effects of change resulting from proposed development on the character of the landscape as well as on people's views and visual amenity. The emphasis is on the identification of, and degree of, this effect.

Given the need to take a proportionate approach depending on the site characteristics and degree of sensitivities, the need for a VII or LVIA is determined through the submission of a Sustainability Checklist (see Technical Note TN06) which is required for all applications for development, and it is recommended that this be completed at Pre-Application stage and updated as required should a planning application be made.

From the information provided in the Sustainability Checklist, and taking into account the requirements of Policies 02, 70 and 71 of LDP2, the planning authority will conclude one of the following options:

- No further information required in terms of landscape or visual impacts
- Visual Impact Illustrations (VII) are required
- A simplified version of a Landscape and Character Impact Assessment (LVIA Light) is required
- A full Landscape and Character Impact Assessment (LVIA) is required as per the Landscape Institute's guidelines.

Please refer to section 1.2 for further guidance on when each option may be required.

1.2 WHEN IS A VII OR LVIA REQUIRED?

The level of further assessment (if any) that is required will be determined by the Planning Authority through the information provided in the Sustainability Checklist. The below is intended as a basic guide but is not definitive.

<p>1. NO FURTHER INFORMATION REQUIRED IN TERMS OF LANDSCAPE OR VISUAL IMPACTS</p> <ul style="list-style-type: none"> • In a settlement area where there is no preliminary evidence that the scale or siting would raise concerns in terms of either the landscape character or visual amenity • In a countryside area however there is no preliminary evidence that the scale or siting would raise concerns in terms of either the landscape character or visual amenity

<p>2. VISUAL IMPACT ILLUSTRATIONS (VII)</p> <ul style="list-style-type: none"> • In a countryside area and the landscape character has been sufficiently addressed through the Sustainability Checklist and appended information, raising no concerns in terms of landscape character. However visualisations are required due to one or more of the following: <ul style="list-style-type: none"> ○ The scale of the development ○ The development's perceived prominence within a landscape ○ Sensitivity of receptors to the development (e.g. historic assets) ○ Siting impacting upon a gateway location in the landscape (i.e. where the landscape transitions from one character to another) • In a LLA where there is no preliminary evidence that the scale or siting would raise concerns in terms of the landscape character. However visualisations are required due to the moderate sensitivity of the landscape designation <p>This simplified process should not require to be carried out by a Landscape Architect.</p>
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<p>3. SIMPLIFIED LANDSCAPE AND VISUAL IMPACT ASSESSMENT (LVIA LIGHT)</p> <ul style="list-style-type: none"> • In a LLA due to one or more of the following: <ul style="list-style-type: none"> ○ The scale of the development ○ The development's perceived prominence within a landscape ○ Sensitivity of receptors to the development (e.g. historic assets) ○ Siting impacting upon a gateway location in the landscape (i.e. where the landscape transitions from one character to another) • In an NSA where there is no preliminary evidence that the scale or siting would raise significant concerns. However due to the high sensitivity of the landscape designation an LVIA (Light) is required. <p>This simplified process should not require to be carried out by a Landscape Architect.</p>
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<p>4. FULL LANDSCAPE AND VISUAL IMPACT ASSESSMENT (FULL LVIA)</p> <ul style="list-style-type: none"> • EIA development • In an NSA due to one or more of the following: <ul style="list-style-type: none"> ○ The scale of the development ○ The development's perceived prominence within a landscape ○ Sensitivity of receptors to the development (e.g. historic assets) ○ Siting impacting upon a gateway location in the landscape (i.e. where the landscape transitions from one character to another) <p>This is defined by the Landscape Institute and forms part of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. It is expected that a Landscape Architect would be required to carry out this assessment. Refer to GLVIA.</p>

1.3 THE SCOPE OF THIS TECHNICAL NOTE

This technical note sets out the simplified process required by Argyll and Bute Council for VII and LVIA (Light) (categories 2 and 3 of section 1.2).

The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017, and in particular Schedules 1 and 2, should be referred to determine if an Environmental Assessment may be required, in which case this technical note will not apply. Furthermore, should the planning authority decide that a full LVIA should be provided (category 4 of section 1.2) then the guidance in GLVIA should be followed instead.

1.4 WHO IS THIS GUIDANCE FOR?

This technical note has been written to provide guidance to Planning Officers to assess VII's and LVIA (Light)'s. It can also be used by applicants and agents to understand the scope and content of the process. It is not considered that a Landscape Architect would be required to carry out these simplified Assessments however early discussion with the planning authority is essential to agree the scope and content. **Where the LVIA (Light) is used this should provide clear and objective information to the planning authority and should not come to firm conclusions as this is for the planning authority to determine.**

1.5 UNDERSTANDING LANDSCAPE

Landscape is about the relationship between people and place. The term does not mean just special or designated landscape and does not only apply to the countryside. It results from the way that different components of our environment – both natural and cultural– interact together and are perceived. It includes geological factors, habitats, historical and cultural elements as well as visual qualities.

Landscape is not limited to countryside but also includes:

- Villages and towns where the built environment is dominant, but also includes the relationships between buildings and open spaces (townscapes)
- Marine and coastal landscapes (seascapes)

Examples of key characteristics within each character area might be:

- landform, drainage and water bodies; vegetation and tree cover; human activity such as land management and use, settlements and buildings;
- The context or setting of the urban area and its relationship to the wider landscape;
- The layout, scale and density of buildings
- Settings of listed buildings (see HES guidance)
- Access and connectivity, including streets and footways/pavements;
- water bodies, water courses and other water features;
- The nature and location of vegetation, including the different types of green space and tree cover and their relationships to buildings and streets;
- Coastal features;
- Views to and from the sea;

1.6 UNDERSTANDING “VISUAL AMENITY”

Consideration of the interrelationship between people and the landscape means taking into account the views that people have and their visual amenity. Generally (unless the impact is severe enough to affect amenity), view from a private property is not a material planning consideration. However impacts on views from publically accessible locations and such viewpoints are to be appraised as part of the VII / LVIA (Light).

The acceptability of the visual effect is largely dependent on the activity the viewer is undertaking and the resultant experience. Visual effects are appraised in relation to viewpoints from: properties and settlements; tourist and recreational destinations and transport routes.

These viewpoints should be agreed with the planning authority prior to undertaking the VII / LVIA (Light) as part of the [Pre-Application](#) (through submission of a preliminary version of the Sustainability Checklist)

All identified viewpoints with public access must be visited as part of the field survey and the extent, character and appearance of their views described. Where appropriate, the existence of temporary structures or features in the landscape that vary with the seasons and that may therefore affect visibility, such as deciduous vegetation, should be noted in order to evaluate the worst case situation in the assessment.

1.7 CUMULATIVE EFFECTS

Cumulative effects have been defined in a broad generic sense as *“impacts that result from incremental changes caused by other past, present or reasonably foreseeable actions together with the proposed development”*. Any additional effects caused by the proposed development when considered in conjunction with other proposed developments of the same or different types (cumulative effects) will be considered by the Planning Authority.

1.8 VISUALISATIONS FOR VII / LVIA (Light)

1.8.1 OVERVIEW

Photographs show the baseline conditions; visualisations show the proposed situation; and both combine to simulate the change, for example as photomontages.

“Technical visualisations” are accurate, objective and unbiased. They can take a variety of forms including: annotated photographs, wirelines, photomontages and 3D simulations. Plans and sections are potentially effective ways to communicate to stakeholders, in association with visualisations.

In contrast “illustrative visualisations” convey the essence of what a proposal would look like in context. These do not have to be based on specific viewpoints and could, for example, include a colour perspective.

To maintain a proportionate approach, different types of visualisations may be required, depending on the scale of the project and the sensitivity of the landscape – this must be discussed and agreed with the Planning Authority. Additionally, the number of viewpoints to be illustrated photographically, and how many of these require visualisations, must be considered in conjunction

with the Planning Authority prior to undertaking the VII / LVIA (Light) as part of a [Pre-Application](#) (through submission of a preliminary version of the Sustainability Checklist).

1.8.2 TYPES OF VISUALISATIONS

Baseline Photography must:

- Be sufficiently up-to-date to reflect the current baseline situation
- Include the extent of the site and sufficient context
- Be presented at a size and relative position, on a corresponding sheet, to allow like-for-like comparison with the visualisation
- Be based on good quality imagery, secured in good, clear weather conditions wherever reasonably possible
- Avoid foreground clutter
- If relying on only existing views with no visualisations, clearly identify the extent of the application site in the view

Annotated viewpoint photograph must:

- represent context and outline or extent of development and of key features
- be taken with a 50mm lens (if a FFS camera is used) or a 28 or 35mm lens (if a cropped sensor camera is used)
- use GPS, OS maps or geo-referenced aerial photography for camera/viewpoint location data
- indicate the proposal in the form of sketch / outline / arrows
- use a dedicated viewpoint location plan for viewpoint mapping
- be reproduced at a size which aids clear understanding of the view and context, these simply show the extent of the site within the view, and annotate and key features within the view.

3D wireline / model (non photographic) must:

- represent 3D form of development / context
- show massing, wireline or be textured or rendered
- use a dedicated viewpoint location plan for viewpoint mapping

This covers a range of computer-generated visualisation, generally without a photographic context. Wirelines and other 3D models are particularly suited to graphically describing the development itself. They use basic graphic information to assist in describing a proposed development and its context. Computer models generally do not convey landscape context unless they are extremely sophisticated. Most planning applications should be accompanied by photographs or photomontages, rather than solely relying on these to convey an impression of a development proposal.

Photomontage / photowire must:

- represent appearance, context, form and extent of development
- be taken with a 50mm lens (if a FFS camera is used) or a 28 or 35mm lens (if a cropped sensor camera is used)
- use GPS, OS maps or geo-referenced aerial photography for camera/viewpoint location data
- show massing, wireline or be textured or rendered
- use a dedicated viewpoint location plan for viewpoint mapping

- (If the photomontage / photowire is to be scale verifiable then verifiable data will require to be included)

Site photography forms the basis of the imagery, which is then overlaid by a 3D wireframe, massing or rendered model.

Panoramas

- The Landscape Institute state that *“printed panoramic images are an imperfect way of attempting to recreate the experience of viewing the breath of a scene. Nonetheless, where it is important to communicate the wide-angle nature or context of the view, panoramas are preferable to limiting the view by cropping”*
- In accordance with Landscape Institute guidance wide panoramas on an A3 are too small to provide a representation of the proposed development
- However panorama photos may be provided to support the application *in addition* to the required single images described above

1.8.3 TECHNICAL NOTES

It can be a challenge to achieve acceptable levels of exposure of both a bright sky and a dark landscape. HDR photography combines bracketed images – this can be considered in difficult lighting situations but should never be taken so far as to produce a visible “artistic” effect.

GPS equipped cameras will record the location of the shot in the EXIF data, but typically with only around 5-10m accuracy. Alternatively, if visible fixed references are close to the camera location (eg gates, surface features) referring to aerial photography within a GIS system may provide greater positional accuracy.

OS grid co-ordinates should be recorded where known.

2.0 VII PROCESS

2.1 SETTING OUT THE VII DOCUMENT

This will be a primarily visual document with text used to describe the annotate the maps and images.

Please note that there is a 10MB limit for files uploaded to the planning portal.

2.1.1 INTRODUCTION

This section should set out:

- **The study area and methodology agreed with the planning authority as part of the [Pre-Application](#) process.**
- Practical constraints encountered in carrying out the work and assumptions made, if applicable.

2.1.2 VISUAL BASELINES

The information gathered for this section will come from site visits carried out in order to collect the additional information required to establish the visual baselines. These should be presented as A3 photographs – refer to section 1.9 for guidance.

2.1.3 THE PROJECT

Provide a description of the proposed development for the purpose of the assessment, identifying the main features of the proposals and establishing parameters such as maximum extents of the development. Include an overview of the design development in response to the site context (siting, scale, massing, form, detailing, materials) or refer to the separate Design (and Access) Statement if applicable. Also include description of any alternatives considered. **Please refer to TN06 Sustainability and TN07 Sustainable Buildings for further information.**

In terms of the visualisations, whether these are 3D wirelines / models or photomontages / photowires, they must show how the proposal integrates with the site features. Visualisations must be presented at the same size as the baselines to allow direct comparison.

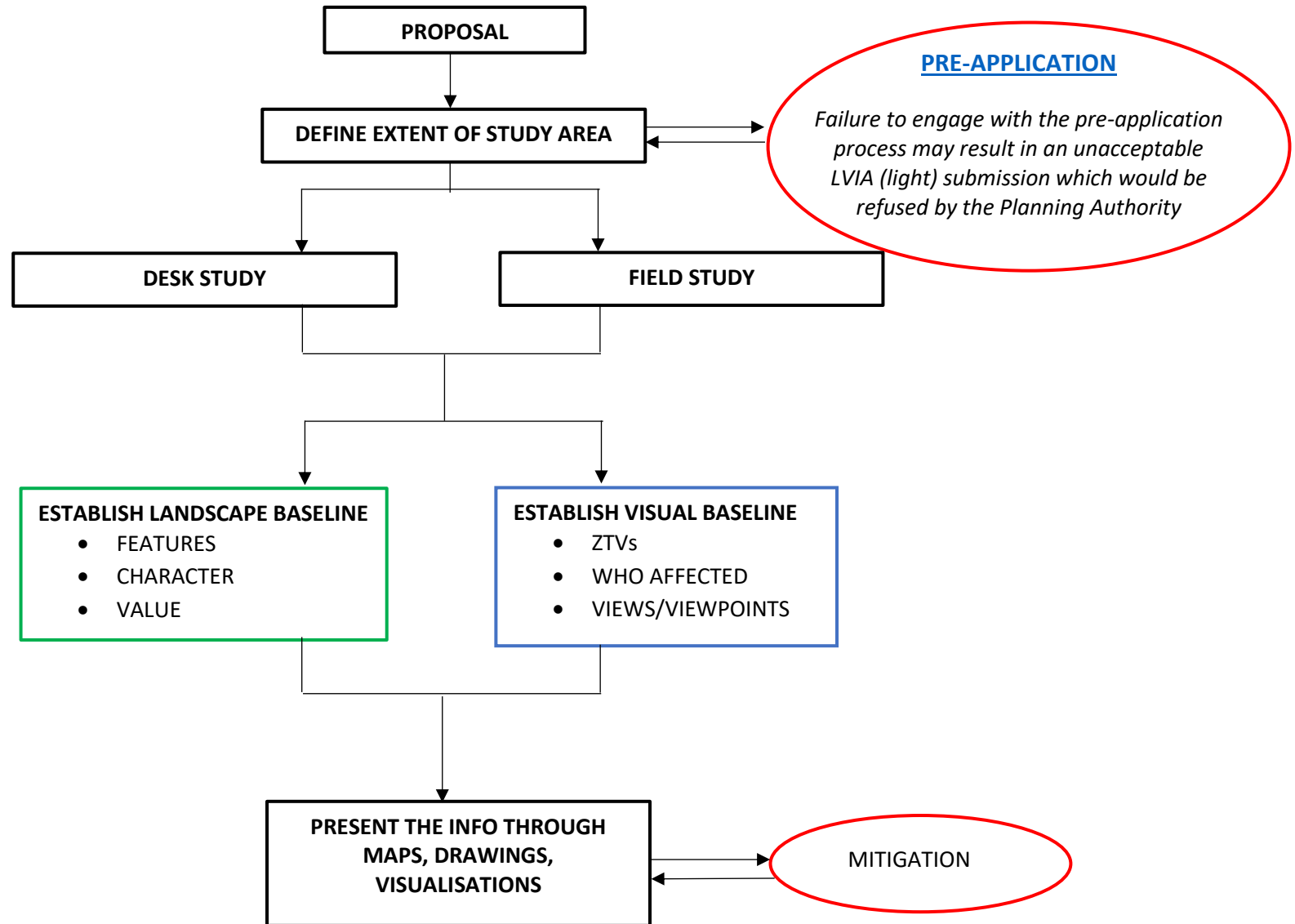
Each drawing should be annotated and the effects and mitigation must be described. Technical information must be labelled on all photographs.

Visualisations should be accompanied by a Technical Methodology. Refer to section 1.9 of this guidance for details of the visualisation types.

2.1.4 MITIGATION / ENHANCEMENT

Explain how the design of the proposals has evolved in order to reflect site characteristics and mitigate identified adverse effects.

3.0 LVIA (LIGHT) PROCESS DIAGRAM



3.1 SETTING OUT THE LVIA (LIGHT) DOCUMENT

The process diagram on the previous page broadly defines the steps of the process for LVIA (Light). This will be a primarily visual document with text used to describe the landscape character as well as the maps and images.

Please note that there is a 10MB limit for files uploaded to the planning portal.

3.1.2 INTRODUCTION

This section should set out:

- Landscape designations and any relevant landscape strategies;
- **The study area and methodology agreed with the planning authority as part of the [Pre-Application](#) process.**
- Practical constraints encountered in carrying out the work and assumptions made, if applicable.

3.1.3 LANDSCAPE AND VISUAL BASELINES

The information gathered for this section will come from:

- Desk Study: Sources of background information might include OS maps as well as documents prepared by the planning authority, Historic Environment Scotland, Nature Scot or other special interest groups or organisations. Use should also be made of any existing historic studies in order to provide information on the historic and changing character.
- Field Study: Following the desk study, site visits should be carried out in order to collect the additional information required.

The landscape baselines should be presented through a series of annotated maps and photographs accompanied by text. This may require to consider a wider group of character areas rather than just the immediate area around the site. Character areas may be defined by consideration of the key characteristics set out in section 1.6. As well as the key characteristics, any other sensitive receptors should be identified. Any designations and/or landscape studies should be identified and analysed.

The visual baselines should be presented as A3 photographs – refer to section 1.9 for guidance.

3.1.4 THE PROJECT

Provide a description of the proposed development for the purpose of the assessment, identifying the main features of the proposals and establishing parameters such as maximum extents of the development. Include an overview of the design development in response to the site context (siting, scale, massing, form, detailing, materials) or refer to the separate Design (and Access) Statement if applicable. Also include description of any alternatives considered. **Please refer to TN06 Sustainability and TN07 Sustainable Buildings for further information.**

Changes to the landscape character should be detailed through text and accompanied by maps and photos, directly relating to those included in the baseline assessment where relevant. The

assessment should consider how the proposal will affect the elements that make up the landscape, its aesthetic and perceptual aspects, its distinctive character and the key characteristics that contribute towards this.

In terms of the visualisations, whether these are 3D wirelines / models or photomontages / photowires, they must show how the proposal integrates with the site features. As with the maps, visualisations will typically be presented as two related sheets: baseline photograph and photomontage. Again these should be presented at the same size to allow direct comparison.

Each drawing should be annotated and the effects and mitigation must be described. Technical information must be labelled on all photographs.

Visualisations should be accompanied by a Technical Methodology. Refer to section 1.9 of this guidance for details of the visualisation types.

3.1.5 MITIGATION / ENHANCEMENT

Explain how the design of the proposals has evolved in order to reflect site characteristics and mitigate identified adverse effects.

4.0 FURTHER READING

Guidelines for Landscape and Visual Impact Assessment, 3rd edition (GLVIA3), Landscape Institute and IEMA

Visual Representations of Development Proposals – Technical Note 06/19, Landscape Institute

5.0 APPENDICES

Appendix 1 - To provide an example of how the Planning Authority expects visualisations to be completed, a site in a countryside zone was selected at random. The use of this site as an example has not and does not prejudice any applications in any way. To provide a contrast and a fuller example of the purpose and merit of visualisations, a further site was selected to demonstrate how the design which was considered to be suitable for the first site, would not work on a different type of site, and a further architectural model was created to then show the difference the house type can make on a sensitive site. The latter site was selected to demonstrate an open landscape site in comparison to the main study, to show the importance of massing and colour. This site is not, and has not been, the subject of any planning application and has been selected only as a demonstration for visual impact. No assessment has been made whether this site would comply with planning policy in any other regard. This sample would also provide the basis for the visualisations for both VII and LVIA (Light).

Appendix 2 – Template for setting out VII. Note that there is no requirement to use this should other software be preferred, however the layout should largely be followed.

Appendix 3 – Template for setting out LVIA (Light). Note that there is no requirement to use this should other software be preferred, however the layout should largely be followed.

CONTENTS

The sections shown in italics are included as part of this sample to further aid understanding of things to avoid as well as demonstrate different site sensitivities. These sections would not form part of a standard VII / LVIA (Light) submission



1.0 INTRODUCTION

1.1 Purpose of this document

2.0 BASELINES

2.1 Plan annotated with baseline photographs

2.2 Baseline photographs

2.3 *Examples of photos that do not properly aid the visualisation*

3.0 THE PROJECT

3.1 Visualisations matching the baseline photos, at A3 each

3.2 *Questions to ask of the visualisation*

4.0 *VISUALISATIONS OF COMPARISON SITE*

1.0 INTRODUCTION

1.1 Purpose of this document

This is a set of visualisations in relation to a proposed dwellinghouse on a greenfield site near to the key rural settlement of Taynuilt. As the site sits within the countryside zone, under LDP2 Policy 02 a VII or LVIA (Light) may be required and these visualisations would be incorporated in either of these assessment types. *To provide contrast and a fuller example of the purpose and merit of visualisations, a comparison site was selected to demonstrate how the design which was considered to be suitable for the first site, would not work on a different type of site, and a further architectural model was created to show the importance of massing and colour.*

2.0 BASELINES

2.1 Plan annotated with baseline photographs



2.2 Baseline photos



Close view of the site at existing access point from public road.
OBSERVATION: The site only becomes visible from the road in the vicinity of the access point, otherwise the site is well screened.
TECHNICAL: 50mm lens on Full Frame Sensor camera (Canon 5D)



2

Close view of the site approximately 10m south of access gate, from public road.
OBSERVATION: The site becomes gradually more screened to the south, even in autumn/winter (photo taken in November)
TECHNICAL: 50mm lens on Full Frame Sensor camera (Canon 5D Mk III); f/8, 1/100, ISO 1250



This is an example and not a formal policy assessment against either of the sites or designs contained herein.



2.3 Examples of photos that do not properly aid the visualisation

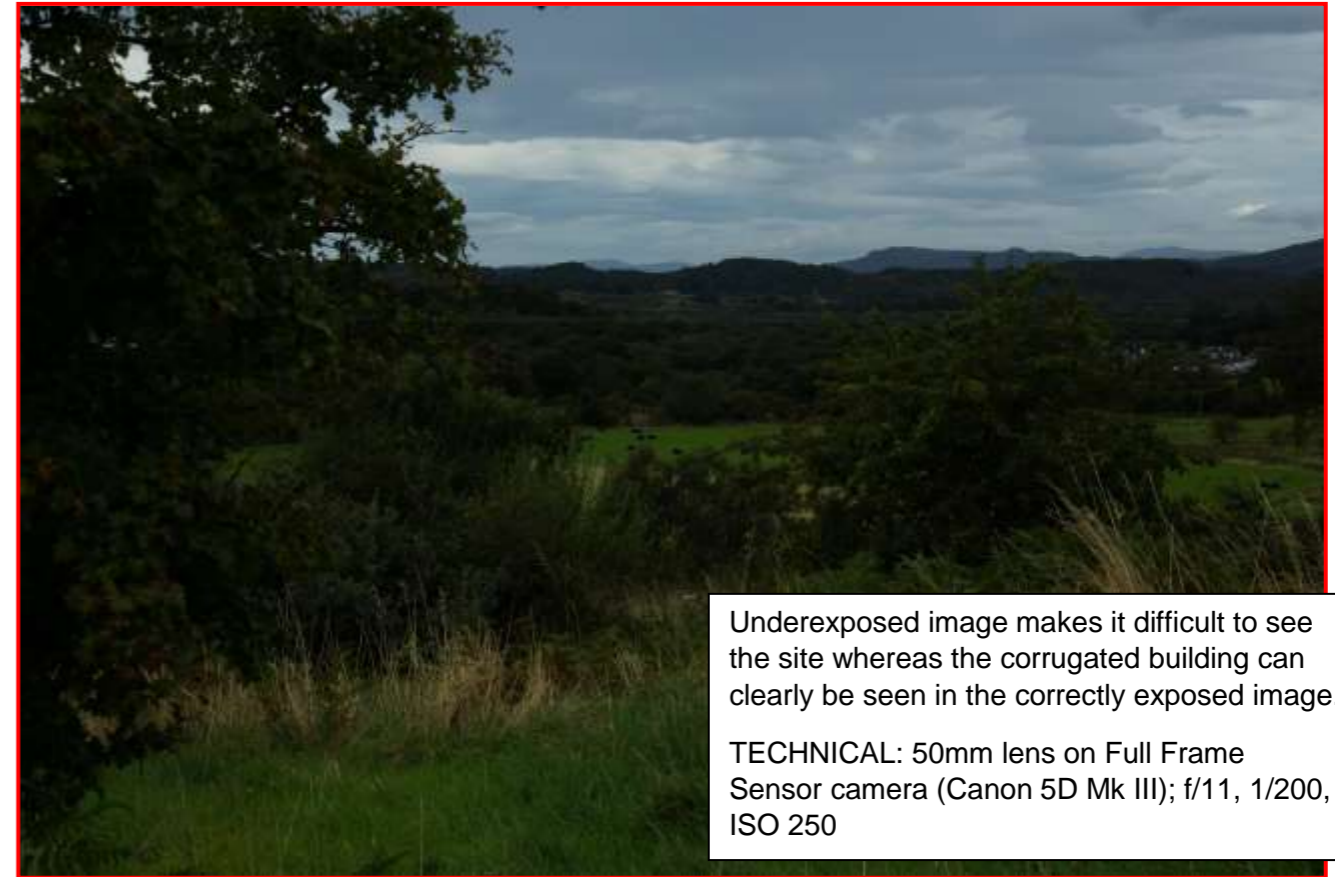
Using a wide lens gives a wider view of the site than in reality and makes objects (i.e. the corrugated iron building) appear further away than they really are.

TECHNICAL: 24mm lens on Full Frame Sensor camera (Canon 5D Mk III); f/11, 1/200, ISO 640



Underexposed image makes it difficult to see the site whereas the corrugated building can clearly be seen in the correctly exposed image.

TECHNICAL: 50mm lens on Full Frame Sensor camera (Canon 5D Mk III); f/11, 1/200, ISO 250



Using a wide lens from a distant viewpoint makes the site appear further away and more difficult to see than in reality.

TECHNICAL: 24mm lens on Full Frame Sensor camera (Canon 5D Mk III); f/11, 1/200, ISO 500



Using a telephoto lens from a distant viewpoint makes the site appear closer and more prominent than in reality..

TECHNICAL: 200mm lens on Crop Sensor camera (Canon 7D Mk II) = 320mm effective focal length; f/11, 1/250, ISO 640



3.1 Visualisations matching the baseline photos, at A3 each



This is an example and not a formal policy assessment against either of the sites or designs contained herein.

2



Showing the proposal from approximately 10m south of the access gate

OBSERVATION: as the viewer moves south the house becomes screened by trees, starting from approximately 10 metres south of the access gate and become increasingly screened. From this angle only part of the proposed development can be seen (part of the garage).



Note: in cases where a higher number of viewpoints can be identified, a visualisation should be included for each of these so on many sites a higher number of visualisations may be required.

3.3 Questions to ask of the visualisations

It is recommended that the applicant/agent refers to the TN06 Sustainability and TN07 Sustainable Buildings.

The Process

- Has the site context been considered and utilised appropriately to inform the design*
- Have all key views been incorporated*
- Is the photography correct – i.e. use of correct focal length and exposure*
- Are there extant planning applications that need to be modelled for incorporation in any of the visualisations*

The design

- Has the building/ have the buildings been most appropriately sited – consider whether re-siting of the proposal would avoid ridgeline development or incorporate better screening*
- Is the scale and massing appropriate for the site and context – would a re-design to result in a reduction in scale or height avoid unacceptable visual impact*
- Is the architectural design appropriate for the site rather than being a copy of a dwelling designed for an urban location*
- Are the colours / materials appropriate – consider whether darker colours or materials may be required to limit visual prominence from key viewpoints*
- Consider incorporating basic visualisations of design development options which will help to demonstrate how the best siting and design solution has been reached for the particular site*

Note: this sample VIA does not advocate the design merits of the proposal is, nor does it advocate that the siting, scale, massing, colours and materials are the most suitable for the site, which is a step that applicants/agents should undertake themselves as part of the process. In this case the siting and design in this location would be considered to comply with policy and so no further comment is made.

4.0 VISUALISATIONS OF COMPARISON SITE

All photos taken at 50mm on Full Frame Sensor Camera at f/9, 1/100, ISO 1000, showing how on an alternative site the same design considered suitable on the original site may not be considered appropriate. Further visualisations of an alternative design (single storey, black aluminium clad) demonstrate how a different design might better fit a more sensitive site.



Close viewpoint using original example design
OBSERVATION: due to the open nature of the site the white colour and the two storey massing do not sit sensitively within the site

This is an example and not a formal policy assessment against either of the sites or designs contained herein.



Distant viewpoint using original example design

OBSERVATION: An existing dwellinghouse to the left can be seen nestled into the landscape which is of a colour and form that blends in well. In contrast, the two storey white house is far too prominent in this open sensitive landscape.



Close viewpoint using an alternative design

OBSERVATION: This alternative design is lower in height and is clad in a dark colour (black metal). On the same site where the two storey white house did not sit sensitively, this integrates well with its context.

This is an example and not a formal policy assessment against either of the sites or designs contained herein.



Distant viewpoint using an alternative design
OBSERVATION: This alternative design is lower in height and is clad in a dark colour (black metal). On the same site where the two storey white house did not sit sensitively, this integrates well with its context.

This is an example and not a formal policy assessment against either of the sites or designs contained herein.

The two designs for side by side comparison:



This is an example and not a formal policy assessment against either of the sites or designs contained herein.

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- 1.1 Purpose of this document
- 1.2 Study area and methodology
- 1.3 Unimplemented but extant planning consents in the vicinity
- 1.4 Limitations of the study

2.0 VISUAL BASELINES

- 2.1 Plan annotated with baseline photographs
- 2.2 Baseline photographs

3.0 THE PROJECT

- 3.1 Project Description
- 3.2 Visualisations matching the baseline photos, at A3 each

4.0 MITIGATION / ENHANCEMENT

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1.2 Study area and methodology

1.3 Unimplemented but extant planning consents in the vicinity

1.4 Limitations of the study

2.0 VISUAL BASELINES

2.1 Plan annotated with baseline photographs

2.2 Baseline photos (including observations and technical information – 1 photo per A3 sheet))

3.0 THE PROJECT

3.1 Project Description

3.2 Visualisations matching the baseline photos, at A3 each (including observations)

4.0 MITIGATION / ENHANCEMENT

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- 1.1 Purpose of this document
- 1.2 Landscape strategies
- 1.3 Landscape designations
- 1.4 Study area and methodology
- 1.5 Unimplemented but extant planning consents in the vicinity
- 1.6 Limitations of the study

2.0 LANDSCAPE BASELINES

- 2.1 Background information and maps
- 2.2 Plan annotated with character areas
- 2.3.1 Plan annotated with baseline photographs (Character Area 1)
- 2.3.2 Baseline photographs (Character Area 1)
- 2.4.1 Plan annotated with baseline photographs (Character Area 2)
- 2.4.2 Baseline photographs (Character Area 2)
- 2.5.1 Plan annotated with baseline photographs (Character Area 3)
- 2.5.2 Baseline photographs (Character Area 3) *please create further sections for additional character areas as required*
- 2.6 Analysis of character areas

3.0 VISUAL BASELINES

- 3.1 Plan annotated with baseline photographs
- 3.2 Baseline photographs

4.0 THE PROJECT

- 4.1 Project Description
- 4.2 Analysis of how the project would affect the landscape character
- 4.3 Visualisations matching the baseline photos, at A3 each

5.0 MITIGATION / ENHANCEMENT

1.0 INTRODUCTION

1.1 Purpose of this document

1.2 Landscape Strategies

1.3 Landscape designations

1.4 Study area and methodology

1.5 Unimplemented but extant planning consents in the vicinity

1.6 Limitations of the study

2.0 LANDSCAPE BASELINES

2.1 Background information and maps

2.2 Plan annotated with character areas

2.3.1 Plan annotated with baseline photographs (Character Area 1)

2.3.2 Baseline photographs (Character Area 1)

2.4.1 Plan annotated with baseline photographs (Character Area 2)

2.4.2 Baseline photographs (Character Area 2)

2.5.1 Plan annotated with baseline photographs (Character Area 3)

2.5.2 Baseline photographs (Character Area 3) *please create further sections for additional character areas as required*

2.6 Analysis of character areas

3.0 VISUAL BASELINES

3.1 Plan annotated with baseline photographs

3.2 Baseline photographs

4.0 THE PROJECT

4.1 Project Description

4.2 Analysis of how the project would affect the landscape character

4.3 Visualisations matching the baseline photos, at A3 each

5.0 MITIGATION / ENHANCEMENT



TN07 SUSTAINABLE BUILDINGS

Argyll and Bute Local Development Plan 2

TN07 SUSTAINABLE BUILDINGS

Sustainable Development can be defined as being “development that meets the needs of the present without compromising the ability of future generations to meet their own needs” (The Brundtland Definition, as sourced in Appendix F of NPF4).

Prior to reading this technical note, applicants should have read TN06 *Sustainability* which provides guidance on the wider considerations of siting a development in the natural or built landscape as well as the impact of a development on the community, economy and environment.

This technical note provides additional detail to policy 09 *Sustainable Design* of the adopted Argyll and Bute Local Development Plan 2 (LDP2).

Aesthetic design considerations will follow and compliment sustainable building considerations, and this is covered in Policy 10 *Design- All Development* and the council’s Design Guidance (which is intended to be consolidated and updated during the Plan period).

1.0 FABRIC FIRST APPROACH

- Following on from siting the building to maximise energy efficiency (refer to TN06 *Sustainability*), the building envelope should be designed in a way to minimise the heat loss as well as the materials used. This means considering the form and scale of the building so as not create unnecessary additional external wall areas, or a building which is larger than is required.
- The design of the building should allow for future adaptability and incorporate space for home working, along with suitable WiFi provision.
- The materials selected should contribute towards Scotland’s net-zero carbon targets. Buildings design should maximise the performance of the building materials and components first, before considering the use of mechanical or electrical building services systems.
- The lifecycle of the development, its materials and components should be considered at the start of the project. Higher quality materials may be more expensive at the outset but may perform better and for longer.
- Building materials should have a low environmental impact e.g. from sustainable manufacturing processes, be recycled and/or be local.

2.0 RENEWABLES AND WATER

- Renewable energy sources such as solar panels may in some cases be suitable, however consideration should be given to the embodied energy in the creation of these.
- Also refer to Technical Note on Minimising Water Consumption for detail on water saving technologies, grey water systems and sustainable water systems.

3.0 ANCILLARY DEVELOPMENT, PARKING AND LANDSCAPING

- Outbuildings should relate to the main building in form and design and be carefully positioned on the site, relating to the main building.
- Landscaping can significantly assist the integration of new development within the built or natural environment. Landscaping can take the form of soft or hard features and performs its function best when designed as an integral aspect of a new design.
- Hard landscaping should be kept to a minimum
- Consideration should be given to LDP2 policy 06 *Green Infrastructure*

4.0 THE CHECKLIST AND PARALLEL CONSIDERATIONS

A Sustainable Buildings [checklist](#) has been prepared as an Appendix to this Technical Note which must be completed and submitted with all applications. Separately, a Sustainability Checklist (TN06) covering the wider impacts of siting a development in the natural or built landscape as well as of the development on the community, economy and environment must be submitted.

APPENDIX TO TN07: SUSTAINABLE BUILDINGS CHECKLIST

It is mandatory that potential developers complete this checklist for all applications for development. It is intended that by completing the checklist the applicant could take the opportunity to review the sustainability of their project and make changes to their application, where appropriate and to ensure compliance with LDP policies. Not every criterion will be relevant for every development, for example extensions, in which case “not applicable” should be noted in the details column.

FABRIC FIRST	Give details
Provide details of any proposals to use re-cycled or locally sourced materials?	
What measures will be taken to reduce construction site waste	
What construction materials will be used to reduce embodied energy?	
Does the design provide adaptability for changing needs over time? If so, explain how	
Demonstrate how the design provides dedicated space for home working? Has fibre broadband or Wi-Fi infrastructure been installed to allow home working?	
Have the energy requirements for the building been calculated? If so, provide details of this.	

RENEWABLES AND WATER (<i>see also Technical Working Note on Minimising water Consumption</i>)	Give details
What percentage of the total building energy demand will be produced from on-site renewable energy technologies.	
Outline how space/water heating, cooling and lighting will be delivered using low or zero carbon technologies.	
Provide details of any water saving technologies to be employed such as aerated shower and tap heads?	
Provide details of any measures which have been adopted to re-use 'grey water' or harvest rainwater?	
Has a sustainable waste water system been designed to avoid pollution of the water environment? If so, provide details.	

ANCILARY DEVELOPMENT, PARKING AND LANDSCAPING	Give details
Provide details of the provision for on-site storage of waste and recyclates?	
Provide details of allowance for bicycle storage?	

<p>Does the development have an electric car charging point?</p>	
<p>Provide details of any porous surfacing materials for drives, paths and hardstandings?</p>	

FOOD CONTROL LAW ENFORCEMENT PLAN 2023-2025

1.0 Executive Summary

- 1.1 The Council, as a statutory food authority under the Food Safety Act 1990 and associated statutes, must ensure that it delivers, principally through environmental health, a service which is adequately resourced to meet the requirements of a national Code of Practice (hereafter referred to as FLCOP) issued by Food Standards Scotland (hereafter referred to as FSS). The FLCOP also requires food authorities to have a formal food control law enforcement plan approved by the appropriate Committee.
- 1.2 Our aims are to protect public health and promote the production of safe food onto the market. The food and drink sector is significant to the economy and reputation of Argyll and Bute, and regulation seeks to support compliant businesses and target non-compliant businesses. Notwithstanding this, the Council have a statutory responsibility to deliver a service which meets the requirements of FLCOP.
- 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 food control enforcement role carried out by environmental health. The Food Control Law Enforcement Plan 2023-23 provides more detail

1.4 Recommendations

- 1.4.1 Members are asked to recognise the work by environmental health to protect food safety in Argyll and Bute.
- 1.4.2 Members are asked to approve the Food Control Law Enforcement Plan 2023-25 and reaffirm the statutory appointments of the Council's Head of Food Safety, Lead Officer (Food Control) together with the appointments of authorised Officers of the Council, and the Council's Public Analyst, Agricultural Analyst and Food Examiner arrangements.

FOOD CONTROL LAW ENFORCEMENT PLAN 2023-2025

2.0 INTRODUCTION

- 2.1 The Council, as a statutory food authority under the Food Safety Act 1990 and associated statutes, must ensure that it delivers, principally through environmental health, a service which is adequately resourced to meet the requirements of a national Code of Practice (hereafter referred to as FLCOP) issued by Food Standards Scotland (hereafter referred to as FSS as appropriate). The FLCOP also requires food authorities to have a formal food control law enforcement plan approved by the appropriate Committee.
- 2.2 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 Food Control Law Enforcement Plan 2023-23 provides more detail

3.0 RECOMMENDATIONS

- 3.1 Members are asked to recognise the work by environmental health to protect food safety in Argyll and Bute.
- 3.2 Members are asked to approve the Food Control Law Enforcement Plan 2023-25 and reaffirm the statutory appointments of the Council's Head of Food Safety, Lead Officer (Food Control) together with the appointments of authorised Officers of the Council, and the Council's Public Analyst, Agricultural Analyst and Food Examiner arrangements.

4.0 DETAIL

- 4.1 The food sector in Argyll and Bute differs significantly from many other local authorities, as we have a very large processing and manufacturing sector (fish and shellfish) together with the "normal" retail, catering and tourism related businesses. There are 2419 food business across Argyll and Bute categorised for interventions based on the risk they pose to food safety. This includes 55 approval sector premises, exporting food products internationally, categorised as high risk due to the potential risks from their processes failing to food safety and reputational risks to Argyll and Bute, and to Scotland. There are also 45 other manufacturing and processing food businesses

- 4.2 The requirements for a Council's food safety regulation activities are detailed in the Food Standards Agency Code of Practice and Framework Agreement. They prescribe full compliance with the Code and their expectations, including inspection frequencies for food business operators. The Council do not have sufficient resource to meet the full extent of the Code and from an operation management perspective; we target our resources on areas of greatest risk, at the expense of low risk activities.
- 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 food control enforcement role carried out by environmental health. The Food Law Enforcement Plan 2023-25 provides more detail.
- 4.4 The role of the Regulatory Services and Building Standards Manager is to prepare a plan which protects food safety and standards based on available resources as advised by the Lead Officer (Food Control). There are insufficient resources or budget to meet the full requirements of the FLCOP. Accordingly, working with the Lead Officer a risk and intelligence-based approach focussing resources upon areas of highest risk, including high risk FBOs is proposed. Priority will be given to the approved and high risk manufacturing sectors, and businesses who provide to vulnerable groups. Otherwise, the approach will be intelligence-led/informed, responding to incidents and suspected or confirmed outbreaks.

5.0 CHALLENGES

- 5.1 The previous FSS audit report identified that the Council does not have adequate capacity or capability to undertake our statutory responsibilities. This situation remains, despite delivering a food safety improvement plan, with resources remaining a major concern.
- 5.2 There is a resource gap of 5 FTE authorised food control officers between the current establishment and that required to deliver the FLCOP. This is despite creating a new post dedicated to food control in 2022 and the gap has increased with long-term recruitment difficulties across Regulatory Services. At present there is 3 EHO vacancies across the team, equating to 0.7 FTE food safety resource.
- 5.3 This approach to managing risk by targeting available resources is wholly appropriate in our circumstances. There is a risk that a future FSS audit will identify that the plan and food safety arrangements are inadequate to deliver the full range of statutory requirements of food control which could lead to a formal direction from the Minister requiring the Council to take appropriate measures. Discussion with the FSS have identified that they recognise that we have insufficient resources, like many other local authorities, and are supportive of the risk-based approach advocated in the Plan, although they are seeking the Council to increase our food safety resources.
- 5.4 There is a shortfall of 183 FTE across all Scottish authorities and given wide non-compliance with the FLCOP, a national Scottish Authority Food Enforcement Re-Build (SAFER) project has been established between LAs and FSS working collaboratively with the

purposes of identifying how current resources can be most effectively deployed to address national and local priorities, to restore resources in the longer term, to revise the FLCOP and protect food safety and standards most effectively in the future.

- 5.5 Export market. An indirect consequence of EU Exit has been the need for export business to remodel their processes to meet increasing demands for exporting to the EU. As a consequence, many of the large companies are directing consignment through commercial hubs, rather than requesting export health certificates from their local authorities. As a result, the number of export health certificate requests has reduced by 60% in Argyll and Bute, with a subsequent reduction in income.

6.0 **FOOD CONTROL LAW ENFORCEMENT PLAN 2023-25**

- 6.1 The service does not have sufficient budget to provide the resources required to meet the key requirements of the FLCOP and the food safety challenges in Argyll and Bute. This situation is exacerbated by the national shortage of environmental health officer and food safety officers.

The 2023-25 work plan has been developed to minimise the risks by targeting our current resources. The Plan and service priorities are attached Appendix 1 of this report. Key issues to highlight are:

- a. Section 4.1 details the achievements over the last year , including the restart of food enforcement services post-pandemic, targeted enforcement activity, training to increase the competency of our authorised officers, supporting food businesses including attestations and the issue of 587 export health certificates; and the investigation of national and local food incidents or outbreaks.
 - b. Section 5 details the priorities for the duration of this plan. These include a high risk focussed interventions program as outlined in section 5.2.1, a food sampling and monitoring program, and better use of digital technology, including remote verification interventions.
- 6.2 The Council has a formal Service Level Agreement with Glasgow Scientific Services (GSS) for the provision of laboratory services, including the microbiological examination and the analysis of foodstuffs and feed. The Council requires to make statutory appointments for specialist support services and this plan seeks approval of Glasgow Scientific Services and named staff to meet the requirements for a public analyst, food examiner and agricultural analyst. These appointments are detailed in Appendix II of this plan.

7.0 **ENFORCEMENT POLICY**

- 7.1 Our Enforcement Policy seeks to support compliant businesses and to take formal action where there are significant risks or a history of non-compliance. It is founded upon the principles of proportionality, appropriateness, consistency, targeted and risk-based, which are compliant with the Scottish Government's Regulatory Strategic Code.

7.2 The Food Control Law Enforcement Policy has been reviewed and is presented for approval. It meets 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 The role of Environmental Health is critical in protecting public health, supporting compliant businesses, targeting and enforcing non-compliance, addressing food safety risks and supporting the economy of Argyll and Bute. Much of this work goes unrecognised, and only comes to the fore when there are incidents, food poisoning outbreaks, such as outbreaks of E.coli 0157, Listeria (it is noteworthy that the Council is currently involved in investigating a nationwide outbreak) and export demands where business viability within a fragile economy depends on the service provided.

8.2 The Council do not have sufficient resources to deliver its statutory food requirements and our approach for some years has been to adopt a risk-based approach focussing on high risk priorities. Previous audits by FSS have identified critical resourcing issues and this has been exacerbated by the lack of qualified and experienced environmental, health officers and food safety officers nationally

8.3 The Food Law Enforcement Plan 2023-25 effectively targets our limited resources to provide the best protection for food safety. Whilst the intention is to bring a further report back to Committee on resourcing and performance against the plan, the Regulatory Service's and Building Standards Manager commends the plan and enforcement policy for member's approval.

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 the Council's statutory duty, although the Plan does not meet the full requirements of a food authority under the FLCOP
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, with the critical risks being: <ul style="list-style-type: none"> i. The Council is not meeting the full requirements of statutory duties and of the FLCOP with significant public health implications in terms of the safety, the authenticity and integrity of food.

- ii. That operational priorities and reactive work continues to increase and diverts resources from our Improvement Plan.
- iii. The consequences of a serious foodborne disease outbreak in Argyll and Bute will impact on the health of the consumer, the reputation of the Council and the food sector, and has potential implications to trade, market and economy.

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: Food Control Law Enforcement Work Plan 2023-25

Appendix 1



Food Control Enforcement Plan 2023-2025

1. SERVICE AIMS AND OBJECTIVES

1.1 Aims and Objectives

The Council's Regulatory Services is **committed to the aim of protection of public health.**

The Council is a competent authority under retained Regulation (EU) 2017/625 of the European Parliament and the Council on Official Controls, a statutory food authority under the Food Safety Act 1990 and a delegated competent authority under Food Hygiene (Scotland) Regulations 2006. Therefore, the Council aims to ensure that all food and drink, intended for sale for human consumption, which is produced, stored, distributed, handled or consumed within or exported from Argyll and Bute does not pose a significant risk to the health or safety of the consumer and the consumer is not prejudiced by it.

The term Food Control, for the purposes of this plan is integrated and comprehensively provides for the protection of the consumer, comprising food safety, food hygiene, food standards, food authenticity and Integrity, food information and food fraud/crime.

Regulatory Services, consistent with available resources seeks to achieve protection of the consumer through the following objectives:-

- To undertake the statutory enforcement role of a competent body “according to retained Regulation (EU) 2017/625, in accordance with retained Regulation (EU) No 2019/627 - and under the Food Hygiene (Scotland) Regulations 2006 as a Food Authority” under the Food Safety Act 1990 working in accordance with service standards and specific requirements and guidance from Food Standards Scotland and DEFRA. This includes particular reference to the Food Law Code of Practice (hereafter referred to as FLCOP) and the Interventions Code of Practice (ICP) published by Food Standards Scotland.
- To provide an effective food control service focusing limited resources according to a risk-based approach and ensuring that all enforcement activity is also risk based, balanced, proportionate, reasonable, evidence based, consistent with the FLCOP, (notably the compliance spectrum), and is consistent with the Scottish Regulators' Strategic Code of Practice
- To develop, a Food Control Service Plan (i.e. this plan) which will confirm the key priorities, themes and the work to be undertaken. In summary, the key priorities of this plan focus limited resources upon the highest risk FBOs and on innovation with the purpose of deploying these resources as effectively as possible.
- To work with and support local Food Business Operators (hereafter referred to as FBO's) in an open and transparent manner, to improve the safety, the authenticity and the integrity of food and the level of compliance with relevant legislation, in line with the Service's Enforcement Policy
- To provide Food Control advice to FBOs, the consumer and other stakeholders. Including FBOs applying for approval under regulation (EC) 853/2004 acknowledging that effective impartial advice at the outset is the most effective preventative approach.

- To maintain adequate systems including a computer-based inspection programme and reporting system, designed to improve the quality of food control enforcement, data, management information and reporting

1.2 Links to Corporate Plan

This plan links to the Council's corporate policy outcomes of promoting a sustainable economy; protecting our communities and the wider health protection agenda.

2. BACKGROUND

2.1 Profile and the Local Authority

Argyll and Bute Council is a unitary authority, with a resident population of 86,130 and a geographical area of 690,889 hectares, including 23 inhabited islands, located within the west Highlands of Scotland.

2.2 Organisational Structure

Regulatory Services delivers the Council's statutory food control law enforcement role in a team which provides the range of services within environmental health, animal health, and licensing standards. This service is located within the Development and Infrastructure Directorate in Development and Economic Growth.

Regulatory Services is managed at a third-tier level through the Regulatory Services and Building Standards Manager with operational management being provided by the Environmental Health Manager (East) and Environmental Health Manager (West). There is no specific food control team as officers undertake generic work relating to their profession, although the lead for the operational management of Food Control rests with the Environmental Health Manager (West). The lead for the professional, operational (including enforcement) and technical aspects of Food Control is taken by the Lead Officer in Food Control, (Environmental Health officer (Food Control and Service Support)) responsible for exercising the operational lead in Food Control and maintaining the interventions, qualifications and enforcement required by the FLCOP.

Regulatory Services refers reports to the Planning Protective Services and Licensing Committee or the full Council as determined by the nature of the report. In addition, the service has access to the other Committees and the Argyll and Bute Licensing Board.

The Councils statutory appointments required under the Food Safety Act 1990 through the FLCOP and in accordance with retained Regulation (EU) 2017/625 are

Head of Food Safety	Regulatory Services and Building Standards Manager
Lead Officer – Food Control	Environmental Health Officer (Food Control and Service Support)
Management Lead – Food Control	Environmental Health Manager (West)

A review of these statutory appointments against the requirements of the FLCOP is ongoing as part of the service redesign process, specified in the Regulatory Services Service Plan 2023-25.

2.3 The Scope of the Food Service

Official controls are undertaken principally by authorised Environmental Health staff, although some work is undertaken by Animal Health and Welfare staff. The Service continues to review roles and responsibilities in respect of food as far as the FLCOP allows, to integrate work across disciplines so we can make better use of the wider service resource.

The Service recognises that food control management systems operated by FBOs do occasionally fail. In such situations the Service responds as a priority and will continue to do so by investigating and controlling communicable disease outbreaks, investigating incidents, complaints and intelligence reports. Such responses are in accordance with the Service's Food Control Enforcement Policy, the FLCOP and with applicable guidance.

Animal Health and Welfare Officers undertake primary production activities into the animal health inspection protocols for targeted businesses

The service priorities detailed in this Food Plan are determined through statutory duties, the FLCOP; national, local and service priorities. The Council's Enforcement Policies and food control procedures whilst internal monitoring informs the standards for this work.

2.4 Laboratory Arrangements

The Council has a formal Service Level Agreement with Glasgow Scientific Services (GSS) for the provision of laboratory services, including the microbiological examination and the analysis of foodstuffs and feed. The Council requires to make statutory appointments for specialist support services and this plan seeks approval of Glasgow Scientific Services and named staff to meet the requirements for a public analyst, food examiner and agricultural analyst. These appointments are detailed in Appendix II of this plan.

2.5 Professional Support Network

The service works closely with Food Standards Scotland, the Scottish Food Enforcement Liaison Committee, the Crown Office (Procurators Fiscal) and NHS Highland. The service benefits from the support of the Royal Environmental Health Institute of Scotland, the Society of Chief Officers of Environmental Health in Scotland, The Lead Officer is an elected fellow and a registered food safety principal at the Institute of Food Science and Technology and benefits from that network.

The service values and participates as is appropriate and relevant to do so, within established inter-authority liaison and professional network mechanisms operating within Environmental Health in Scotland. Of specific note are Society of Chief Officers of Environmental Health in Scotland), SFELC, the SFELC Approved Establishments Working Group, the SFELC/SOCOEHs Methods and Techniques Working Group, the SFELC Listeria Working Group, and the NHS Highland Liaison Group.

2.6 Food Control in Argyll and Bute

The nature, type and scale of food businesses in Argyll and Bute are influenced by its geography, particularly its proximity to the sea and infrastructure. These factors can create a range of difficulties in delivering the statutory work. Examples of these are:

- An atypically high number of 55 approved (exporters) and 45 other manufacturing and processing FBOs are engaged in manufacturing, often utilising specialist processing techniques and technology without in house technical support. This generates a high number of Home Authority requests for assistance, advice and export certification. A significant supply sector including a large seafood industry comprising the largest wild caught shellfish sector in the UK and the second largest aquaculture sector in the UK. This has a significant impact on the work of the service and requires specialist shellfish waters classification work, which enforces the monitoring programmes for bio-toxins and classification of shellfish harvesting waters.
- The geography of Argyll and Bute poses specific challenges in delivering services and ensuring that there are sufficient arrangements in place to ensure and promote effectiveness and consistency. This is supported by the direction of operational work and management direction of staff within the decentralised area offices, training, specialist support, and the food plan
- There is significant officer time spent travelling as part of their operational work (estimated at 20%). This has reduced slightly in the past few years due to flexible, mobile and remote working, through integrating roles where possible and practical with other officers, our new Official Controls systems, and better use of digital technology. This includes the ability to carry out remote verification inspections via MS Teams and similar platforms.
- Following the last FSS Audit, Root Cause analysis was applied to the findings and determined that the state of compliance was due to insufficient resources, responsibility allocation and management capacity. These issues remain as issue with a resource gap of 5 FTE between the existing establishment and that required to deliver the Food Law Code of Practice.
- The re-start of Food Control following the pandemic, acknowledged the unique and challenging circumstances of the Service. The options were finally balanced between establishing a specialist team with the advantages that provides and involving all Officers with the potential resilience that provides. Previous experience with wider involvement which had been attempted twice was not supportive. A focussed working group with all Officers being trained in Advanced HACCP in Manufacturing and in OCV and in OCV-Lite was implemented. The wider team now constitute a pool of Officers which can assist the Working Group and can more quickly move into the Group if required. The twin goals of specialism and resilience have now been met. However, the Working Group is comprised of relatively inexperienced Officers who have only completed only one pilot OCV inspection cycle. Significant support and resourcing will be required, as there is a resource gap of 5 FTE authorised food control officers between the current establishment and that required to deliver the FLCOP. Actions to address this challenges is detailed in the plan.

2.7 Uniqueness of Argyll and Bute Council as a “food authority”

2.7.1 The Service has responsibility for 2500 FBOs excluding the businesses which operate on a temporary or ad-hoc basis. The FBOs are divided into risk rated categories according to the Food Law Rating Scheme (FLRS) as follows:

Category	Minimum Inspection Frequencies	Number of Establishments
Group 01 Risk Band A	Every 18 months	17
Group 01 Risk Band B	Every 12 months	65 (includes 57 Approved premises)
Group 01 Risk Band C	Every 6 months	1
Group 1 unrated		17
Group 02 Risk Band A	Every 24 months	134
Group 02 Risk Band B	Every 18 months	406
Group 02 Risk Band C	Every 12 months	152
Group 02 Risk Band D	Every 3 months	14
Group 02 Risk Band E	Every 1 month	2
Group 2 Unrated		276
Group 03 Risk Band A	Every 60 months	592
Group 03 Risk Band B	Every 36 months	574
Group 03 Risk Band C	Every 24 months	50
Group 03 Risk Band D	Every 3 months	1
Group 03 Unrated		262

2.7.2 The 55 approved establishments (smokeries, shellfish processors, harvesters and cheesemakers etc.) amounts to the third highest number in Scotland. These FBOs fall within the ambit of Official Control Verification (OCV) and accordingly require the resources according to the OCV resource calculation. The 45 further manufacturers are not subject to approval because they do not process products of animal origin or they process composite products containing products of animal origin, including sandwich manufacturers, ready meal manufacturers, non-dairy cheese manufacturers, a significant distilling sector and a brewing sector. A significant proportion of the Approved and manufacturing FBOs minimally process their products and utilise specialist ‘Hurdle Technology’, which places specialist demands upon the Service. Manufacturing establishments in general also embody increased political risks for the Council and commercial risks and opportunities for the local economy, in that they distribute high risk products throughout the UK and globally.

2.7.3 The Service has participated in the national awards relating to the Food Hygiene Information Scheme and the EatSafe Awards which are run by the Food Standards Scotland. Both recognise good businesses in terms of food safety and provide information to allow the consumer to make an informed choice. The Service will continue to participate insofar as limited resources will allow. Argyll and Bute, have issued 114 Eat Safe awards out of a total of 1176 in Scotland.

3. SERVICE PLANNING PROCESS

3.1 Service Plan

The Food Control Law Enforcement Service Plan (i.e. this plan) is submitted to the Planning, Protective Services and Licensing Committee for approval. The plan proposes a level of service and scope of work in relation to resources available in the context of the statutory obligations placed on the Council. This plan does not meet in full the FLCOP but focuses on higher risk priorities

3.1.1 Resources, Demands and Risks

Fundamental to Service planning is establishing the relationship between resources, demands and risks and producing a plan that achieves the most optimal reconciliation of these factors. This plan acknowledges a significant resource deficit and is underpinned by risk assessment to provide the most effective application of resources.

The OCV Resource calculation in combination with the SFELC Food Control Calculation in 2022 identified that the service required 17.94 FTE Food dedicated Officers to deal with the full suite of statutory duties including backlogs and after these backlogs have been addressed requires 11.22 FTE Food Control dedicated Officers. Regulatory Services currently employ approximately 4.6 FTE in the Manufacturing Working Group and 7.35 FTE will be applied to food control overall with the addition of this plan, although 0.7 FTE is presently vacant. Accordingly, there is a significant resource deficit even when the current structure is fully staffed. The Service requires 5 FTE to deliver manufacturing OCs by dedicated food officers and is not able to provide this. Note the figure of 5 excludes food standards because currently there is no OCV basis for quantifying that demand. Currently there are 8 vacancies within the existing structure, including 1.6 FTE long term ill-health absence.

Accordingly, the Service has and will continue to apply a risk and intelligence-based approach focussing resources upon areas of highest risk, including high risk FBOs. Priority will be given to OCV in manufacturing, supply to vulnerable groups enforcement, investigations and responding to incidents.

This approach to managing risk through the most effective targeting of available resources is wholly appropriate in the circumstances, although there is a significant risk that Food Standards Scotland are likely, through formal audit, to raise another major non-conformance confirming that the Council does not have sufficient resources to deliver the full range of statutory requirements of food control. This can lead to a direction from the Minister that the Council acquires the requisite resources.

An example of the significant resource issues within the Service occurred in the recent past where 6 vacancies occurred, including 3 officers who were authorised to specifically deal with the high risk approved sector. Whilst the Service responded to this situation appropriately, operational activities took priority and there was little capacity to undertake “management” related activities including review of policies, and internal monitoring. This demonstrates the challenges facing the service. This is exacerbated by the national shortage of environmental health officers and food safety officers and this matter is being discussed nationally and reflects the SAFER approach being taken in Scotland

3.2 Review

This plan will operate over a 2-year period from 2023-2025 with an annual management review and regular performance reporting to the appropriate Committee.

4. SERVICE REVIEW – Summarising the Pandemic Period and Project New Start

4.1 Summary Food Service Plan Review

The principal achievements through the Pandemic and the Restart of Food Control have been:

1. The redeployment of Officers to address the Public Health emergency of the pandemic in accordance with Scottish Government priorities which led to the cessation of many Food Control activities.
2. The Service provided support to the food manufacturing sector and its personnel by taking a proactive and innovative approach to COVID-19 control in Food Manufacture which continued to operate during the pandemic and potentially constituted a vector and threat to wider society. Extensive support was provided to food businesses during the Covid restrictions to ensure that could trade safely and to assess changes to food safety management arrangements which were necessary to comply with restrictions (e.g. takeaway shops, wet sales premises providing some catering etc.). The Service worked with the University of Lincoln National Centre for Food Manufacture and both developed guidance and presented an online seminar to some 440 FBOs included all the Approved establishments and other major manufactures located in Argyll. This was very well received. The Service afterward continued to provide bespoke support within Argyll.
3. The Service was very actively engaged in the EU Exit transition to new export arrangements and systems. Leading up to the transition and afterwards the Service provide intense support for exporting FBOs and has also undertaken the following:-
 - Established an automated quarterly system for application and issuing Export Attestations.
 - Issued all EHCs requested on time amounting to 587 in the financial year 2022-2023
 - Authorised Officers have been supported to qualify on the DEFRA/APHA register for signing EHC
 - Established systems for providing EHCS for exports to China
4. All Authorised Officers have been qualified in Advanced HACCP in Food Manufacturing and in 'OCV-Lite 'for Catering and retail. All authorised Officers except two have been qualified in OCV.
5. During an application of for Approval to manufacture Biltong the Service confirmed that the biltong process was not validated which led to a great deal of research and work in order to produce a process that led to greater than 5-Log reduction in contaminating bacteria. This led to a Scotland wide review of standards for Biltong.
6. The Lead Officer led a SFELC Working Group with the purpose of producing a system of quantifying the resources that a Service requires to provide all the statutory requirements for Food Control. This was adopted nationally and has been operationalised in EXCEL. This has clearly confirmed a significant deficit of resources at the Service and Scotland-wide.

7. Restarted our food control arrangements focusing on the approved FBOs sector and FBOs where intelligence suggested they had deteriorated to Category B (former Annex 5) or worse during the pandemic. These FBOs were inspected, and the appropriate interventions were taken. The service continued to respond to suspected or confirmed cases of food-borne disease, complaints relating to food businesses and to the formal food alerts issued by Food Standards Scotland.
8. The Service achieved statutory compliance and protected food safety in accordance with our enforcement policy which seeks to work with business to secure compliance, and to initiate formal action where there are imminent risks to food safety, major or repeated non-compliance or non-cooperation.
- 4.2 There has also been unplanned or reactive work which we have had to respond to, and in some cases, this redeploys resources from our planned activities. These tend to be high priority as they may relate to national alerts; the need for formal enforcement action and are necessary to protect food safety and public health. An example of this work is a national trade withdrawal of fish pate and responding to two Food Alerts for Action involving non-compliant kebab meat.
- 4.3 The Service was unable to deliver in full the food control restart due to resourcing pressures created by 6 FTE vacancies across the environmental health team. As a result, a range of actions were taken to manage resources across the whole of the environmental health service which included a demand reduction exercise for all environmental health service requests. This was aimed at redirecting resources to higher risk activities. In respect of food control, the decision was taken to initially focus on the high risk approved and food manufacturing sector, new business, and a contractor was employed to carry out general FBO OCs to targeted food businesses. These challenges continue.

5. SERVICE PRIORITIES AND WORKPLAN 2023-2025

- 5.1 The overarching Regulatory Services Service plan 2023-25 stated the food control priorities as
 - To secure Committee approval for our Food Control Law Enforcement Workplan for 2023-2025 (this plan) and implement measures to deliver it.
 - Continue to work with Food Standards Scotland on the review of the approach to Food Control following the pandemic. The Service is also engaged in an emergent national Scottish SAFER project to redesign the approach to Food Control applying limited resources to maximum effect and in the longer term to provide assurance in public health protection, with sufficient and sustainable resources to deliver the required work.
 - Review demand from export food business for export health certification and attestations to identify resourcing requirements and the financial implications from new business trading models which are focussing on commercial hubs established post EU Exit.
- 5.2 This service plan details the planned activities and priorities for 2023-2025. These acknowledge the Services resource deficit, the advent of OCV and FLRS and anticipate the FSS's forthcoming SAFER programme. Key themes are Risk Focus, planned proactive work, the use of intelligence OCV, FLRS and innovation intended to optimise the effectiveness of Food Control, using scientific methods techniques and modern technology. These are elaborated below:

5.2.1 Inspection Programme

- Recognising the Service’s resource deficit, the key Public Health and consumer protection priorities of the manufacturing sector and its supply chains, together with the political, economic/trade, export, reputational and employment risks of this sector and also informed by and anticipating the FSS SAFER programme, the inspection programme shall be operated according to a framework which segments FBOs into three risk categories i.e., low risk, medium risk and high risk. Within this framework Food Control will be provided according to different approaches. References is made to Figure one below.

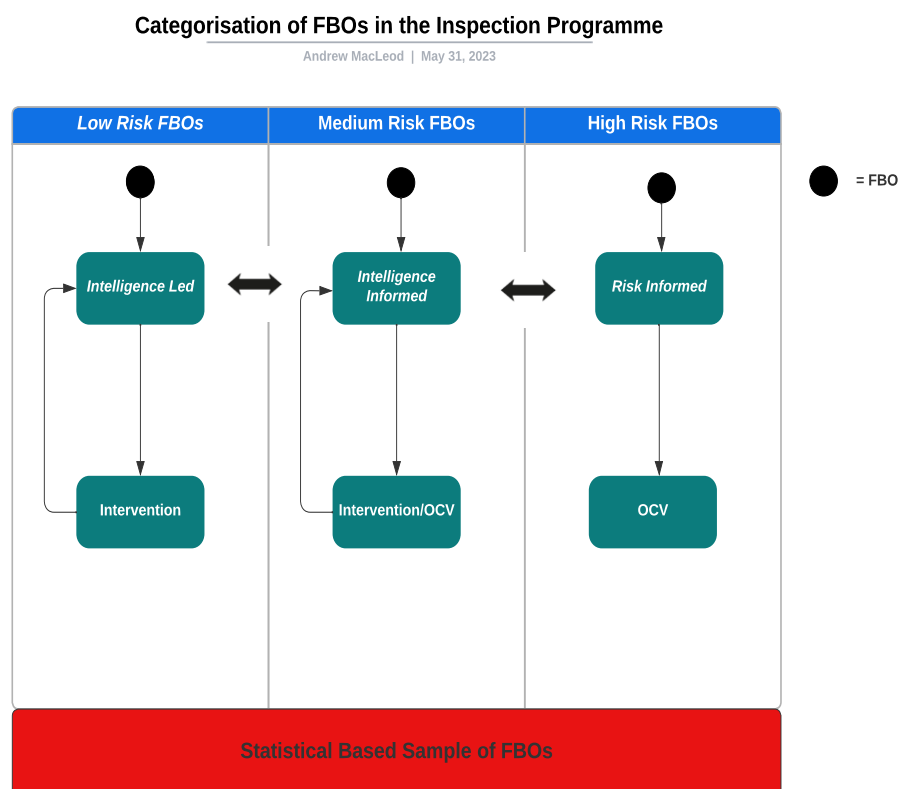


Figure One:- Categorisation of the Food Sector and its Food Businesses Operators according to Risk and Intelligence

FBOs will be placed into three risk categories and provided with OCs as follows:-

- **High Risk:** A planned and scheduled programme consisting of OCV inspection cycles shall be applied to these FBOs. The performance target is that all FBOs will be verified according to OCV with a minimum scope of verification of all Critical Control Points and Operational Prerequisite Programmes (OPPs) and a minimum time application of 80% of the resource calculation according to the SFELC Guidance on OCV within each Inspection cycle to be scheduled over one fiscal year. The Lead Officer will provide professional, enforcement and technical support.
- **Medium Risk:** -Intelligence – led interventions shall be performed reactively which may, depending on the outcome, result in the transfer the FBO into the High-Risk category. The intervention, which shall be an OCV inspection, will

inform enforcement activity sufficient to restore food safety, consumer protection and legal compliance

- **Low Risk:** Interventions will be carried out, where appropriate, reactively according to intelligence provided by sources (e.g. police, public, FSS)
- **Statistical sample:** - A statistically representative sample of high and medium risk catering and retailing FBOs will be selected for an OCV inspection. The results will inform the Service about the state of compliance of all FBOs within predetermined levels of confidence. This will be reviewed on an annual basis, and the inspection programme adjusted accordingly

The High-Risk FBOs will be verified by the Manufacturing OCs Working Group with a target of 4.6 FTE resources to be allocated to this priority area, according to the OCV resource calculation. The Working Group is chaired and led by the Lead Officer who shall also support the work of the group with responsibility for delivering the program

- **Status - the second Inspection Cycle began on the 1 April 2023.**
- **Status – the food intervention plan is ongoing and resources will be allocated to deliver the revised program**

5.2.2. Listeria Programme

The service is cognizant of the changes in the FSS and FSA risks assessment of *Listeria monocytogenes* in cold smoked fish and fish products, together with Health Protection Scotland's position that the current outbreak of *Listeria monocytogenes* is due to the vector of imported fish.

Accordingly, the Service will review the OCV inspection cycles to ensure that Control Measures for *Listeria* are effective and the verification of them is also effective.

- **Status - Underway. Verification of fish suppliers is scheduled by 30 September 2023. The verification of the remaining Control Measures will be completed by the end of the Inspection cycle i.e. 31 March 2024**

5.2.3 Validation of Unpasteurised Cheese Programme.

The service is cognizant of the potential for the unpasteurised cheese process to be invalidated at the Isle of Cheese Company, albeit the FBO and the Specialist Cheese Makers Association are adamant that it is validated. As part of the inspection cycle the Service will verify the position on Validation.

- **Status - Inspection cycle began on the 1 September 2023.**

5.2.4 Review of Authorisation

The Service will review the Authorisations of all Authorised Officers according to retained (EC) and (EU) Food Law.

- **Status - Target 30 December 2023.**

5.2.5 Schools and Hospitals Food Supply

In addition to the Inspection Programme outlined above, the Service will provide a further programme of Official Controls consisting of two elements (i) A programme of scheduled inspections ('OCV-Lite') aimed at Argyll's schools and hospitals and (ii) The Lead Officer assessing the Councils Commercial Services Food Safety Management System and providing support to the schools, the hospitals and for the Inspecting Officers.

- **Status - Inspection beginning 15 January 2024.**

5.2.6 Scheme of Charging for Non-Compliance

The Service will consider the ability to develop a scheme of charging for non-compliance based upon retained EU Food Law in order that compliance is incentivised and to introduce a fee for enforcement

- **Status – Target 30 June 2024.**

5.2.7 CPD/Training

The Service will support officers achieving a minimum of 10 hours of CPD in Food Control to all Authorised Officers.

Further specific CPD will be provide as follows: -

REHIS/SEAFISH joint award in the Verification of Bivalve Processing establishments.

- **Status – Target 1 March 2024**

5.2.8 Support for the Higher Certificate in Food Standards Inspections

Pursuing FLRS the Service will support two Officers who are actively pursuing the REHIS Higher Certificate in Food Standards premises Inspection

- **Status - Underway. Target 30 April 2024.**

5.2.9 Sampling Plan

The Service has developed a sampling plan focussing upon supporting OCV for verification of FCMSs in high-risk manufacturing FBOs which is cognisant of the FSS/FSA risk assessment of *Listeria monocytogenes*.

- **Status – Started - to be completed by 31 March 2024.**

5.2.10 Exports and Attestations

The Service will continue to issue all export health certificates and attestations based upon verified legal compliance of FBOs where the requests have been made with a minimum of 48 hours of working day notice. This is subject to the exigencies of service.

- **Status – Underway and ongoing**

5.2.11 Innovation – Scientific Methods and Techniques

The Service is committed to the review of current Methods and Techniques and further innovation with the purpose of optimising the effectiveness of Food Control, recognising that a resource deficit demands existing resources are used to maximum effect. The Service will work within the SFELC/SOCEHS 'Methods and Techniques' Working Group and within the FSS's SAFER programme.

- **Status –Ongoing and to be completed 30 June 2024.**

5.2.12 Innovation – Remote Delivery Food Control

The Service will work with the Council's IT department to operationalise the appropriate parts of OCV for remote delivery with the intention of reducing the 20% of FTE that currently has to be devoted to travelling. This time will be recycled back into Food Control.

- **Status – Target 31 March 2024.**

5.2.13 Innovation – Digital Processing of Documents

The Service aims to migrate from paper to electronic case records for the receipt and management of documentation required for Food Control.

- **Status – Target 31 March 2024.**

5.2.14 Innovation – Application of OCV to Catering and Retail FBOs and Improved Quality Control over the use of Contactors

The Service will develop an OCV approach suitable for catering and retailing FBOs and to support the effectiveness and the consistency of the inspection programme and to enhance the monitoring and the quality control over the use of external contractors.

- **Status – Target 31 March 2024.**

5.2.15 Innovation – The Use of OCV for Food Authenticity and Integrity/ Food Fraud/ Crime

Pursuing OCV and FLRS the Service will consider contracting with SEAFISH to provide the REHIS/SEAFISH joint award in the Verification of Food Authenticity and Integrity and operationalise the appropriate Methods and Techniques.

- **Status – Underway. Target 31 March 2024.**

5.2.16 Internal Monitoring

A phased return to internal monitoring consistent with operational demands and available resources.

- **Target Formal Notices – 15 November 2023**
- **Verification of one inspection per Officer 31 March 2024.**
- **Extend internal monitoring and develop 24/25 plan 31 March 2025**
-

5.2.17 Service redesign and review food safety delivery arrangements

A service redesign will review the food control delivery arrangements and lead officer arrangements

➤ **Status – 31 March 2024**

5.3 Reactive work arising from a range of sources and may include communicable disease and food related illness, significant enforcement activity; national and local; food withdrawals and emerging issues. These reactive demands, along with planned and proactive work, will be risk assessed. Resources will be allocated in accordance with the risk assessment outcomes.

5.4 The longer-term horizon remains currently unclear, pending a number of significant developments, including the resource deficit within a picture of a severe national resource deficit, the advent of SAFER, the expansion of OCV, the implementation of a further revision of the Food Law Code of Practice, and the developing food crime agenda.

5.5 Other Service Issues

The Service will continue to:

1. Work in partnership with NHS Highland in the investigation of reports of food communicable disease, and more specifically food-borne illness.
2. Focus our sampling activity on high-risk locally produced goods.
3. Work with partners including other local authorities, the business sector and Food Standards Scotland.
4. Provide for an effective and appropriate response to Food Alerts and Food incidents as required and issued by Food Standards Scotland where all alerts are considered immediately, and appropriate action is taken.

6. RESOURCES

6.1 There is no separate food control budget and costs are included within the wider environmental health budget. Estimated costs for food control are detailed below for 2023/24.

	FOOD
Employee costs	£405,000
Training & Resource Materials	2000
Transport & Carriage Costs	Included in laboratory costs
IT & communications	1,000
Laboratory costs	15000
Total	£423,000

6.2 Staffing Allocation

All Enforcement Officers hold the qualifications described in the Food Safety Codes of Practice for Food Safety and Food Standards under the Council’s Scheme of Delegation. The Service has an established procedure for the Authorisation of Enforcement Officers and Appendix II details the specific authorisations for Officers.

These fall to be reviewed on a regular basis and may change in the course of the period of the Service Plan.

Approved	Regulatory Services & Building Standards Manager	
Endorsed by Council	PPSL Committee	

Regulatory Services & Building Standards Manager, October 2023

REGULATORY SERVICES SERVICE CONTACT ARRANGEMENTS

Contact Arrangements and Details

Regulatory Services operate the Councils hybrid working model with staff working at home, in the office, remotely and on site depending on roles and responsibilities. Accordingly, the service cannot ensure that officers will be available at Council offices unless specific appointments are made in advance. Service requests and other access to the Service can be initiated by telephone, e-mail or in person via Customer Service Centres.

Regulatory Services can be contacted by telephone on **01546 605519**

by email. envhealth@argyll-bute.gov.uk

Advice and information is available through the Council website www.argyll-bute.gov.uk

Where a face to face meeting is required , this will be arranged on site, at the following Council Offices or other suitable locations

Offices where staff are based:

EAST Argyll House, Alexandra Parade, Dunoon PA23 8AJ
 Civic Centre, 38 East Clyde Street, Helensburgh G84 7PG

WEST Municipal Buildings, Albany Street, Oban PA34 4AW
 Kilmory, Lochgilphead PA31 8RT

Regulatory Services management can be contacted at Kilmory, **Lochgilphead**, PA31 8RT, telephone 01546 605519

Advice and information on Regulatory Services is published on the Council's website www.argyll-bute.gov.uk.

FORMAL AUTHORISATIONS AND APPOINTMENTS

PUBLIC ANALYST, FOOD EXAMINERS, AGRICULTURAL ANALYSTS

Public Analysts

In terms of the Food Safety (Sampling and Qualifications) (Scotland) Regulations 2013, the following staff members hold the Mastership in Chemical Analysis qualifications awarded by the Royal Society of Chemistry and are eligible for appointment as Public Analysts:

Gary Walker Divisional Manager, Head of Community Safety and Regulatory Services
Jane White Group Manager, Scientific Services

Food Examiners

In terms of the Food Safety (Sampling and Qualifications) (Scotland) Regulations 2013, the following staff members hold academic qualifications listed in Part 1 of Schedule 2 and have attained the minimum three year experience requirement in the laboratory listed in Part II of the Schedule:

Gary Walker Divisional Manager, Head of Community Safety and Regulatory Services
Jane White Group Manager, Scientific Services
Dawn Neeson Microbiologist
Alison Aitken Microbiologist

Agricultural Analyst

Under the terms of the Fertilisers (Sampling and Analysis) Regulations 1996, the following staff members, holding the Mastership in Chemical Analysis awarded by the Royal Society of Chemistry and whose practical experience as Agricultural Analyst, have been attested, are eligible for appointment as Agricultural Analyst and Deputy Agricultural Analyst.

Gary Walker (Agricultural Analyst) Scientific Services Manager
Jane White (Deputy Agricultural Analyst) Public Analyst

Under the terms of the Feed (Sampling and Analysis and Specified Undesirable Substances) (Scotland) Regulations 2010, the following staff members, holding the Mastership in Chemical Analysis awarded by the Royal Society of Chemistry and whose practical experience as Agricultural Analyst, has been attested, are eligible for appointment as Agricultural Analyst or Deputy Agricultural Analyst.

Gary Walker (Deputy Agricultural Analyst) Scientific Services Manager
Jane White (Deputy Agricultural Analyst) Public Analyst

Food Standards Scotland are now the competent authority for feed and as such have appointed the above individuals as Deputy Agricultural Analysts for Feed. **Duncan Campbell** from Aberdeen Scientific Services is the Agricultural Analyst for feed.

Approved Signatories

Under the laboratory UKAS quality system the following staff members through qualification and experience are documented authorised signatories for specific sample types:

Gary Walker Divisional Manager, Head of Community Safety and Regulatory Services
Jane White Group Manager, Scientific Services
Jack Stoddart Depute Group Manager, Scientific Services
Barbara Kraszewski Chemist
David Arthur Team Leader
Richard Aitken Team Leader
Karen Macvicar Chemist

In terms of the Food Safety (Sampling and Qualifications) (Scotland) Regulations 2013, the following staff members hold the Mastership in Chemical Analysis qualification awarded by the Royal Society of Chemistry and are eligible for appointment as Public Analysts:

Gary Walker Divisional Manager, Head of Community Safety and Regulatory Services
Jane White Group Manager, Scientific Services

Official Control Laboratory Recognition

The laboratory has been appointed as an official food control laboratory in the UK for both chemical analysis and microbiological examination. This can be confirmed by visiting the web site:

<https://www.foodstandards.gov.scot/business-and-industry/local-authorities-gateway/official-feed-and-food-laboratories>

ARGYLL AND BUTE COUNCILS AUTHORISED OFFICERS UNDER FOOD SAFETY ACT 1990

The following Officers are appointed under the Food Hygiene (Scotland) Regulations 2006 in accordance with Regulation (EU) 2017/625 of the European Parliament and of the Council for the purposes of Community Legislation and retained EC and EU Food Regulations, are appointed under the Food Safety Act 1990 as “authorised food officer”. Their powers of authorisation vary depending upon qualifications, experience, post and competency. The undernoted details the specific authorisation levels for Authorised Officers.

Food Hygiene and Food Standards

Powers		Visit, access and inspection		Sampling		Seizure and detention		Service of Improvement Notice		Service of Temporary Closure Notice		Service of Remedial Action Notice		Approval of Businesses Regulation (EC) 853/2004	
		Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards
Alan Morrison	Regulatory Services and Building Standards Manager	√	√	√	√								N/A		
Andy MacLeod	Lead Officer Food Control	√	√	√	√	√	√	√	√	√	√	√		√	√
Jo Rains	Environmental Health Officer	√	√	√	√	√	√	√	√	√	√	√			
Andy McClements	Environmental Health Officer	√	√	√	√	√	√	√	√	√	√	√		√	
Richard Gorman	Environmental Health Officer	√	√	√	√	√	√	√		√	√	√			
Jacqui Middleton	Environmental Health Manager (West)	√	√	√	√										

Powers		Visit, access and inspection		Sampling		Seizure and detention		Service of Hygiene/ Improvement/ Food Standards Notices		Service of Temporary Closure Notice		Service of Remedial Action Notice		Service of Emergency Prohibition Notice	
		Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards
Adrian Rowe	Regulatory Services Officer	√	√	√	√	√	√	√	√	√	√	√	√		N/A
Marcillena MacCuish	Regulatory Services Officer	√	√	√		√	√	√		√					
Mary Watt	Environmental Health Manager (East)	√	√	√	√	√	√	√	√	√		√			
Patrick Mackie	Environmental Health Officer	√	√	√	√										
Nicole Hamilton	Environmental Health Officer	√	√	√	√	√	√	√	√	√	√	√			
Cameron McAuley	Environmental Health Officer	√	√	√	√	√	√	√	√	√	√	√			
Sue Stefek	Environmental Health Officer	√	√	√	√	√	√	√	√	√		√			
Pauline Varley	Environmental Health Officer	√	√	√	√	√	√	√		√		√		√	
Mark Parry	Environmental Health Officer	√	√	√	√	√	√	√	√						

Powers		Visit, access and inspection		Sampling		Seizure and detention		Service of Hygiene/ Improvement/ Food Standards Notices		Service of Temporary Closure Notice		Service of Remedial Action Notice		Service of Emergency Prohibition Notice	
		Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards
Ian Campbell	Regulatory Services Officer	√	√	√	√										
Katie McNair	Technical Officer	√	√	√	√										
Gemma Rae	Technical Officer	√	√	√	√										
Karen Goodchild	Technical Officer	√	√	√	√										
David Kerr	Senior Animal Health and Welfare Officer	√	√	√	√										
Graeme Pirie	Animal Health and Welfare Officer	√	√	√	√										
Jacklyn Sinclair	EH Enforcement Officer	√	√	√	√										

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

**PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE – 18th October
2023**

UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING APPEAL DECISION

A) INTRODUCTION

This report summarises the outcome of a recent appeal decision by The Planning and Environmental Appeals Division (DPEA) relative to the case set out below.

B) RECOMMENDATION

Members are asked to note the contents of the report.

C) DETAILS OF APPEAL DECISIONS

Planning Authority: Argyll and Bute Council

Planning application ref: 21/02709/PP

Planning appeal ref: PPA-130-2086 (Planning Permission Appeal)

Proposal: Variation Of Condition Numbers 3, 4, 5 And 6 And Removal Of Conditions 7 And 8 Relative To Planning Permission 20/01150/PP (Erection Of Dwellinghouse) Access Arrangements

Location: Rhu Lodge, Ferry Road, Rhu, Helensburgh, G84 8NF

Date of decision: 05 Sept 2023 (Appeal Allowed)

This application was approved by the Council on 22nd March 2023. An appeal was subsequently submitted to the Department of Environmental and Planning Appeals (DPEA). The Reporter assessed the application in accordance with section 25 of the Town and Country Planning Act (as amended) which requires development to be in accordance with the Local Development Plan unless material considerations indicate otherwise.

The Reporters Decision Notice concludes: *“In conclusion, I find that conditions 3, 4, 5, 6, 7 and 8 attached to planning permission 21/02709/PP fail to meet the tests of necessity and reasonableness, as set out Circular 4/1998. The appellant has demonstrated to my satisfaction that it is neither necessary nor reasonable to require Ferry Road to be improved to an adoptable standard given the location, nature and scale of the development proposed; it is a lightly-trafficked private road within a conservation area. There is no evidence to suggest that the council has undertaken an assessment of use to justify the package of improvement measures to Ferry Road that it seeks. In the absence of such, I consider the improvements proposed by the appellant are proportionate and would ensure that Ferry Road continues to function safely and effectively. Furthermore, the appeal site’s location within Rhu Conservation Area requires decision makers to take full account of the area’s special interest and ensure that new development preserves or enhances its character or appearance. The council’s rigid application of standards in its pursuit of infrastructure to serve the proposed dwelling house suggests that it has failed to consider the qualities of the place before the movement of vehicles; contrary to policies set out in Designing Streets and the LDP. Accordingly, I find that conditions 3, 4, 5, 6, 7 and 8 should be varied or removed as described above and as set out in the schedule of conditions attached to this notice below.”*

Full details of the appeal decision can be viewed on the DPEA website:

[Scottish Government - DPEA - Case Details \(scotland.gov.uk\)](https://www.scotland.gov.uk/Topics/Information/Planning/Development-Plan-Examination/Case-Details)

A copy of the Decision Notice is attached at Appendix A.

D) IMPLICATIONS

Policy: None.

Financial: None. Personnel: None

Equal Opportunities: None

Author and Contact Officer: Kirsty Sweeney 01436 657665

Fergus Murray

Head of Development and Economic Growth

APPENDIX A: DPEA DECISION NOTICE



Appeal Decision Notice

Decision by Andrew A Sikes, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-130-2086
- Site address: Rhu Lodge, Ferry Road, Rhu, Helensburgh, G84 8NF
- Appeal by Mr Graham Wylie against the decision by Argyll and Bute Council
- Application for planning permission reference 21/02709/PP, dated 21 December 2021, to carry out the development without compliance with conditions 3, 4, 5, 6, 7 and 8, imposed on the grant of planning permission 20/01150/PP, dated 18 November 2020.
- The development proposed: erection of a dwelling house.
- Date of site visit by Reporter: 31 July 2023

Date of appeal decision: 5 September 2023

Decision

I allow the appeal and grant planning permission for the erection of a dwelling house at Rhu Lodge, Ferry Road, Rhu, Helensburgh, G84 8NF, in accordance with the application reference 21/02709/PP made on 21 December 2021, without compliance to conditions numbered 3, 4, 5, 6, 7 and 8, previously imposed on application reference 20/01150/PP made on 2 July 2020, but subject to other conditions imposed by that permission, so far as these are still subsisting and capable of taking effect, and subject to the new conditions listed at the end of this notice, namely condition numbers 3, 4 and 5.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The development plan in this case consists of the Fourth National Planning Framework (NPF4) and the Argyll and Bute Local Development Plan 2015 (LDP).
2. The determining issue in this appeal is whether conditions 3, 4, 5, 6, 7 and 8 attached to planning permission 21/02709/PP meet the six tests of Circular 4/1998: The use of conditions in planning permissions, which have been imposed 'in the interests of road safety'. I consider two of the six tests relevant, firstly, whether the road improvements are necessary in order to mitigate the effects of the proposed development on the local road network and, secondly, whether the conditions are reasonable in all other respects.
3. The appeal site lies within the Rhu Conservation Area. Accordingly, Section 64(1) of the Listed Buildings And Conservation Areas (Scotland) Act 1997 requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of the area. I consider these matters below.

Background

4. Planning permission for the erection of a dwelling house on the appeal site was first granted on 18 November 2020, subject to nine conditions (20/01150/PP). An application under Section 42 of the Town and Country Planning (Scotland) Act 1997, as amended, subsequently sought to vary conditions 3, 4, 5 and 6 and remove conditions 7 and 8

attached to that consent (21/02709/PP). All of the conditions relate to road improvements and access arrangements required to mitigate the effects of the proposed development on the local road network. On 6 April 2023, however, the council granted planning permission for the dwelling house subject to the same conditions, albeit with some minor changes.

5. In summary, the six conditions seek:

- the provision of a 3.5 metre road (to adoptable standards) between the appeal site and A814 Gareloch Road (condition 3);
- the provision of sightline visibility splays of 2.4 x 25 x 1.05 metres at the site's driveway access with Ferry Road (condition 4);
- the construction of a private access that accords with council guidance (conditions 5, 6 and 7); and,
- parking and turning provision within the curtilage of the proposed dwelling house (condition 8).

6. There is no dispute between the parties regarding the remaining three conditions, namely; condition 1 (approved drawings), condition 2 (connection to public water supply) and condition 9 (materials). With regard to condition 1, however, the council has indicated that due to an administrative error an incorrect set of drawings were stamped 'approved' and issued to the applicant. I address this matter at the end of this notice, where I also provide a revised list of approved drawings.

7. Given the matters in dispute, I undertook an accompanied inspection of Ferry Road. In addition to the appellant, I was joined by residents of Ferry Road and representatives of the community council. At my request, the dimensions of the proposed road improvements and traffic management measures had been marked on the ground. These matters are addressed under the relevant condition headings below (as referred to on decision notice 21/02709/PP). Before doing so, I briefly describe the appeal site and its surroundings, including Ferry Road.

The appeal site and its surroundings

8. The appeal site lies within the grounds of Rhu Lodge, Ferry Road, Rhu, near Helensburgh. Access to the appeal site is via Ferry Road, which provides pedestrian and vehicular access to a number of properties. Approximately 60 metres from its junction with the A814, the road divides to give access to a 30-bed hotel and five houses. Ferry Road continues for a further 240 metres until it reaches an informal turning area, beyond which lie a Ministry of Defence radar mast and Rhu Point. This part of Ferry Road provides access to a further five houses, which use four different accesses. The access to the dwelling for which planning permission has been granted would use one these accesses.

9. High stone walls, mature trees and hedges bound Ferry Road to the north, whilst to the south, beyond a grass verge, lies Rhu Bay and its shingle and sand beach. Together, these features combine to create an attractive residential area worthy of its conservation area status.

10. Ferry Road is a well-maintained single-track traffic-calmed road with a number of passing places and speed bumps. Beyond the access to the hotel, signs indicate that Ferry Road is a private no-through road for use by residents and subject to a 10 mph speed limit. A road marking reinforces the speed limit.

The principle of development

11. Before addressing the matters in dispute, I agree with the parties that the erection of a dwelling house on the appeal site is acceptable in principle. The site is located within the settlement boundary of Rhu in which the policies of the LDP support in principle small-scale development (5 dwellings or less). The scale of the proposed dwelling, its design and choice of materials are also considered acceptable and in conformity with relevant LDP policies and supplementary guidance.

Condition 3

12. Condition 3 requires the provision of a 3.5 metre wide road, constructed to adoptable standards, between the appeal site and A814 Gareloch Road, including the provision of passing places at a maximum of 100 metre spacing. The condition is the same as that attached to the original (2020) planning permission.

13. The appeal site and its surroundings enjoy a high level of amenity. Indeed, as a conservation area, the LDP, supported by supplementary guidance, establishes a presumption against development that does not preserve or enhance its character, appearance or setting. In my consideration of this appeal, I have had regard to Designing Streets, which states, good street design should derive from an intelligent response to location, rather than a rigid application of standards. I have also had regard to the council's adopted supplementary guidance on transport matters, which similarly states, street design for new development must consider place before movement.

14. Although the council has considered the effects of the proposed development on the character and appearance of the conservation area, its assessment, as set out in its handling reports, focuses on the design of the dwelling house and effects on neighbouring properties; there is no assessment of the effects that the required road improvements would have on the character or appearance of the conservation area or its setting. Nor is there an assessment of the wider use of Ferry Road to support the package of road improvements sought; these are matters the council is content to leave to further assessment when discharging conditions. The absence of such assessments as part of the overall consideration of the application lends weight to the claim that insufficient thought has been given to the wider effects of the proposed road improvements on the character and appearance of the conservation area, its setting and wider residential amenity.

15. With regard to development that intends to utilise an existing private access or a private road, I note the terms of Policy SG LDP TRAN 4 and its reference to 'commensurate improvements' that are 'appropriate in scale and nature' and 'informed by an assessment of usage'. The policy adds, private accesses should be constructed to incorporate minimum standards to function safely and effectively in relation to adequate visibility splays, access gradients, geometry, passing places, boundary definition and turning capacities, among other things.

16. In this case, despite the context described above, the road improvements sought by the council are a 'standard' response to the predicted effects of the proposed development, based on guidance set out in the National Roads Development Guide (2017) and the council's Roads Guidance for Developers (small housing developments) (2008). There is no acknowledgement in the roads officer's consultation responses, nor the report of handling, to the scope that exists within the guidance to reduce or seek improvements commensurate to the nature, scale and location of the proposed development.

17. With regard to the issues of concern to the council, I am satisfied that a minimum 3.5 metre carriageway capable of providing access for emergency service vehicles can be

provided from the appeal site to the A814; Designing Streets and National Roads Development Guide advise that an access route can be reduced to 2.75 metres over a short distance and at pinch points, respectively. Ferry Road adjacent to Rosslea West and Tigh-na-mara is presently 2.75 metres wide and is capable of being widened to 3.5 metres by incorporating a grass verge/gully into the running surface of the road.

18. With regard to passing places, the National Roads Development Guide states, on existing narrow rural roads, passing places should be constructed to enable user defined traffic to pass, the design of which should consider functionality against a balanced view of place-making aspirations and a presumption against urbanising the countryside. Within this context, I am satisfied that with the addition of a passing place opposite the appeal site entrance, there would be adequate opportunity for vehicles to pass safely. Importantly, the existing and proposed passing places would achieve the required 100 metres forward stopping sight distance (as shown on drawing no's 22034_006 rev B). As demonstrated to me on site, the proposed passing place satisfies the minimum overall width of 5.5 metres and extends to the required 10 metres, plus 5 metre splays at each end.

19. While the council highlights the informality of the 'passing places' immediately to the west of Rosslea West and east of Tigh-na-mara, I note that their dimensions exceed the 'typical passing place detail' shown on drawing number SD 08/003 rev A. Furthermore, the appellant's photographs demonstrate that two vehicles can pass comfortably and safely at each point.

20. With regard to the Ferry Road/A814 junction, the council states that it is a junction with a public road and not a passing place. Nonetheless, the appellant claims it functions effectively as a passing place and has done so for a considerable amount of time without any record of accidents; I observed the junction being used without difficulty at my site inspection. While the appellant's drawing number 19/20/R11 shows that there is sufficient space for two vehicles to pass, the council's standard detail requires a road width of 5.5 metres, not 4.5 metres as shown on the drawing.

21. Notwithstanding the council's comments, there is a relatively wide expanse of road in front of The Lodge which in effect creates additional space to that shown on the drawing for vehicles to pass safely. Alternatively, vehicles are able to join the A814 either side of a small grass verge which divides the junction. As the junction lies on the outside bend of the A814, there is good forward visibility for vehicles entering the A814 whether heading north or south. Also, as shown on appellant's drawing number 19/20/R1 A (existing passing places), there is intervisibility between the junction and the divide in the road that serves the hotel (also regarded by the council as an informal passing place), which are approximately 60 metres apart. Taking account of these matters, and my findings with regard to the improvements to Ferry Road in general, I consider that a relatively small departure from the standard width of a passing place, albeit an informal passing place, is acceptable given the emphasis of national and local policy to consider place before movement, particularly so in light of the sites location within the Rhu Conservation Area.

22. While Ferry Road has no formal turning head, there is space at the end of the road immediately beyond the radar mast where vehicles can turn, as demonstrated by the appellant's supporting photographs and as I witnessed for myself. In any event, as noted by the appellant, its application to the council sought to vary and remove conditions attached to the original (2020) permission, which did not include any requirement for a turning head. This matter is therefore beyond the scope of this appeal.

23. Finally, the appellant questions the reasonableness of condition 3 given the costs involved in upgrading the road to an adoptable standard to serve one additional dwelling; the relocation of existing utility apparatus would add further cost. Although I have not been

presented with detailed evidence on this matter, it is reasonable to assume that the costs involved in bringing the road up to an adoptable standard would be significant, given the distance between the appeal site and the A814 junction and the range of measures indicated on drawing 19/20/R8 A. In this regard, Circular 4/1998 cautions against the imposition of conditions which are unduly restrictive and would effectively nullify the benefits of a permission.

24. In summary, for the reasons that I set out above, I consider the requirements of condition 3, as proposed by the council, are unnecessary and unreasonable. Whereas, given the location, nature and scale of the proposed development, those proposed by the appellant incorporate the minimum works necessary to allow Ferry Road to function safely and effectively. Furthermore, I am satisfied that the proposed improvements can be secured by the revised condition suggested by the appellant.

Condition 4

25. The matter in dispute relates to the vision splay measurements at the appeal site's driveway access with Ferry Road. The measurements set out in the condition are based on advice contained in Designing Streets and Roads Guidance for Developers, the latter states; the normal requirement is for an 'x' distance of 2.4 metres; a 'y' distance determined by the speed of traffic on a public road (for example. 25 metres on a public road with a speed limit of 20 mph); a vertical distance of 1.05 metres. The appellant considers that there is scope to reduce the 'x' and 'y' values given the character of Ferry Road, the nature of its use and its location within a conservation area.

26. Taking these matters in turn, Designing Streets (page 34) states that a minimum 'x' value of 2 metres may be considered [appropriate] in some very lightly-trafficked and slow speed situations. To this end, a number of the appellant's drawings show a set-back of 2 metres. Others, however, show a set-back of 2.4 metres. Given the uncertainty, I asked the appellant to confirm his position on this matter. In response, with reference to guidance set out in Designing Streets and the site's location in a conservation area, the appellant strongly considers that an 'x' value of 2 metres is appropriate in this instance. The appellant adds, an 'x' value of 2 metres would also result in less disturbance to existing stone walls and reduce harm to the character and appearance of the conservation area. The council's position is that the 'x' value should remain 2.4 metres.

27. While it is possible to achieve the sightline visibility splays at the driveway access to Ferry Road sought by the council, the appellant correctly states that the measurements quoted in the condition relate to junctions on a public road where the speed limit is 20 mph. Ferry Road is a private road, and the appeal site access is not a junction; it is an existing gated private driveway. Furthermore, Ferry Road is traffic-calmed (speed bumps) and signposted as a 10 mph zone.

28. With regard to the 'y' value, firstly, I note that the 'y' distance has been reduced to 25 metres from 42 metres to correct an error in the drafting of decision notice 20/01150/PP. Secondly, given that it is not possible for vehicles to overtake on Ferry Road, the parties agree that the 'y' value can be measured to the centreline of the road. Thirdly, as I note above, I am satisfied that a 'y' value 25 metres can be achieved at the driveway access, although this would necessitate a minor realignment of the high stone wall that bounds the appeal site. Fourthly, while Designing Streets indicates that the 'y' distance may be reduced further where there is a speed limit of 10 mph, the appellant's proposed visibility splay of 2 x 25 x 1.05 metres, as shown on drawing number 22034_006 rev B, seeks to balance the council's road safety concerns with effects on the character and appearance of the

conservation area, notably by minimising alterations to the stone boundary wall and avoiding any interference with existing mature trees.

29. In conclusion on this matter, while condition 4 is necessary and reasonable in its intent, I find that it should be varied to take account of a revised visibility splay. I am satisfied that the appellants proposed condition 4 would secure and maintain a visibility splay of 2 x 25 x 1.05 metres, as shown on drawing numbers 22034_006 rev B and 19/20/R10 rev B. Also, I am satisfied that the proposed improvements would address the road safety concerns of the council.

Condition 5

30. Condition 5 sets out the requirements for the construction of the private access to the appeal site with reference to the council's standards. While the council believes that the condition should remain unchanged and attached to the planning permission, the appellant believes that it is unnecessary.

31. I have assessed the council's standard detail for the creation of a private driveway, as shown on drawing number SD 08/002 rev A, and comments set out in Appendix A to the report of handling, against the appellant's drawings 22034_006 rev B and 19/2-/R10 rev B. Firstly, I note that the drawing relates to the creation of a private driveway onto a public road; Ferry Road is a private road. Secondly, while not directly relevant to the driveway itself, the report of handling makes reference to the width of Ferry Road as being unacceptable. I address this matter in respect of condition 3 above and conclude that it meets, or is capable of meeting, the requirements of national guidance. Thirdly, the appellant's drawing number 19/20/R10 rev B shows the width of the driveway at the point of entry to be in excess of the 4.5 metres minimum requirement; the drawing is produced at 1:200 scale and is easily measured.

32. I am satisfied that the appellant has demonstrated that the relevant requirements of the council's standard detail have been incorporated into his proposals, as shown on drawing numbers 22034_006 rev B and 19/20/R10 rev B and satisfies national guidance. As such, I agree with the appellant that the proposed measures are commensurate with a lightly-trafficked road and the minimum necessary to address the road safety concerns of the council. I consider the condition as it stands unnecessary.

Condition 6

33. Condition 6 relates to the surfacing and drainage arrangements of the driveway to the proposed dwelling. The appellant argues that the condition is unnecessary as drawing number 19/20/R10 rev B describes the surfacing material to be used and illustrates the intended drainage arrangements, including the provision of a drainage channel and soakaways either side of the driveway. In this regard, I note that the legend to drawing number 19/20/R10 rev B states that the first 5 metres of the driveway will be surfaced with a bitumen macadam. It also shows the location of the drainage channel and the soakaway pits on either side of the driveway. Accordingly, I agree with the appellant that condition 6 is unnecessary.

Condition 7

34. Condition 7 relates to the gradient of the driveway, which should not exceed 5% for the first 5 metres, and be no more than 12.5% over the remainder of its length. The gradient of the driveway is shown in long section on drawing number 19/20/R10 rev B. I note that the gradients specified meet the council's requirements. However, the council argues that the condition should remain as the drawing includes other (unspecified) details which do not

accord with its roads guidance. The condition has been amended from that originally proposed to require details of the driveway gradients to be submitted to the planning authority for its written approval.

35. As I note above, details of the driveway gradients and the lengths over which it would rise are clearly set out on drawing number 19/20/R10 rev B. As such, I agree with the appellant that the condition is unnecessary and should be removed. Nor is it reasonable to require the information to be submitted for further approval when it is other unspecified elements of the proposal which are deemed unsatisfactory. In any event, as I note above, I find the private driveway arrangements with Ferry Road acceptable in all other respects.

Condition 8

36. Condition 8 requires the provision of car parking spaces within the curtilage of a dwelling house to be in accordance with the council's guidance as set out in Policy SG LDP TRAN 6 (vehicle parking provision). The parties agree that the number (three) and dimensions of the parking spaces accord with the guidance. However, as with condition 7, details of parking arrangements are set out on a drawing which, in the view of the council, also includes other unspecified details which do not accord with its roads guidance. As such, it believes that the condition should remain. The condition has been amended from that originally proposed to require details of parking provision to be submitted to the planning authority for its written approval.

37. The parking arrangements are clearly set out on drawing number 19/20/R10 rev B. They accord with the council's roads guidance. As such, and for the same reasons that I set out in paragraph 35 above, I agree that the condition is unnecessary and should be removed.

Other matters

38. In paragraph 6 above, I refer to an incorrect set of drawings that were stamped approved and issued by the council. Given that this appeal is made under Section 42 of the 1997 Act, it is in effect seeking a new planning permission. Given my decision to allow the appeal, a revised schedule of approved drawings is provided in the table that forms part of condition 1, including those relating to the construction of the dwelling house and the landscaping of the site.

39. The Rhu and Shandon Community Council objects to the proposed development. However, as noted by the appellant and confirmed by its representatives at my site inspection, it is the road improvements sought by the council and their effects on the character and appearance of the conservation area that is of concern to the community council. Also, despite some confusion regarding the nature of the application, this view is shared by almost all those that made representations to the council on the application; essentially village residents and visitors to Rhu Point do not wish to see Ferry Road improved to an adoptable standard. I deal with this matter in detail above in relation to condition 3.

Appellant's proposed conditions

40. The appellant suggests that the proposed improvements to Ferry Road, access to the appeal site and parking and turning provision within it can be secured through the imposition of three conditions. I have considered the suggested conditions and agree that they would secure the improvements proposed. Furthermore, with minor amendments they satisfy the tests of Circular 4/1998. With regard to replacement condition 3, for clarity, I have added the title of the drawings referred to. In replacement condition 4, I have

amended the suggested text to make clear that the 'x' value shown on drawing number 22034_006 rev B should be 2 metres, not 2.4 metres. Replacement condition 5 is unchanged. For completeness, condition 1 has been amended to take account of my decision to allow this appeal and incorporate the drawings relating to the improvement and traffic calming measures on Ferry Road. Conditions 2 and 9 remain unchanged, although condition 9 is renumbered condition 6.

41. In the interests of consistency, in setting out the conditions attached to this grant of planning permission, I have used the format adopted by the council, that is, the standard conditions are unnumbered whilst the additional conditions are numbered 1 to 6.

Conclusions

42. In conclusion, I find that conditions 3, 4, 5, 6, 7 and 8 attached to planning permission 21/02709/PP fail to meet the tests of necessity and reasonableness, as set out Circular 4/1998. The appellant has demonstrated to my satisfaction that it is neither necessary nor reasonable to require Ferry Road to be improved to an adoptable standard given the location, nature and scale of the development proposed; it is a lightly-trafficked private road within a conservation area. There is no evidence to suggest that the council has undertaken an assessment of use to justify the package of improvement measures to Ferry Road that it seeks. In the absence of such, I consider the improvements proposed by the appellant are proportionate and would ensure that Ferry Road continues to function safely and effectively.

43. Furthermore, the appeal site's location within Rhu Conservation Area requires decision makers to take full account of the area's special interest and ensure that new development preserves or enhances its character or appearance. The council's rigid application of standards in its pursuit of infrastructure to serve the proposed dwelling house suggests that it has failed to consider the qualities of the place before the movement of vehicles; contrary to policies set out in Designing Streets and the LDP. Accordingly, I find that conditions 3, 4, 5, 6, 7 and 8 should be varied or removed as described above and as set out in the schedule of conditions attached to this notice below.

Andrew A Sikes

Reporter

Conditions

Standard time limit condition

The development to which this permission relates must be begun no later than three years from the date of this permission.

Reason: in accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997

Standard soil management condition

Where the development involves ground breaking works, soil management should be undertaken in compliance with the established best practice set out in the DEFRA publication 'Construction Code of Practice for the Sustainable Use of Soils on Construction Sites 2009', unless an alternative methodology for the sustainable management of soil is submitted to and approved in writing by the planning authority.

Reason: in order to ensure that sustainable management of soils and compliance with the requirements of NPF4 Policy 5A.

Additional conditions

- The development shall be implemented in accordance with the details specified in the drawings and reports that form part of applications 20/01150/PP, dated 2 July 2020, and 21/02709/PP, dated 21 December 2021, and listed in the table below, unless the prior written approval of the planning authority is obtained to amend the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

	Drawing number reference and revision	Dated	Title
1.	19/ 20/ R01 rev A	21.03.20	Location plan
2.	19/ 20/ R06 rev A	29.05.20	Site photographs 1, 2 and 3
3.	19/ 20/ R07 rev C	22.06.20	Site photographs 4, 5 and 6
4.	19/ 20/ R08	-	Site photographs 7, 8 and 9
5.	19/ 20/ R09	-	Site photographs 10 and 11
6.	19/ 20/ R02 rev C	22.06.20	Site and roof plan as proposed
7.	19/ 20/ R03 rev A	24.05.20	First floor plan as proposed
8.	19/ 20/ R04 rev B	27.05.20	North and west elevations as proposed
9.	19/ 20/ R05 rev B	27.05.20	South and east elevations as proposed
10.	19/ 20/ 10	-	Cross section X-X as proposed
11.	19/ 20/ 11	-	Proposed landscape and planting layout
12.	4246/1	24.08.18	Topographical survey
13.	-	26.06.20	Tree protection report
14.	-	2020	Design and Access Statement
15.	ECS 22034_006 rev B	04.07.22	Ferry Road proposed improvements
16.	19/ 20/ R2 rev A	01.02.22	Proposed passing places
17.	19/ 20/ R4 rev D	25.01.23	Proposed traffic calming measures
18.	19/ 20/ R5 rev D	25.01.23	Combined traffic calming measures
19.	19/ 20/ R7 rev D	-	Ferry Road proposed improvements
20.	19/ 20/ R9 rev D	25.01.23	Ferry Road extent of resurfacing
21.	19/ 20/ R11	-	Plan of junction with A814
22.	19/ 20/ R12 rev A	23.04.23	Plan of junction with Rosslea Hotel

Reason: for the purposes of clarity; to ensure that the development is implemented in accordance with the approved plans.

2. Notwithstanding the effect of condition 1; prior to the commencement of development the developer shall submit written evidence to the planning authority that an agreement with Scottish Water is in place for the connection of the proposed development to the public water supply.

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

3. Notwithstanding the effect of Condition 1; prior to the first occupation of the dwelling house hereby approved, the following improvement works to the access road are required, the provision of a private access road, between the A814 Gareloch Road and the entrance to the approved dwelling house, incorporating the improvements and traffic calming measures shown on drawing numbers; ECS 22034_006 rev B (Ferry Road – proposed improvements; 19/20/R2 rev A (passing places); 19/20/R4 rev D (traffic calming); 19/20/R5 rev D (traffic calming); 19/20/R7 rev D (Ferry Road improvements); 19/20/R9 rev D (resurfacing); 19/20/R11 (passing place); 19/20/R12 rev A (passing place).

Reason: in the interests of road safety.

4. Notwithstanding the effect of Condition 1; prior to the first occupation of the dwelling house hereby approved, the access to the dwelling house shall be formed in accordance with the details shown on drawings ECS 22034_006 rev B and 19/20/R10 rev B. Notwithstanding the dimensions shown on each drawing, the access shall incorporate visibility splays measuring 2 x 25 x 1.05 metres, and these shall be maintained in perpetuity, unless otherwise agreed in writing with the planning authority.

Reason: in the interests of road safety.

5. Notwithstanding the effect of Condition 1; prior to the first occupation of the dwelling house hereby approved, the parking and turning provisions as shown on drawing number 19/20/R10 rev B shall be implemented in full. Thereafter, the approved parking and turning provisions shall be maintained in perpetuity, unless otherwise agreed in writing with the planning authority.

Reason: in the interests of road safety and in accordance with the council's 'Roads Guidance for Developers'.

6. Notwithstanding the effect of Condition 1; prior to works commencing on site, samples of the proposed materials to be used for the external walls and roof of the development hereby approved shall be submitted to and approved in writing by the planning authority.

Reason: in the interests of the visual amenity and the integration of the proposed development with its surroundings.

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of Schedule 7A of the Local Government(Scotland) Act 1973

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