

Public Document Pack

Argyll and Bute Council
Comhairle Earra-Ghàidheal Agus Bhòid

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13 December 2023

NOTICE OF MEETING

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held **BY MICROSOFT TEAMS** on **WEDNESDAY, 20 DECEMBER 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 November 2023 (Pages 5 - 8)
 - (b) Planning, Protective Services and Licensing Committee held on 22 November 2023 at 11.00 am (Pages 9 - 18)
 - (c) Planning, Protective Services and Licensing Committee held on 22 November 2023 at 2.00 pm (Pages 19 - 28)
 - (d) Planning, Protective Services and Licensing Committee held on 22 November 2023 at 3.00 pm (Pages 29 - 32)
 - (e) Planning, Protective Services and Licensing Committee held on 28 November 2023 (Pages 33 - 76)
4. **TSL CONTRACTORS LTD: DETAILED PLANNING APPLICATION FOR THE ERECTION OF RESIDENTIAL DEVELOPMENT COMPRISING 97 RESIDENTIAL UNITS AND A COMMERCIAL UNIT (CLASS 1) WITH ALL ASSOCIATED EXTERNAL WORKS AND LANDSCAPING: LAND NORTH WEST OF ISLE OF MULL HOTEL, CRAIGNURE, ISLE OF MULL (REF: 22/01418/PP) (Pages 77 - 110)**

Report by Head of Development and Economic Growth

5. **MRS KAREN DAVIES: PARTIAL CHANGE OF USE OF FLAT TO FORM TEACHING FACILITIES: 3 WOODSTONE COURT, PIER ROAD, RHU, HELENSBURGH (REF: 22/01712/PP)** (Pages 111 - 130)
Report by Head of Development and Economic Growth
 6. **MR KEVIN BURNETT: RENEWAL OF PLANNING PERMISSION IN PRINCIPLE REFERENCE 18/02720/PPP - SITE FOR PROPOSED RESIDENTIAL DEVELOPMENT: SITE AT LONAN DRIVE, OBAN: (REF: 23/00376/PPP)** (Pages 131 - 170)
Report by Head of Development and Economic Growth
 7. **THE SCOTTISH GOVERNMENT ON BEHALF OF BLARGHOUR WIND FARM LIMITED: ELECTRICITY ACT SECTION 36C AND ELECTRICITY GENERATING STATIONS (APPLICATIONS FOR VARIATION OF CONSENT) (SCOTLAND) REGULATIONS CONSULTATION FROM THE ENERGY CONSENTS UNIT FOR PROPOSED VARIATION TO BLARGHOUR WIND FARM (CONSENTED 29 OCTOBER 2021). THE S36C VARIATION PROPOSES TO VARY THE S36 CONSENT FROM 17 WIND TURBINES, 136.5M IN HEIGHT TO BLADE TIP TO 14 WIND TURBINES, 180M IN HEIGHT TO BLADE TIP: LAND APPROXIMATELY 7KM NORTH WEST OF INVERARAY AND 4.5KM SOUTH OF PORTSONACHAN (REF: 23/00537/S36)** (Pages 171 - 210)
Report by Head of Development and Economic Growth
 8. **MR THOMAS IRWIN: FORMATION OF EARTHBANK SLURRY LAGOON AND ASSOCIATED WORKS: LAND AT WEST DRUMLEMBLE FARM, WEST OF ROWAN TREE COTTAGE, DRUMLEMBLE, CAMPBELTOWN (REF: 23/01018/PP)** (Pages 211 - 242)
Report by Head of Development and Economic Growth
 9. **BEAM SUNTORY LTD: PROPOSAL OF APPLICATION NOTICE FOR HARVESTING OF PEAT MOSS FOR USE IN MALT WHISKY PRODUCTION AND RESTORATION OF PREVIOUSLY DRAINED SITES: GLENMACHRIE PEAT MOSS, PORT ELLEN, ISLE OF ISLAY (REF: 23/01984/PAN)** (Pages 243 - 250)
Report by Head of Development and Economic Growth
 10. **ARDALLA ESTATES LTD: PROPOSAL OF APPLICATION NOTICE FOR HARVESTING OF PEAT MOSS FOR USE IN MALT WHISKY PRODUCTION AND RESTORATION OF PREVIOUSLY DRAINED SITES: BALLIVICAR PEAT MOSS, PORT ELLEN, ISLE OF ISLAY (REF: 23/01985/PAN)** (Pages 251 - 258)
Report by Head of Development and Economic Growth
 11. **DEVELOPMENT MANAGEMENT PERFORMANCE UPDATE - FQ2 2023/24** (Pages 259 - 268)
Report by Executive Director with responsibility for Development and Economic Growth
 12. **PLANNING PERFORMANCE FRAMEWORK 2022/23** (Pages 269 - 280)
Report by Executive Director with responsibility for Development and Economic Growth
- REPORTS FOR NOTING**
13. **UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING APPEAL DECISIONS** (Pages 281 - 310)
Report by Head of Development and Economic Growth

14. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: TAXI AND PRIVATE HIRE CAR SURVEY (Pages 311 - 312)

Report by Executive Director with responsibility for Legal and Regulatory Support

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

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held BY MICROSOFT TEAMS on MONDAY, 20 NOVEMBER 2023**

Present: Councillor Kieron Green (Chair)

Councillor John Armour
Councillor Jan Brown
Councillor Audrey Forrest

Councillor Daniel Hampsey
Councillor Peter Wallace

Attending: Stuart McLean, Committee Manager
Fiona Macdonald, Solicitor
Alison MacLeod, Licensing Standards Officer
Pamela Fraser, Licensing Team Leader
Marcus Lee, Applicant
Corinna Dean, Applicant

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Graham Hardie, Mark Irvine, Liz McCabe and Dougie Philand.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982, THE CIVIC GOVERNMENT (SCOTLAND) ACT 1982 (LICENSING OF SHORT-TERM LETS) ORDER 2022: APPLICATION FOR GRANT OF A SHORT-TERM LET LICENCE (M LEE AND C DEAN, LOCHDON, ISLE OF MULL)

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 video call and joined the meeting by MS Teams.

Jen Swift, Objector opted to proceed by way of written submission and had asked the Committee to refer to her original objection contained within the Agenda pack for this meeting.

The other Objectors to the application either declined to attend or did not respond to the invite.

The Chair invited the Licensing Standards Officer to speak to the terms of the report.

Thereafter he outlined the procedure that would be followed and invited the Applicants to speak in support of their application.

APPLICANT

Mr Lee advised that he lived in England but was brought up in Scotland and had been coming to Mull for the last 60 years. He said that this project was 10 years in the making. He and Ms Dean were both Architects and he advised that they wanted to make something special. He referred to staying in some basic bed and breakfast establishments, and said that they wanted to provide somewhere that could be enjoyed in all weathers.

He said that he had been slightly shocked at the nature of the complaints. He commented that the suggestion of anti-social behaviour and too many cars was alien to how they saw their operation running. He said that they had lots of friends who would be coming to enjoy nature and the quiet and beautiful countryside. He said that he hoped that they had made something special. He advised that when they invited friends to stay they did ask that they be respectful of neighbours.

He advised that he did not realise parking was an issue. He said that he expected that there would only be one or two cars and that they would be offering a discount to anyone travelling via public transport.

He advised that they were doing something to be close of nature - something different that people could enjoy from indoors. He said that it was a shame that some of the Objectors had not come visit to see what had been built. He referred to receiving lots of support from other neighbours.

Ms Dean advised that she had nothing further to add.

MEMBERS' QUESTIONS

Councillor Green sought and received confirmation from the Applicants that they would be content with the occupancy of the premises being restricted to 7 people.

Councillor Forrest noted that the Applicants did not live locally and she asked if anyone local to the area could be contacted if there was a problem needing to be dealt with on a day to day basis. Mr Lee confirmed that their neighbour and friend would have a key and could be called upon. He also advised of 2 ladies that lived at a nearby farm who would look after the place and be in charge of the changeover of guests.

Councillor Brown sought and received confirmation from Mr Lee that between their neighbour and the 2 ladies, there would always be someone on call to deal with any issues that may arise. Mr Lee said that he would be very surprised if there were any issues as they would carefully vet anyone that would come to stay.

Councillor Brown referred to concerns raised about parking and commented on the photographs supplied in the Agenda pack which showed 2 cars, with one butting out onto the road. Mr Lee said that there was plenty of space to park properly off road and manoeuvre safely. He hoped that cars would be parked behind the byre.

Councillor Armour referred to comments made by Objectors that there had been instances of near misses with cars reversing out on to the road and asked if this was a regular occurrence or just a one off. Mr Lee said that this was a very quiet road and advised that in theory it was possible to drive at 60 mph as the speed limit was not controlled. He commented that he did not think anyone should reverse out onto even a quiet road. He

said he was not aware of any incidents and suggested this may have happened during construction. He advised that now that the property was completed the right course of action would be to follow the Highway Code. He said there was enough room to drive straight in and reverse into the area close to the byre. He added that there would be no need to reverse onto the highway.

SUMMING Up

Applicant

Mr Lee said that they would not be dealing with this from afar and that they would be visiting as often as they could. He commented that lots of family members were queuing up to visit.

Mr Lee and Ms Dean confirmed that they had received a fair hearing.

DEBATE

Councillor Forrest advised that she had considered all the information before her and had given weight to the objections. She confirmed that with conditions recommended applied she would be happy to grant this licence.

Councillor Armour said that his main concern had been road safety and that he had noted the explanation given by Mr Lee. He advised that, like Officers, he saw no reason to object to this application. He commented that he was disappointed the Objectors had not attended as he would have liked to have heard their objections first hand. He confirmed that he would have no hesitation in granting the licence.

Councillor Brown agreed that it would have been good to have heard from the Objectors. She advised that she saw no reason to object to this application.

Councillor Green noted that the Applicants were content to restrict occupancy to 7 people. On that basis, he said he would be happy to support the application.

DECISION

The Committee unanimously agreed to grant a short-term let licence to Mr Lee and Ms Dean subject to the inclusion of the anti-social behaviour condition as set out at paragraph 6.3 of the report, along with the mandatory conditions and to the occupancy of the property being restricted to 7 people.

It was noted that written confirmation of this would be issued to the Applicants within 7 days.

(Reference: Report by Regulatory Services and Building Standards Manager, submitted)

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held BY MICROSOFT TEAMS on WEDNESDAY, 22 NOVEMBER 2023**

Present: Councillor Kieron Green (Chair)

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

Attending: Shona Barton, Governance Manager
Peter Bain, Development Manager
Bryn Bowker, Area Team Leader – Mid Argyll, Kintyre and the Islands
Kirsty Sweeney, Area Team Leader – Helensburgh and Lomond/Bute and Cowal
Emma Jane, Planning Officer
Fiona Scott, Planning Officer
Tiwaah Antwi, Planning Officer
Marina Curran Colthart, Local Biodiversity Officer

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Amanda Hampsey, Daniel Hampsey, Andrew Kain and Liz McCabe.

2. DECLARATIONS OF INTEREST

Councillor Mark Irvine declared a non-financial interest in planning application reference 22/00678/PPP, as he knew the Applicant personally and had been lobbied frequently over the last few months. He left the room and took no part in the determination of this application which was dealt with at item 4 of this Minute.

Councillor John Armour declared a non-financial interest in planning application reference 23/01018/PP as it concerned a farm neighbouring his own business and he had also been lobbied by local residents. He indicated that he would take no part in the determination of this application which was dealt with at item 6 of this Minute, but would remain in the meeting.

3. MINUTES

- a) The Minute of the Planning, Protective Services and Licensing Committee held on 18 October 2023 at 11.00 am was approved as a correct record.
- b) The Minute of the Planning, Protective Services and Licensing Committee held on 18 October 2023 at 2.00 pm was approved as a correct record.
- c) The Minute of the Planning, Protective Services and Licensing Committee held on 18 October 2023 at 3.00 pm was approved as a correct record.

Having declared an interest in the following item, Councillor Mark Irvine left the meeting at this point.

4. MR ROBERT MACINTYRE: SITE FOR THE ERECTION OF DWELLINGHOUSE: LAND WEST OF RUANDA, SHORE ROAD, PEATON, HELENSBURGH (REF: 22/00678/PPP)

The Planning Officer spoke to the terms of the report. Planning permission in principle is sought for the erection of a single dwellinghouse and installation of a septic tank. The site for the proposed dwellinghouse is located within the minor settlement boundary of Coulport/Letter. The proposal also includes the formation of a new access to serve the proposed dwellinghouse. The majority of this new access is out with the settlement boundary and is located within the countryside zone. The site is also located within the MOD safeguarding zone of Coulport.

The proposed site is located on the seaward side of the main road (B833) opposite an existing dwelling know as Ruanda. All development within the minor settlement boundary of Coulport/Letter is located exclusively on the landward side of the main road and there is no existing development to the seaward side of the road within the settlement boundary. It is considered that the proposals do not constitute an appropriate site within the settlement zone, because they do not relate to this established settlement pattern of Coulport/Letter.

It is recognised that there is development on the seaward side of the main road in nearby neighbouring Ardpeaton. This development is either historical or is re-development on brownfield sites and is not on a greenfield site. The application site is a greenfield site, considered to be natural foreshore and can be described as a mature aged broadleaved woodland with areas of wet woodland within it.

There have been 26 objections to this proposal received and one representation along with objections from Cove and Kilcreggan Community Council and the Development Policy Unit. There have been no objections from other consultees, subject to conditions.

The proposal was assessed against policies of the Local Development Plan (LDP) 2015, National Planning Framework 4 and LDP2, as detailed at section P of the report and it was recommended that planning permission in principle be refused for the reasons outlined in the report of handling.

Decision

The Committee agreed to refuse planning permission in principle for the reasons detailed below:

1. LDP DM1 gives encouragement to sustainable forms of development within key settlements on appropriate sites and within the countryside zone on appropriate infill, rounding off and redevelopment sites and changes of use of existing buildings. There is a presumption against development that seeks to extend an existing settlement into the Countryside Zone. With regard to LDP DM1 the proposal includes an area of settlement zone and countryside zone, the proposal does not constitute an appropriate site within the settlement zone, because it does not relate to the established settlement pattern at Coulport/Letter, where built development is located exclusively on the landward side of the road. The proposed access to the development is located within the countryside zone and therefore does not accord with part E of LDP DM1. In

addition, it would not be supported by LDP2 Policy 01 in relation to settlement areas and Policy 02 out with settlement areas which is a material consideration. In relation to Policy 01 – Settlement Areas, development will normally be acceptable where it is an appropriate scale and fit for the size of settlement in which it is proposed and respects the character and appearance of the surrounding townscape. In this regard the proposal does not constitute an appropriate site within the settlement zone, because the proposal does not relate to the established settlement pattern at Coulport/Letter, and results in the development of a section of natural foreshore in a village where built development is located exclusively on the landward side of the road. Regarding Policy 02, the proposal would not constitute as infill, rounding off, redevelopment or located on a previously developed site and is therefore not generally supported. Policy 02 further notes that development adjacent to, but out with settlement boundaries which are delineated in the proposals maps will not constitute infill, rounding off or redevelopment.

In addition, whilst it is believed that the site could accommodate a modest sized dwelling, it has not been demonstrated that there would be sufficient land for the required amenity space including; garden, parking and turning area.

As the proposed development fails to pay regard to the established settlement pattern in this location it is also considered to be contrary to NPF4 Policy 14. Furthermore, based on the above the proposals would also be contrary to the provisions of Policy LDP 9 and the Supplementary Guidance Sustainable Siting and Design Principles (paras 4.1 and 4.2) and proposed LDP policies 05, 08 & 10 which are a material consideration.

2. Policy 9 of NPF4 does not support greenfield sites unless the site is allocated for development or the proposal is explicitly supported by policies in the LDP. Given the house is not supported by the settlement strategy policies within the adopted LDP (as explained in point 1), then the proposal is also contrary to Policy 9 of NPF4.
3. It is considered that the proposed development is contrary to NPF4 Policy 1 & 3 as underpinned by LDP Policies LDP 3, SG LDP ENV 1, 6 & 14 and Proposed LDP2 Policy 73 given the disturbance to biodiversity is not acceptable. The construction of a house and access would result in the loss of ground flora and fauna and individual mature trees within an established native woodland and the potential impacts on protected species.
4. The proposal would be contrary to NPF4 Policy 6 part b) which notes that proposals will not be supported where they result in adverse impacts on native woodlands including individual trees of high biodiversity value or fragmenting woodland habitats. In regard to potentially fragmenting woodland habitats, the preliminary ecological appraisal has noted the site has good connectivity to further Ancient Woodland Inventory and to the Local Nature Conservation Site at Peaton Glen. Also of relevance is SG LDP ENV 6, which places importance on development impact on trees / woodland whereby Argyll and Bute Council will resist development likely to have an adverse impact on trees by ensuring through the development management process that adequate provision is made for the preservation of woodland/trees. Policy 77 of the proposed LDP notes that there is a strong presumption in favour of protecting our woodland resources. Particular care will be taken to ensure that ancient semi-natural woodland, native or long-established woods and individual trees of high nature conservation value are safeguarded, conserved and, where possible, enhanced. Removal of woodland resources will only be permitted where it would achieve

significant and clearly defined additional public benefits. As noted above the adverse impacts on native woodland and individual mature trees of biodiversity value would be contrary to NPF4 Policy 6, SG LDP ENV 6 as well as Proposed LDP Policy 77 which is a material consideration.

5. NPF4 Policy 10 seeks to protect coastal communities and assets and support resilience to the impacts of climate change, part B) notes; Development proposals in undeveloped coastal areas will only be supported where they are necessary to support the blue economy, net zero emissions or to contribute to the economy or wellbeing of communities whose livelihood depend on marine or coastal activities, or is for essential infrastructure, where there is a specific locational need and no other suitable site. In addition, policy SG LDP CST 1 (Coastal Development) notes that the preferred location for developments requiring a coastal location is the Developed Coast, which consists of coastal areas within the Settlement Development Management Zone, excluding the Natural Foreshore. This proposed site is a Natural Foreshore where there is a presumption against development unless there is a specific operational need; and ii) there is no effective alternative location for the development landward of the natural foreshore; and iii) the development does not damage or undermine the key features of the natural foreshore area. As the proposal for a single dwelling house fails to demonstrate compliance with the above criteria the proposal would also be contrary to SG LDP CST 1. Furthermore, as this proposal for a single dwelling is located within an undeveloped coastal area it would also be contrary to NPF4 Policy 10.

(Reference: Report by Head of Development and Economic Growth dated 6 November 2023, submitted)

Councillor Luna Martin joined the meeting during consideration of the foregoing item.

Councillor Irvine returned to the meeting at this point.

5. OBAN BAPTIST CHURCH: DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF NEW CHURCH/COMMUNITY BUILDING WITH ASSOCIATED LANDSCAPING WORKS: OBAN BAPTIST CHURCH, ALBANY STREET, OBAN (REF: 23/00688/PP)

The Planning Officer spoke to the terms of the report. Planning permission is sought for the demolition of the existing Oban Baptist Church and ancillary buildings to allow for the erection of a replacement church/community building.

The application site is situated within the defined Main town Settlement Zone of Oban. The site is currently occupied by three buildings, the main Church building, the Church hall and a detached bungalow, all of which are used for various functions. Whilst a historic building, the Church is not covered by any statutory designation nor is it within any area benefiting from statutory protection. The proposed new building is a contemporary designed, split level structure which presents as a single storey mono-pitched roof structure to Albany Street, with a two storey pitched roof element presenting to Shore Street. The roof height would be lower than that of the existing Church building.

The proposal has elicited 12 objections, 1 representation and 48 expressions of support. The main thrust of the objections relate to the demolition of the Church building. However, the demolition of the building would benefit from “deemed permission” under the Town and Country Planning General Permitted Development Order 1992 (as amended) and

therefore this aspect of the proposal is outwith the remit of the Council as Planning Authority.

With regard to the other concerns raised by objectors in relation to the access and infrastructure arrangements to serve the proposed development, the site is already operating a similar development to that proposed in the application. No objections were raised by any of the statutory consultees.

As a minor departure to NPF4 Policy 9 with regards to demolition, which can be undertaken without any input from the Planning Authority, the proposal is otherwise consistent with the provisions of both Local and National Planning Policy and it was recommended that planning permission be granted subject to the conditions and reasons detailed in the report of handling.

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. The development shall be implemented in accordance with the details specified on the application form dated 31/03/23, supporting information and, the approved drawings listed in the table below unless the prior written approval of the planning authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Plan Title.	Plan Ref. No.	Version	Date Received
Existing Drawings	01		03/04/23
Location & Block Plans	AL- 001 -A3		21/04/23
Topographical Plan	AL- 002 1-125 A2		03/04/23
Existing Site Plan	AL- 003 A3		03/04/23
Proposed Site Plan	AL- 004 A3		21/04/23
Proposed Floor Plans	AL- 005 A1		03/04/23
Proposed Elevations	AL- 006 A1		03/04/23
Client Statement/Pre-Application Consultation – 24 PAGES			03/04/23

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

Note to Applicant

Please note the comments in the consultation response from Scottish Water and the comments provided in the submission from the Oban District Access Panel, details of

which are available to view on the planning application file via the Public Access section of the Council's website.

2. PP – Traffic Management Plan

Notwithstanding the effect of Condition 1, no development shall commence until a Traffic Management Plan has been submitted for the written approval of the Planning Authority in consultation with the Roads Authority. The Plan shall detail approved access routes, agreed operational practices (including avoidance of convoy movements, specifying conduct in use of passing places, identification of turning areas, reporting of verge damage) and shall provide for the provision of an appropriate Code of Practice to drivers of construction and delivery vehicles. The development shall be implemented in accordance with the duly approved Traffic Management Plan.

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

3. PP - Finishing Materials

Notwithstanding the effect of Condition 1, no development shall commence until samples of materials to be used in the construction of the development hereby approved 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.

4. PP - Reclamation of Materials

No demolition works shall commence until a scheme for the reclamation of stone from the Oban Baptist Church building, during or prior to demolition has been drawn up in consultation with, and approved in writing by the Planning Authority. The stone shall be satisfactorily set aside, stored and used within the redevelopment scheme in a manner which shall first be agreed with by the Planning Authority, prior to any demolition taking place.

Reason: In order to protect and save materials and items which can reasonably be retrieved, in the interests of the historical qualities of the building to be demolished.

5. PP – Sustainable Drainage System

Notwithstanding the provisions of Condition 1, the development shall incorporate a surface water drainage system which is consistent with the principles of Sustainable urban Drainage Systems (SuDS) compliant with the guidance set out in CIRIA's SuDS Manual C753. The requisite surface water drainage shall be operational prior to the development being brought into use and shall be maintained as such thereafter.

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

Note to Applicant

Further advice on SuDS can be found in SEPA's Standing Advice for Small Scale Development – www.sepa.org.uk

6. PP - Waste Management

Notwithstanding the effect of Condition 1, no development shall commence until a Waste Management Strategy for the development has been submitted to and approved in writing by the Planning Authority.

The Waste Management Strategy shall include details of how much waste the proposal is expected to generate and how it will be managed including:

- (i) Details of provisions to maximise waste reduction and waste separation at source;
- (ii) Details of measures to minimise the cross-contamination of materials, through appropriate segregation and storage of waste; convenient access for the collection of waste; and recycling and localised waste management facilities.

Thereafter the development shall be undertaken in accordance with the approved Waste Management Strategy unless otherwise agreed in writing with the Planning Authority.

Reason: In order to comply with the requirements of NPF4 Policy 12.

7. PP - Landscaping and Biodiversity Enhancement

Notwithstanding the effect of Condition 1, no development shall commence until details of the proposed treatment of the soft landscaping areas within the development has been submitted to and approved in writing by the Planning Authority.

The scheme shall include details of:

- (i) Location, design and materials of proposed walls, fences and gates;
- (ii) Surface treatment of proposed means of access and hardstanding areas;
- (iii) Proposed hard and soft landscape works;
- (iv) 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.

The development shall not be occupied until such time as the boundary and surface treatment have been completed in accordance with the duly approved scheme.

All physical biodiversity enhancement measures (bird nesting boxes, 'swift bricks', wildlife ponds, bat and insect boxes, hedgehog homes etc) shall be implemented in full before the development hereby approved is first brought into use.

All biodiversity enhancement measures consisting of new or enhanced planting shall be undertaken either in accordance with the approved scheme of implementation or within the next available planting season following the development first being brought into use.

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.

(Reference: Report by Head of Development and Economic Growth dated 6 November 2023, submitted)

6. MR THOMAS IRWIN: FORMATION OF EARTH BANK SLURRY LAGOON AND ASSOCIATED WORKS: LAND AT WEST DRUMLEMBLE FARM, WEST OF ROWAN TREE COTTAGE, DRUMLEMBLE, CAMPBELTOWN (REF: 23/01018/PP)

The Planning Officer spoke to the terms of the report. This application seeks planning permission to establish an earth bank slurry lagoon and associated works, including erection of a 2m high security fence.

The application site is accessible via a farm track off a private access to the U031 public road. The proposed development is in response to the updated Scottish Government legislation on the Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021, which requires all cattle and pig farmers to have a maximum slurry storage capacity for a period of 22 and 26 weeks by 1 January 2026; and slurry storage to be built in line with the Silage, Slurry and Agricultural Fuel Oil (SSAFO) requirements. The application site comprises a greenfield site located within the Countryside Zone.

In this instance, the proposed erection of a slurry lagoon, whilst on a greenfield site, represents an exceptional case (to comply with new regulatory requirements) requiring this specific location (located within a reasonable distance from the existing functioning agricultural buildings) to function as an integral part of the agricultural operations of West Drumlemble Farm.

At the time of writing the report a total of 29 representations had been received, 28 of which were in objection and one neutral response. An objection had also been received from Laggan Community Council. One objector, Leslie McGeachy, had since indicated that he no longer objected to the proposal as his previous concerns had been addressed.

The proposal, subject to conditions, is considered to be consistent with the relevant provisions of the Development Plan, NPF4 and LDP2 and there are no other material considerations of sufficient significance to indicate that it would be appropriate to withhold planning permission.

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

Decision

In order to address Health and Safety concerns raised by Members, the Committee agreed to continue consideration of this application to a future meeting and requested Officers obtain from the Applicant the following further information:

1. Details on the nature of the proposed fence in terms of size and design and signage displayed in order to secure the site of the slurry lagoon;
2. Clarification on the type of cover that will go over the slurry lagoon in terms of the safety aspects of it; and

3. Details of protocols that will be put in place in respect of the Health and Safety aspects of the site, to ensure it was a safe place to work.

(Report by Head of Development and Economic Growth dated 10 November 2023, submitted)

Councillors Paul Kennedy and Luna Martin left the meeting during consideration of the foregoing item.

7. SCOTTISH BIODIVERSITY STRATEGY - DELIVERY PLAN: TACKLING THE NATURE EMERGENCY: CONSULTATION ON SCOTLAND'S STRATEGIC FRAMEWORK FOR BIODIVERSITY

The Scottish Biodiversity Strategy: Tackling the Nature Emergency consultation is seeking views on a range of topics and actions to halt the loss of biodiversity and tackle the nature emergency in Scotland. An officer response will be submitted to the consultation, and as the Scottish Biodiversity Strategy – Development plan progresses, further reports will be brought forward to Committee with updates on what the implications are for the Council.

A report summarising the actions that local authorities will be expected to deliver in the Scottish Biodiversity Strategy Delivery Plan, which is a five year rolling plan, was considered.

Decision

The Committee agreed to:

1. recognise the implications for local authorities, as set out in paragraph 4.2 of the report, in delivering the Scottish Biodiversity Strategy – Delivery Plan actions including Nature Networks 30 x 30 in terms of resources, funding and timescales; and
2. recognise the implications for local authorities, as set out in paragraph 4.5 of the report, in meeting any of the targets (which have yet to be agreed) in the draft Natural Environment Bill.

(Reference: Report by Executive Director with responsibility for Development and Economic Growth dated 26 October 2023, submitted)

8. THE FIREWORKS AND PYROTECHNIC ARTICLES (SCOTLAND) ACT 2022 - FIREWORK CONTROL ZONES IN ARGYLL AND BUTE

The report to the PPSL Committee in September 2023 provided detail on the introduction and provisions of the Fireworks and Pyrotechnics Articles (Scotland) Act 2022 and particularly the matter of Firework Control Zones.

A report setting out how the Council proposes to provide information on Firework Control Zones and how community requests will be managed was considered.

Decision

The Committee agreed to endorse the proposals detailed in the report.

(Reference: Report by Executive Director with responsibility for Legal and Regulatory Support dated 27 October 2023, submitted)

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held BY MICROSOFT TEAMS on WEDNESDAY, 22 NOVEMBER 2023**

Present: Councillor Kieron Green (Chair)

Councillor John Armour	Councillor Dougie Philand
Councillor Jan Brown	Councillor Peter Wallace
Councillor Graham Hardie	

Attending: Shona Barton, Governance Manager
Fiona Macdonald, Solicitor
Ann Zurn, Applicant
John Hemmerlee, Applicant
Jamie Yule, Applicant's Solicitor
Natalie Welsh, Manager of Property (for Applicants)
Clifford Maughan, Objector
Darren Painter, Objector

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Gordon Blair, Audrey Forrest, Amanda Hampsey, Daniel Hampsey, Mark Irvine, Andrew Kain, Paul Kennedy and Liz McCabe.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982, THE CIVIC GOVERNMENT (SCOTLAND) ACT 1982 (LICENSING OF SHORT-TERM LETS) ORDER 2022: APPLICATION FOR GRANT OF A SHORT-TERM LET LICENCE (A ZURN AND J HEMMERLEE, OBAN)

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 video call and Ann Zurn and John Hemmerlee joined the meeting by MS Teams. They were joined by the Manager of the Property, Natalie Welsh, and their Solicitor, Jamie Yule, also by video call.

Clifford Maughan and Darren Painter, Objectors, also opted to proceed by way of video call and they joined the meeting by MS Teams.

One other Objector, Nicola Whittleton, was unable to attend.

The Chair invited the Licensing Standards Officer to speak to the terms of the report.

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

APPLICANT

The Committee heard from Mr Yule on behalf of the Applicants. He advised that the property in question had been let in the last financial year for 231 days out of a total of 365 days. He also noted the objections which had been submitted by Mr Maughan and Mr Painter, but contended that the objection which had been submitted by Ms Whittleton should not be taken into consideration as there was no address supplied and in terms of the legislation anonymous objectors could not be considered.

Mr Yule provided detail in terms of the Police attendance at the property and advised that this could not be attributed to the short term let premises. He advised that there had been minor issues in regard to the wearing of the carpet in the communal areas and although this wearing could not be attributed to one property it was hoped that there could be resolution to this through dialogue. He noted that the Applicants had advised that they would be willing to pay towards the costs of a replacement carpet if this was shared by all of the residents.

It was noted that issues which had been raised around noise and cleaning had been responsibly responded to and he advised that the Applicants had engaged with their neighbours.

He advised that the Applicants had demonstrated that they were fit and proper persons to hold a short-term let licence and that the property was also suitable with no evidence of public disorder or public nuisance. He advised that the Applicants had confirmed that they would be keen to work with neighbours to put systems in place to resolve issues. He submitted to the Committee that this application should be granted.

QUESTIONS FROM OBJECTORS

Mr Maughan referred to the cleanliness of the close and said that it had not been cleaned since the owners of the property left 3 months ago. He noted that they had advised that they had cleaners who cleaned it and he said this was not true. He sought comment on this. Ms Zurn advised that they had a cleaner that would clean the close when requested to do so. She advised that the close had been cleaned about 6 weeks ago and the cleaner had been asked to clean it again at the end of the month when the current guests left. She advised that she and John had personally washed the walls and vacuumed the stairs when they were last there.

Ms Welsh advised that during the regular change overs the close would not be left in a condition that was not tidy or unclean. She commented that there was not a formal cleaning agreement in place in respect of the close but it was not in their interest for the close to be dirty. She said they would not want that impression for their guests and that if the close was dirty the cleaners would fix that.

Mr Painter advised that he had no questions and thanked Mr Yule for reading out the email he had circulated before the meeting.

Mr Maughan asked where the key box was. Ms Welsh advised that she was not comfortable with providing this information to Mr Maughan. She said it was not marked up. Ms Zurn said that guests were advised of the location of the key box and how to access it upon arrival. She added that the address was not marked on the key safe.

OBJECTORS

Clifford Maughan

Mr Maughan said that the close was not kept clean and that there was no agreement in place of any kind to say who would clean what and when. He advised that there was a lot of disturbance and that they heard every noise and footstep. He pointed out that the building was not built to modern standards with the soundproofing between floors being old asphalt. He advised that this was a residential building with 4 flats and was over 100 years old.

He advised that he and his wife were pensioners over 71 years old and that they had moved here to get peace and quiet. He commented that his wife was quite ill and could not walk. He referred to complaints made to the Police. He advised that 2 Police vans came out but they could not locate the person he had complained about. He also referred to one of the other neighbours being prevented from putting a complaint in about this application. He referred to contacting Councillor Amanda Hampsey to try and find out who they could complain to in the Council.

He advised that the current tenants were workmen and he commented that the owners had previously indicated that they would not let the property to workmen. He said that the workmen made a lot of noise in the close and that one of them had been sick and had dropped a sick cloth out of the window. He also advised that the workmen had urinated against their window. He said that the close had never been cleaned by the owners since the day they bought it.

He commented that the owners had said they stayed in the flat for 3 months last year. He said this was not true. He said it was only 42 or 47 days. He said they were using the flat as a cash cow to make money. He asked how many Airbnbs were currently licensed and how many applications were lodged by the deadline of 1 October 2023. He referred to the number of visitors to the close and the wear and tear of the carpet. He said everyone involved in this was making money out of it. He said they didn't live here and didn't have to put up with it. He advised that he did not have a direct number for Natalie Welsh to let her know what was going on. He said that they had lied on a number of occasions. He commented that he assumed the Committee had read the detail of his objection and the owners' response to it. He also advised of people trying to find the Airbnb coming to his door and trying to get in and that the same thing had happened to the other neighbours.

Darren Painter

Mr Painter advised that Nicola Whittleton lived with him in Flat 3 which was on the top floor above Flat 2 which was being used for short-term lets. He acknowledged that she had omitted to include her address on her objection.

He advised that his primary concern was that this property was a residential property with a shared, communal access. He said that a residential property was very different from a commercial property and stated that a short-term let was commercial. He advised that it was his view that it was inappropriate to be using a tenement building, with shared communal access, for business purposes. He said this was the primary basis of his objection. He added that all the reasons that Cliff had talked about in respect to the potential for anti-social behaviour, the potential for noise, and all the rest of it, would be caused by a business being run from a tenement residential property with shared communal access.

Clifford Maughan

Mr Maughan added that the people owned the flat above him and that it had since been devalued along with all the other flats in the building. He commented that Darren Painter would not have bought his flat if he knew of the Airbnb and advised that the couple downstairs had said the same. He advised that he had nothing against tourism but said that it should be in self-contained buildings.

QUESTIONS FROM APPLICANTS

Ms Zern asked Ms Welsh if she had received any complaints about the current guests in the flat. Ms Welsh confirmed that Cliff had contacted her about towels being thrown out of the window and the mess in the close. She advised that she had asked for photographs of the close to be provided so that arrangements could be made for it to be cleaned. She advised that he had said that the dirt had since been swept out onto the street and was no longer there in the close. She confirmed that there were workmen in the property for 4 months. She advised that when the booking came through she had spoken to them personally. She said that they were working on the site at Dunstaffnage from 9.00 am to 5.30 pm, Monday to Friday and parked their vehicles nearby on the street. She said that they had previously had good reviews on Airbnb and that they seemed credible. She had also spoke with their employers and that she had been more than happy that they would be respectable guests.

Mr Yule referred to cleaning of the close and asked how often anyone in the other properties in the building cleaned the close. Mr Maughan said that he used to clean it every few weeks but he was not doing it just now due to so much dirt being brought in by the workers. He said that his wife was not well and that he was her carer. He advised that when he emailed Ms Welsh it was not about the towel it was about the noise. Ms Welsh advised that she had spoken to the guests about that at the time and that she had advised Mr Maughan of that. She commented that whether it was residents of the other properties or the Airbnb, there would always be a chance of people coming in and making a small amount of noise. Mr Maughan replied that it was not a small amount of noise, it was shouting and clumping up and down the stairs. He said he had received no reply or remonstrations from anyone. He said that at the time when he had called the Police, Ms Welsh had ignored this and the owners had ignored this. He said he did not think that was reasonable.

Mr Painter said that he had cleaned the close 3 or 4 times. He advised that when the residents who worked on a muddy site had left the stairs in a terrible state 2 or 3 times, he had personally hoovered the stairs. He said he did not think any resident would leave the stairs in that state.

Mr Maughan said his wife was disabled and that he went out 1 or 2 times a week which was one person coming up and down the stairs as opposed to 4,000 odd.

MEMBERS' QUESTIONS

Councillor Brown asked the Objectors if, prior to the people who owned the flat applying for a short-term let licence, they had complained previously, or if the complaints had only started since the application was lodged. Mr Maughan said that he had made complaints before the licence was applied for. He said that he had been in touch with Councillor Amanda Hampsey and the Citizens Advice Bureau. He said he had contacted Councillor

Hampsey 4 or 5 times about what was going on. He said that he had complained to the people who owned the flat before they applied about 3 times but received no response.

Mr Painter advised that he had not complained before. He said that he and Nicola had been fortunate to purchase the flat in August 2022 which was a similar time to when the Applicants purchased their property and which was now being used for business purposes.

Councillor Armour asked the Objectors how quickly any complaints about issues with the flat and the close were responded to. Mr Maughan said not very quickly.

Councillor Armour asked how quickly Mr Maughan received a response about the cloth thrown out the window. Mr Maughan said he complained on 3 November and received a response late on 4 November.

Councillor Armour asked Mr Maughan if he thought that was a reasonable time to receive a response. Mr Maughan said no. He said he should have had a phone number to ask someone to come out and see it at the time.

Councillor Armour asked the Applicants why there was not a more robust way of getting in touch with them. He asked why there was not a phone number available for emergencies rather than sending emails or letters. Ms Welsh said she would be happy to provide her phone number. She commented that Mr Maughan had sent his email on 3 November at midnight about a door being slammed by people coming into the close. She said that she had responded to this email at 10 am the next day after talking to the guests. She said that it was not true that she did not respond to other complaints for days. She said that one other email had been sent and that this had been replied to the same day or the next day. She confirmed that she would be happy to give her phone number to Mr Maughan and Mr Painter.

Councillor Armour asked Mr Maughan if he would be satisfied with receiving a phone number. He said yes if someone came straightaway to see what was happening straightaway. Ms Welsh commented that it was always best if photographs could be provided. She said that would be really helpful to her. She commented that she knew that Mr Maughan had taken photographs before as he had sent them on.

Councillor Armour commented that he appreciated that photographs would be helpful but, at the end of the day, said that a timely response to a phone call would be far more advantageous to everyone.

Mr Painter commented that Ms Welsh had been very clear about the email she received from Mr Maughan at midnight and her response the next day at 10.00 am, but she was less clear when questioned by Mr Maughan, and had said she could not remember 2 or 3 weeks ago. He said he was concerned that she was clear with some responses but not others. Mr Painter also expressed his concern about taking photographs. He said he would be uncomfortable confronting someone about noise and taking their photograph. He said this may lead to confrontation and not end well.

Councillor Philand asked the Applicant if there were any ground rules for living in the tenement. He asked if all the neighbours had sat down together to confront the differing views and to organise a rota for cleaning. He suggested that this would go some way to helping the situation. Mr Painter said that this was a valid point. He said that he and Mr Maughan had spoken as residents. He said that he expected when moving into the

property to be able to build relationships with neighbours and have these types of conversations. He said he would not be able to do that with different people living there for days, weeks or months.

Councillor Philand suggested that contact could be made with Ms Welsh regarding ground rules for the building. Ms Welsh advised that she managed other properties in the town and they had ground rules which worked well.

Ms Zurn advised that when they were there in August they had left written letters for all the others in the building with their contact details and Ms Welsh's contact details. She said that they wanted to be available and involved. She advised that Ms Welsh was a professional short-term let person and that this was what she did for a living and that she was highly available.

Councillor Green sought and received confirmation from Ms Zurn that the contact information left was email addresses. Mr Hemmerlee said they would not mind providing their cell phone number but pointed out that they lived in the US so this would be an overseas call and there would be a 6 hour time difference. He said that he had received a couple of contacts from Mr Maughan over the last 18 months or so which, he said, he had tried to respond to straightaway. He advised that he was always in contact with Ms Welsh and that they heard a lot of things. He said that a schedule for cleaning the close would be great and they would not mind their cleaners being part of this schedule. Ms Zurn advised that they were always available on WhatsApp for instant communication.

Councillor Philand asked all parties if they had received a copy of the paperwork for today's meeting and, if so, if they were satisfied or had any concerns about the additional conditions suggested to be applied to this licence if granted.

The Applicants confirmed that they were satisfied with the suggested conditions. They commented that they seemed reasonable and that they would try to follow these even if they were not spelt out. Ms Zurn referred to talk about not allowing workmen into the flat and that they would certainly see about not allowing that. She said it was kind of hard to discriminate against them as they knew of housing shortages for workmen. She commented that their son worked on construction sites that that he much preferred to stay in Airbnbs where there was a kitchen and a space to relax in.

Councillor Armour referred to one of the complaints being about 10 people staying in the flat. He asked the Applicant if 10 people had stayed in the flat. Ms Welsh said that she would not accept a booking for 10 people and advised that this would only happen if 10 people came without them knowing about it. She said that they had not seen 10 people leave and as far as she was aware this had not happened. She said if there was a slight risk of this happening, they could install a ring doorbell with a small discreet camera fitted to see who was coming and going. She said she would not accept a booking for more than 6 people. She advised that in her experience of Airbnbs for many years in Oban and elsewhere, she had rarely seen this happen. Ms Zurn said they had received one complaint about more than 6 people being in the flat.

Councillor Armour asked Ms Zurn what steps were taken to address that complaint. Ms Zurn said they had not heard about it until they seen the list of objections. Mr Hemmerlee advised that in a perfect world they would ban the guests from ever using the flat again and also post a bad review about them on the Airbnb site. He said that they wanted their place taken care of as they lived there when they came to Oban. He said they did not want more than 6 people living there and that there would be consequences if there were

doing more than just visiting those that were staying there. Ms Welsh advised that they would be able to report such instances to Airbnb. She said she would report it and the guests would be asked to leave and that they would be blocked. She acknowledged that this would not help after the event or to find out after the event, but said that a camera would be able to pick this up quicker.

Councillor Armour asked the Objectors if they felt there had been more than one occasion when more than 6 people have stayed in the flat. Mr Painter advised that it was difficult to say as he was not there 100% of the time. He said that it was sometimes clear when multiple people were there as there was a lot more noise compared to other times. He said to talk about security cameras in a residential property was ridiculous.

Mr Maughan advised that there had been a number of occasions which he had not reported.

Councillor Green commented that he understood that management of the property had been handed over to Ms Welsh and that she no longer lived in Oban so there would be a need to get other people to respond to specific events or to arrange for work to be done. He asked Ms Welsh if she received a phone call, how quickly she would be able to take action to deal with any issues. Ms Welsh said that it could be fairly quickly depending on the issue. She advised that she had family based in town and had a similar set up for the other properties she managed in the town since 2017 and that it had always worked well.

Councillor Brown sought and received confirmation from the Applicants that they would be happy and content with the proposed conditions imposed on the licence if granted.

SUMMING Up

Objectors

Mr Maughan said that the Applicants and their Agents did not live in Oban even if they had a phone number. He referred to emails not being responded to quickly. He advised that they had a safety issue if they went out and confronted the people causing the problems. He said he did not know how many times he had gone up and knocked on the door to ask them to be quiet. He referred to Ms Welsh saying that she vetted people and asked why she did not know about the 10 people that had come. He said there was no one on the ground to sort things out.

Mr Painter said this was a residential property, not a commercial property. He said there had been, and would continue to be, issues with a residential property's communal area being used for business. He said that if anyone else was in that situation they would understand that, and have the same concerns and fears about going outside to ask someone, who was a complete stranger, to be quiet. He said this was not fair.

Applicants

Mr Yule advised that the matters before the Committee were whether the property used as a short-term let was within the policy and if the proprietors were fit and proper persons. He advised that it was his understanding that to have a residential property as a short-term let did not go against the policy. Referring to the discussions today, he said that it had been demonstrated that the parties could enter into a dialogue to discuss issues with his clients to address any concerns. He said that his clients had Ms Welsh to answer any questions by email or phone.

He thanked the Committee and submitted that it would be appropriate for this licence to be granted with the additional conditions recommended by the Licensing Standards Officer to address any concerns.

Ms Welsh referred to group sizes and explained that when someone made a booking on Airbnb there was always a conversation with her about who would be coming and why. She said that she could be more proactive in finding out more about group bookings to help with any concerns in this respect.

The Chair asked all parties to confirm if they had received a fair hearing.

The Applicants and their Agents confirmed that they had received a fair hearing.

Mr Maughan said that he had not received a fair hearing. He said he felt that credence had not been given to his objection and this was noted.

Mr Painter advised that the process was as expected and the only point he would make was that as residents they had not invested any money in employing a solicitor to support their case. He said that they did not have the resources for that but he understood that the hearing process had been followed.

DEBATE

Councillor Hardie said he appreciated the comments made by Mr Painter about a business being in a residential area and that he could see his point. He advised that the summary given by Mr Yule made him think that he should accept and grant the licence.

Councillor Armour advised that despite what Mr Painter had said about not having a solicitor, he thought that both Objectors had put over their cases really well. He said he would not criticise the way they had put over their cases and he said that they had made their points very well. Councillor Armour advised that he did have concerns about this. He had concerns that when complaints were made there was no one close at hand directly involved in the running of this Airbnb. He acknowledged that the people that cleaned it lived nearby, but said there was no one to deal with issues and that worried him because of the complaints that have been received. He asked whether a condition could be added that there needed to be a person in the area that residents could go to and contact immediately if there were any issues.

Ms Macdonald advised that an additional condition in relation to that point could be added if required by the Members of the Committee.

Councillor Armour asked if it would be possible to grant a temporary licence. Ms Macdonald said she did not believe so, as Mr Yule had pointed out, in relation to assessing applications in terms of the fit and proper test, a person was either fit and proper or not. She advised that if Members were minded to grant the licence then the complaints mechanism would be in place should any issues occur in relation to the flat, the property owners or breaches to any conditions, and the licence could be brought back to the Committee as was the case for other types of civic licences.

Councillor Brown said that she also had concerns as this was a residential area. She said she did not feel there were mechanisms in place to address complaints as they happened. She added that she believed there were a number of vulnerable people living in this

property who would not want to speak to strangers. She said that she did not think enough weight had been given to their complaints and that she would like a more robust system in place to look at their complaints when they happened and for action to be taken at the time to help the residents that lived there 24/7.

Councillor Philand said he would be reassured if there was a condition that required that someone living locally be a point of contact. He referred to the other conditions and questioned whether everyone in the block of flats would know what they could and could not do. He referred to the Police being called out once. He advised that if a complaint was made to the Police again the licence could be recalled and discussed. He referred to the Airbnb policy and the safeguards in place around that. He also advised that clear communication with all the residents in the building may help to 'nip things in the bud' and, if not taken on board the evidence would be there.

Councillor Armour said that Councillor Philand had summed up very well. He acknowledged that the application could not be objected to because the short-term let was in a residential property. He advised that if the Committee were to approve this, he would feel very strongly that there should be someone on the ground that could be there almost immediately if any issues were to arise.

Councillor Brown agreed with the comments made by Councillor Philand that there needed to be close rules with every member within the close abiding by these, not just those in the Airbnb. Moving forward, she advised that everyone should try to keep the doors of communication open so there was dialogue when needed.

Councillor Hardie advised that he would support Councillor Armour with his suggestion of an additional condition.

Councillor Green commented that for the benefit of today's hearing, other Councils had tried to bring in rules preventing short-term lets in residential buildings and that they had been the subject of legal challenge.

Councillor Green referred to all that had been said and commented that his own flat in Oban had a communal close. He advised that there was an Airbnb property within that building and that he had experienced problems in the past, not with those staying in the Airbnb, but with a permanent resident in another flat. He agreed that better communication with all the residents would be a welcome step in respect of this situation to try and resolve some of the conflicts.

Ms Macdonald advised that an additional condition could be added as long as it was reasonable. She asked if the Committee were looking for someone to be contactable 24/7 in case emergencies arose.

Councillor Green advised that he recognised from the concerns raised by the other residents that they were looking for someone that was contactable locally who could respond immediately. Ms Macdonald advised that this could be stipulated in the condition.

Councillor Wallace questioned where the boundaries would be drawn in terms of someone being local.

Councillor Armour proposed that someone should live in fairly close proximity of the property, that could be there on the ground to deal with any issues. He said that a contact

number and someone that could be there within 1 hour or even shorter if possible would be best. He said that Ms Welsh, living in Manchester, would not be acceptable. He advised that there needed to be someone on the ground a lot closer than that.

Further discussion took place on the wording of an additional condition to address this issue.

DECISION

The Committee unanimously agreed to grant a short-let licence to Ann Zurn and John Hemmerlee subject to the mandatory conditions and additional conditions detailed at paragraph 6 of the report, and subject to the following additional condition:

The Licence Holder must provide a contact name and number that could be used to report any issues or complaints and which would be accessible on a 24/7 basis with the assurance that someone living within 10 miles of the property would be able to attend at the property or respond appropriately when required.

It was noted that the Applicants would receive written communication of this within 7 days.

(Reference: Report by Regulatory Services and Building Standards Manager, submitted)

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held BY MICROSOFT TEAMS on WEDNESDAY, 22 NOVEMBER 2023**

Present: Councillor Kieron Green (Chair)

Councillor John Armour
Councillor Jan Brown
Councillor Graham Hardie

Councillor Dougie Philand
Councillor Peter Wallace

Attending: Shona Barton, Governance Manager
Fiona Macdonald, Solicitor
Nikolay Petkov, Applicant

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Gordon Blair, Audrey Forrest, Amanda Hampsey, Daniel Hampsey, Mark Irvine, Andrew Kain, Paul Kennedy and Liz McCabe.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF TAXI CAR LICENCE (N PETKOV, GARELOCHHEAD)

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

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

APPLICANT

Mr Petkov advised that he currently held 2 Private Hire Operator Licences and he was looking to change one of those for a public hire licence. He explained that since Covid business had dropped in terms of phone calls and bookings and that before Covid he had been fairly busy.

He said that he wanted to be able to go out and work on public hire on Friday and Saturday nights and during the day at the weekends. He advised that living further away from Helensburgh there was not the same demand and that he found himself unable to work during these busy times.

He advised that a couple of times when he did have a late night booking he had driven through Helensburgh and had noticed a lot of customers waiting at the taxi rank, which, he said, indicated to him there was the demand for taxis there. He said that as he was a private hire he had no option but to drive by and go home.

He said this was the main reason for applying for this licence and so that he could continue to provide for his family.

MEMBERS' QUESTIONS

Councillor Brown sought and received confirmation from Mr Petkov that he held 2 Private Hire Licences and wanted to change one of these for a public taxi licence.

Councillor Wallace sought and received confirmation from Mr Petkov that there were around a dozen people waiting at the taxi rank next to train station and that it was after midnight on a Friday night. Mr Petkov advised that he had also spoken to other taxi drivers who had indicated there was demand for taxis at this time. He advised that when he first started as a taxi driver he worked with Trident Taxis for several months and it was at these times he mainly worked. When he moved to be independent he received a lot of bookings pre Covid but things had since changed. He said he may receive the odd call around midnight now, but living 20 minutes away from Helensburgh, he could not always be sure the customer would still be there as they were looking for a taxi straightaway.

Councillor Brown sought and received confirmation from Mr Petkov that he proposed to work from Helensburgh as there was no demand in Garelochhead for a public hire. He advised that over the last couple of years 3 more licences have been issued for the Garelochhead area and he said it was a fact that there was not enough work there, with only the odd person wanting to pre book. He said there was no real need for a public hire there so he planned to mainly work from Helensburgh where a lot of work was generated from the Naval Base. He said that apart from any pre bookings, he would mainly operate in Helensburgh where there was more demand.

Councillor Brown sought and received confirmation from Ms Macdonald that there were currently 51 taxi licences in the Helensburgh and Lomond area. She advised that when the LVSA survey was carried out there were 48 taxis and since then 5 have lapsed, 14 have been granted and 6 have been surrendered, bringing the total to 51.

SUMMING UP

Applicant

Mr Petkov commented that he was not sure how relevant the LVSA survey was as he said the circumstances in 2019 were different to 4 years later. In terms of the number of taxis, he said not enough were working when the demand was there. From his personal observation, he said that the majority of taxi drivers worked during the day from early morning to 4.00 or 5.00 pm. He said that the demand was usually from 6.00 pm with quite a high demand later at night. He said he did not think many of the 51 taxis operated at night.

Mr Petkov confirmed that he had received a fair hearing.

DEBATE

Councillor Hardie advised that being on the ground in Helensburgh he was aware that there was a shortage of taxis at night time. He advised that even though there may be a slight over provision, he would be happy to grant this application.

Councillor Armour agreed with Councillor Hardie and advised that if there was a problem there would have been objections to this application.

Councillor Philand was of a similar mind and commented that Councillor Hardie would know best how things were there. He also referred to there being no objections to the application and advised that he would be happy to grant the licence.

Councillor Brown also agreed with her fellow Councillors and advised that she could see no reason not to permit this licence.

Councillor Wallace also agreed that he would be happy to grant the licence.

Councillor Green referred to the LVSA survey being a number of years old. He also commented on the number of taxis in the area not being reflective of the actual number working when there was demand. He said that he would be happy to accept this application.

DECISION

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

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

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held ON A HYBRID BASIS IN THE COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD AND BY
MICROSOFT TEAMS on TUESDAY, 28 NOVEMBER 2023**

Present: Councillor Kieron Green (Chair)

Councillor John Armour	Councillor Graham Hardie
Councillor Gordon Blair	Councillor Andrew Kain
Councillor Jan Brown	Councillor Dougie Philand
Councillor Audrey Forrest	Councillor Peter Wallace
Councillor Amanda Hampsey	

Attending: Iain Jackson, Governance, Risk and Safety Manager
Peter Bain, Development Manager - Planning
Sandra Davies, Major Applications Team Leader – Planning
Ben Hadfield, MOWI Scotland Ltd – Applicant
Stephen MacIntyre, MOWI Scotland Ltd – Applicant
Phillip Gillibrand, MOWI Scotland Ltd – Applicant
Dougie Hunter, MOWI Scotland Ltd – Applicant
Elaine Whyte, Clyde Fishermen’s Association – Consultee
Ian Brodie, East Kintyre Community Council – Consultee
Lorraine Holdstock, Marine & Coastal Development Policy Officer – Consultee
Stewart Graham, Gaelforce Group – Supporter
Tavish Scott, Salmon Scotland – Supporter
Warren Harvey, Carradale Fish Farm – Supporter
Derek Keir, Camanachd Association – Supporter
Harry Nickerson - Objector

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Daniel Hampsey, Mark Irvine, Paul Kennedy, Liz McCabe and Luna Martin.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

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

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

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

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

PLANNING

On behalf of the Head of Development and Economic Growth, Sandra Davies, Major Applications Team Leader, made the following presentation with the aid of power point slides.

Slide 1: PPSL Front Sheet

Slide 2: Title and Location Plan

This application is for the formation of a new fish farm off the east coast of Kintyre. The site is located in the Kilbrannan Sound about 10km north of Carradale and to the north of Cour Bay.

Slide 3 Proposed Site Plan

The fish farm would have 12 circular cages with each cage measuring 120m circumference in a 2x6 grid along with a feed barge.

Slide 4 Plans and Elevations

The cages would be low in profile and finished in a dark, non- reflective material. This shows the plans and elevations of the proposed cage group.

Slide 5 Typical Pen Design

This plan shows a typical pen design with pole mounted top nets.

Slide 6 Feed Barge

Here are the drawings for the proposed feed barge which has the design of a marine vessel.

The site would be serviced from the existing shore base at Carradale Harbour which already serves Mowi's fish farms Carradale North and South.

Slide 7 (Environmental Impact Assessment Front Cover)

An Environmental Impact Assessment has been carried out in relation to this application. The EIA process looks at the significant effects of a project on the environment. As with any other type of planning application, the legislation requires that the proposals be assessed against the policies of the development plan. If the proposal accords with these policies then the development should be approved unless material considerations indicate otherwise.

Slide 8 (NPF4 and LDP front covers)

The Development Plan comprises National Planning Framework 4 (NPF4) adopted February 2023 and the Argyll and Bute Local Development Plan adopted 2015.

Slide 9: NPF 4 Policy 32

NPF4 should be read as a whole and is based around six overarching spatial principles which the proposed development should comply. Part 2 of NPF 4 contains 33 policies and the report of handling for this application details those which would apply to the proposed development.

A number of NPF4 policies apply to this development, however, the prime policy for aquaculture is policy 32. This policy makes it clear that LDPs should guide new aquaculture development in line with National and Regional Marine Plans. They should minimise environmental impacts, including cumulative impacts that arise from other existing and planned aquaculture development in the area whilst also reflecting industry needs. Policy 32 requires the consideration of a set of criteria which are similar to those covered the LDP aquaculture policy AQUA 1. I have highlighted these criteria in bold on the slide.

Slide 10 – Policy AQUA 1

This is policy AQUA 1 from the adopted LDP showing the eight criteria which require to be assessed in the determination of this application.

Since this application was presented to the PPSL committee in May, Argyll and Bute Council's proposed Local Development Plan 2 (pLDP2) has gained enhanced status as this has been returned to the Council following the Examination process.

Supplementary Report no. 3 has therefore assessed proposal against the relevant pLDP2 policies. Following this process it has been concluded that there would be no substantive change to the policy assessment of the proposal.

Landscape / Seascape and Visual Amenity

Returning to the adopted LDP, AQUA 1 is a criteria based policy which relates specifically to marine and freshwater aquaculture. The application has been assessed against each of the eight criteria and found to comply with the plan. I will go through each of these criteria in turn.

Slide 11 ZTV Slide

The first criteria to be considered under this policy relates to landscape / seascape and visual amenity. A landscape and visual appraisal has been included with the EIAR.

The proposed fish farm would be located off a small promontory named Rubha Riabhach which is located beyond a rocky shoreline. The site is theoretically visible to a wide extent from both the north and the south with the views to the west curtailed by the promontory. The current slide shows the Zone of Theoretical Visibility or ZTV with the view points locations marked. There are clear views from the Kilbrannan Sound and distant views from the Isle of Arran. The EIAR notes that the location of Rubha Riabhach is remote from residential properties and outwith sightlines of adjacent Crossaig and Cour. It is further noted that the coastline of Arran is sufficiently far away to diminish views.

The B842 runs north from Campbeltown to Cloanaig. This is a single track road which moves in and out from the coastline due to topography. In places there are elevated

views across the Kilbrannan Sound toward Arran and Ailsa Craig. The road is also designated as long distance cycle path (NCN 78) and core path. The closest dwellings to the proposed fish farm can be found at Cour and Crossaig at distances between 1km and 1.5km.

The SLVIA notes that the key seascape and landscape characteristics of the area are the remote and indented coastline, the narrowing of the Kilbrannan Sound and proximity to Arran, where the low hills of Kintyre contrast with the drama of the rugged Arran skyline. The gentle landscape of the area and clustered settlement pattern, with strong links to the Sound and rich historical influence, create a landscape with unique character and attraction. The section of coast within the locality of the proposed development contains relatively fewer landscape features than surrounding coastline, with existing industrial infrastructure of electricity works which impacts upon the positive character of the area.

Slide 12 – VP map

To aid the evaluation of visual effects, fourteen viewpoints were selected as part of the SLVIA. The various viewpoint locations are shown on this plan and those Members who attended the site visits would have seen some of these viewpoints. Members were issued with a paper copy of the viewpoints at the time of the last committee to allow for a more accurate interpretation. The view points contained within this power point presentation should not be relied upon as they do not give an accurate representation. These images are compressed and colouration may be different.

Slide 13 – VP 1 Grogport Old Manse Dun

Slide 14 – VP 2 B842 south

Slide 15 – VP 3 Cour House

Slide 16 – VP 4 B842 Adjacent

The trees in the foreground of this visualisation have since been felled as was seen at the site visit.

Slide 17 – VP 5 B842 north

Slide 18 – VP 6 Claonaig Slipway

Slide 19 – VP 7 Claonaig to Lochranza Ferry

Slide 20 – VP 8 Kilbrannan Sound north

Slide 21 – VP9 Kilbrannan Sound south

Slide 22 – VP10 Pirnmill Former Free Church beachfront

Slide 23 – VP 11 Thundergay Beach

Slide 24 – VP12 Coirein Lochan

Slide 25 – VP13 Catacol

Slide 26 – VP14 Newton Point Viewpoint

The SLVIA concludes that the most significant visual effects were views from the B842 /NCN Cycle Route 78 / Core Path Campbelltown to Claonaig. Here there were Moderate to Major levels of significance due to the high sensitivity of the viewpoints and the scale of the proposal within the view albeit a passing view on a recreational route.

Overall the SLVIA report concludes that

“the area of proposed development is within an attractive landscape and seascape area, but with detracting factors which lower sensitivity and enable the development of proposals to be undertaken without major adverse effects being encountered. There are key areas of recreational resource, and hotspots of high sensitivity along the Kintyre coast, and within these areas there are higher levels of impact determined, but this is well contained to minimise overall levels of significance. The siting of the proposed fish farm is appropriate to context, maintaining integrity of the key characteristics of the area to sufficient levels. The highly sensitive coastline of north Arran is protected from unduly high levels of adverse effects, with sufficient distance across the Sound and sufficient interest and engagement within the wider landscape and seascape.

This SLVIA concludes that, with adherence to mitigation, the proposals conform to the Argyll and Bute Local Development Plan and to wider marine planning guidance, with a good proportion of acceptable levels of impacts within the Cour area.”

Officers would concur with this view and consider that the seascape, landscape and visual impacts of the proposal would be acceptable in terms of NPF4 policies 4 and 32 and LDP policies AQUA 1, LDP 3, SG LDP ENV 12 and SG ENV 14. This would also accord with policies 04 and 28 of the emerging LDP.

Slide 27 – Policy AQUA 1

Slide 28 – Policy AQUA 1

The next criteria within the AQUA policy relates to **Isolated Coast and Wild Land**

This would not impact upon this development as there are no areas of isolated coast or wild land in the vicinity of the proposal.

Slide 29 – Viewpoint from Cour House VP 3

Historic or Archaeological Sites and their settings

The third criteria relates to historic and archaeological sites. The impact of the development on the category A listed Cour House and its setting have been considered. Cour House is located approximately 1.6km from the development and only a proportion of the site will be visible from the house at an oblique view.

It was concluded in the EIAR that this would lead to small adverse effects and moderate levels of significance. Due to the location of the farm north of Cour Bay and the screening provided by the headland of Rubha Riabhach Officers would concur with this view and are of the opinion that the proposal would not have an unacceptable effect on the listed building or its setting. This view is further supported by the HES consultation response to this application which advises that due to the limited visibility in views from Cour House, significant impacts on the setting are unlikely.

It is therefore not considered that the introduction of the fish farm in this location would have an adverse impact on the setting of cultural heritage assets.

Slide 30 – Policy AQUA 1

In terms of Priority Habitats and Species (including wild migratory salmonids) and designated sites for nature conservation

Wild fish interactions are a key consideration in the determination of marine fish farm applications. Fish farms have the potential to impact on wild salmonids in two ways, namely, the risk of escapes and interbreeding and the spread of disease including sea lice.

Slide 31 – Active and proposed marine fish farms in the vicinity of the development

This slide shows the active and proposed fish farms in the vicinity of the site. The yellow dots are shellfish farms, the blue dots are active finfish farms and the red dots are proposed fish farms. As highlighted on the map, the Arran fish farm at Millstone point was refused and the appeal dismissed.

In August 2020 there was a mass escape from the neighbouring Carradale farm during Storm Ellen. Following investigation, it was determined that the escape was caused by mooring line failure at the southern end of the pen group. This was due to abrasion caused by feed barge mooring lines rubbing against pen grid mooring lines.

As part of the current application, the company were requested to submit further information to demonstrate how this risk would be mitigated in the future. The company has advised that they have new procedures in place. These are detailed in the planning report and include measures such as a review of mooring analysis procedures and the introduction of third party verification and increasing the frequency of inspections.

The consideration of the impacts of sea lice is one of the most challenging issues currently faced by the planning system. SEPA are due to take over this responsibility from planning in the near future, however, until this time the planning system will continue to consider this issue.

Sea lice are ectoparasites belonging to the crustacean family. They have a complex life history involving a free swimming stage searching for a host. During subsequent growth phases, they can move around the host and swim unanchored from it. Two species can infect salmon; a salmon specific species (*Lepeophtheirus salmonis*) and to a lesser extent a more generalist species (*Caligus elongates*). The intensity of infection at which sea lice become damaging depends upon the size of fish, the species of sea louse and the residence time of lice to the host.

Fish farms result in elevated numbers of sea lice in open water and therefore in some circumstances they are likely to have an adverse effect on some populations of wild salmonids. However the magnitude of any such impact in relation to overall mortality is not known. Information from the west coast of Scotland suggests lice from fish farming can cause a risk to local salmon and sea trout. This information can be used to give an idea of the relative risk to salmon and sea trout which is governed, and can be mitigated by a number of factors, in particular the siting of the farm and its ability to effectively control sea lice.

This development has the potential to increase the risks to wild salmonids.

In addition to the operation of a Sea Lice Management and Efficacy Statement, the Applicant will be required to operate the development in accordance with an Environmental Management Plan (EMP). Prior to SEPA taking over the responsibility for regulating this area, this is currently the method by which sea lice are monitored and controlled in the interests of wild salmonids. The aim of the EMP is to ensure that

salmonid farming activity within the Management Area does not result in negative impacts to local salmon and sea trout populations and fisheries. The Kilbrannan Sound EMP which covers all of the MOWI fish farms in the FMA states that this will be achieved by:

- monitoring,
- co-operation; and
- adaptive management.

Slide 32 – SPA and SAC Slide

There are also a number of sensitive areas which may be affected by the proposal. NatureScot has advised that the proposal may have an impact on the gannets and other sea birds from the Ailsa Craig SPA. As this is an internationally protected area an Appropriate Assessment was required to be undertaken and is attached as an appendix to the report. Gannets have a very large foraging range and the proposed development would fall within this range. There is concern that they could become entangled or entrapped in the pole mounted nets however the Appropriate Assessment has concluded that, subject to conditions, this impact could be mitigated.

In addition to the Ailsa Craig SPA, NatureScot also advised that the proposal was likely to have a significant effect on Endrick Water SAC and a further Appropriate Assessment was required. The site is some 70km from the SAC and will have no direct impact on the boundaries of the SAC. However, it could impact on the qualifying interest of the Atlantic salmon, including smolts, as they travel through the Firth of Clyde on their way to sea. Smolt migration is associated with high mortality and is thus considered a critical life stage in the Atlantic salmon life history. Currently only about 5% of smolts who make the journey return to freshwater as adults.

Smolts originating from the Lomond catchment (which includes the Endrick Water SAC) and the Clyde catchment (which includes the rivers Clyde, Gryffe, Black Cart Water and White Cart Water) migrate to their oceanic feeding grounds in the Norwegian Sea and West Greenland via the Inner and Outer Clyde.

Nature Scot further advise that whilst they do not know the exact migration route of Atlantic salmon post smolts emigrating from the Endrick Water SAC, there is potential for them to pass through lice dispersion plumes emanating from the proposal.

Following the adjournment of the Hearing, NatureScot updated their advice as the Firth of Clyde post-smolt tracking project also identified potential connectivity between the proposal and three other SACs. These are:

- The River Bladnoch SAC in Dumfries and Galloway;
- The River Derwent and Bassenthwaite Lake SAC in the Lake District in England; and
- The River Boyne and Blackwater SAC in the Republic of Ireland.

These sites have therefore been considered along with the Endrick Water SAC within the revised Appropriate Assessment included as an Appendix of SR4. This concludes that, subject to the proposal being carried out strictly in accordance with mitigation specified by NatureScot, then it will not adversely affect the integrity of the sites.

The mitigation which has been included as recommended conditions, requires:

1. The proposal to be undertaken in accordance with the EMP;
2. The site not being restocked until a review has been undertaken of relevant farming and wild fish monitoring data collected during the previous cycle. This review must be agreed in advance of the following cycle;
3. The site will not be stocked until the wild fish monitoring plan has been agreed, including a requirement to monitor the juvenile salmon population in coastal waters within a zone of 30km from Management Area;
4. The site will be fallow between 15th March and 1st June each alternate year, coinciding with the second year of production at the site;
5. The operator shall notify the Local Authority within 14 days of the site being stocked and fallowed.

Slide 33: Policy AQUA 1

The fifth criteria that the proposal needs to be assessed against is **the ecological status of water bodies and biological carrying capacity.**

The site is located within 'uncategorised' waters under Marine Scotland's Locational Guidelines, which indicates better prospects of fish farm developments being acceptable in environmental terms given the open situation, and the depth of water with unconstrained water exchange. SEPA are responsible for controlling water column impacts via its CAR licensing process and have confirmed that compliance with the CAR permit should ensure that the production of fish at this farm will not breach SEPA's environmental standards for protection of the surrounding seabed and water column.

SEPA have advised that a CAR licence has been issued for this site, therefore, it is not considered that the proposal would conflict with policy SG LDP ENV 7 which resists development which would have a detrimental impact on the water environment.

Slide 34: Policy AQUA 1

With regard to **Commercial and Recreational Activity**, the EIAR concludes that commercial fisheries populations are classified as a low sensitivity receptor in terms of economic value due to the existing low commercially viable marine populations identified. The number of fishing vessels is also low, therefore the overall significance on commercial fisheries is assessed as minor.

The Clyde Fishermen's Association were consulted on this application and have objected on a number of grounds including the loss of fishing grounds to indigenous fishermen. They contend that this particular area will take away safe fishing grounds for prawn fishing.

The Council's Marine and Coastal Policy Officer has noted that ScotMAP data (Oct 2020) shows that the marine area of the farm is of low-medium value for nephrops / crab creel and trawl fishing. She has further noted that the moorings area which would extend to 30.6 ha might interact with fishing activity and could be considered significant, however it was concluded that no significant environmental effects were considered likely in relation to risk to navigation and anchorages and other marine users.

Recreational shipping has also been assessed as a low sensitivity receptor. Similar to commercial shipping, due to the farm being located outwith the main route through the Sound, the magnitude of impact would also be low. Therefore the overall impact on recreational navigation is assessed as minor.

Taking account of the above, it is considered that there may be some impacts on commercial fishing, taking account of the conclusions of the EIAR and consultation responses, it is not considered that these would be of a significance that would provide a sustainable reason for the refusal of the application.

Wild Swimming

The progress of this application has been delayed due to representations made regarding the potential health effects of fish farm bath medications while swimming. Initially SEPA advised that this particular issue was outwith their remit, however, more recently they have provided the planning authority with advice on this issue which I will come to later.

Salmon Scotland, a representative body to fish farming companies in Scotland, subsequently commissioned a report undertaken by WCA consultants on this issue as representations on wild swimming have been received in relation to a number of fish farm planning applications.

When assessing health risks, two key factors are considered: the levels where no health effects occur; and the levels to which people may be exposed. The WCA report uses a specific scenario for open water swimming, Derived No Effect Levels (DNEL) for the three bath medicines which could be used to treat salmon. The WCA report concludes that the concentration of medicines Azamethiphos and Deltamethrin used in a pen bath treatment are lower than the DNEL and therefore there is no unacceptable risk to humans, at any distance from the farm, from the release of medicine residues from a farm pen following completion of a treatment. The DNELs for oral and dermal exposure have been calculated using a 2-hour swim scenario for a 71.8kg person. While a swimmer of lower weight would have an increased risk from the same level of exposure to medicine residues, the DNELs are still based on a number of highly precautionary assumptions, including:

- There is no dilution of medicine concentration, or degradation of residues;
- Water concentration of medicines is constant and static (no movement and circulation of medicine residues);
- That a swimmer would remain in an area of the highest concentration for two hours;
- 100% absorption of residues by dermal and oral routes of exposure.

For hydrogen peroxide the concentration used in the treatment pen is higher than the DNEL so the risk to wild swimmers depends on the dilution and dispersion of medicine residues in relation to the proximity of a wild swimmer, and the time for which the swimmer might be exposed to medicine residues.

In relation to hydrogen peroxide Appendix 1 of the supporting WCA report states that:

“Even in the worst-case scenario (an unrealistic combination of very large pen and very slow current speed), the average of the peak concentration over 2 hrs is 3.2 x NEL. To experience such concentrations, a swimmer would have to be at the pen edge at the moment the tarpaulin was dropped, and swim following the central peak of the patch (most likely parallel to the coastline) for a 2 hr period. Very few (if any) swimmers in Scottish coastal waters will swim for 2 hrs, with a more common swim duration being 30-45 minutes. Allowing for the time taken to swim to a farm (typically over 100 m from the shore), and the need to time the swim perfectly with medicine release and movement, exposure at this level would appear to be exceedingly unlikely. If swimmers follow

guidance of remaining outside pen grid marker buoys, risk of exposure is reduced even further.”

NHS Highland was consulted on the wild swimming report and advised that the overall methods and processes appear to be reasonable as do the deductions.

They were not able to give a definitive opinion on the safety of wild swimming in the vicinity of fish farms but did not object to the application.

The recent advice from SEPA confirms that they have undertaken a review of the Applicant's supporting report and as detailed in Supplementary Report no.4, they are satisfied that discharges of the bath medicines from the proposed fish farm would not pose a risk to the health of wild swimmers in Cour Bay.

Slide 35 – AQUA 1

With regard to amenity issues arising from operational effects, with the imposition of planning conditions relating to noise, waste and lighting, it is considered that the proposal would comply with the development plan.

Slide 36 – AQUA 1

Economic Impact is a further consideration which requires to be taken into account in the consideration of this planning application. The Applicant has advised that the site would require 10 permanently employed members of staff and potentially seasonal workers during the summer and in the second year of the production cycle. The development would also support 68 supply chain jobs within Argyll and across Scotland. An economic impact assessment which was submitted in support of the application assesses that the development will generate wider benefits including an operational annual Gross Value Added (GVA) Impact of £1.2M to the Scottish economy. The assessment concludes that for every pound of investment in the project over a 20-year period, approximately four pounds are returned to the Scottish economy. MOWI have also noted that they have plans to upgrade and improve the appearance of Carradale Harbour which would service the development. It is therefore considered that the proposal would have a positive economic impact.

In conclusion, the proposals have been assessed against all of the relevant policies of the development plan which comprises NPF4 and the Argyll and Bute LDP. The proposal would also comply with the emerging policies within LDP2. Subject to conditions, it is considered that the proposal would comply with these plans. It is therefore recommended that planning permission be approved subject to the revised conditions listed in Appendix 1 of SR4.

A short comfort break was taken at this point.

APPLICANT

Ben Hadfield

Mr Hadfield advised that he was the COO of Mowi and that he was joined by Stephen MacIntyre, Head of Environment; Philip Gillibrand, Oceanography Manager; Dougie Hunter, Technical Director; Warren Harvey, Manager of Carradale Fish Farm; and other members of the scientific team that had worked on this application.

Mr Hadfield advised that they were pleased to be part of the community in Carradale and to run their business from there. He said they ran a profitable business to very high standards. He said that Mowi itself was the largest producer of Atlantic Salmon, producing close 65,000 tonnes of salmon annually and employing around 1,500 people with an annual wage bill of over £55 million in Scotland. Referring to a number of slides, he advised that in Argyll they had a total of 11 seawater farming locations and one cleaner fish hatchery in Machrihanish. Two of these farms were located off Carradale where they currently operated out of the local harbour as a site base. He said that in 2022 Mowi spent over £13 million with local suppliers and service providers based in the Argyll and Bute area.

He referred to Scotland's salmon farmers being regulated by several different bodies and said this detailed and robust regulatory framework was internationally leading in some areas and it facilitated consideration of environmental interactions. They also had around 6 third party private standards which each farm was audited against.

He advised that Mowi was a driving force within the community and employed a lot of people. He said that they have long been a supporter of the Camanachd Association and also had a significant programme for career development and cash flow donations. They regularly organised farm visits, third party audits and beach cleaning activity. As partners of Colonsay Community Development Company, they supported work to find a solution to the local house shortage and they were committed to spending £1.2 million to support the development of 9 affordable homes.

He advised of Mowi operating in Carradale Harbour for 12 years and that they had recently purchased land and property in the area and cleared the area of toxic and fire damaged waste to clean the site. They have invested £8 million in the project and £2 million in new harbour infrastructure. They intended to incorporate the current shore base and lay-down areas into this new development. He said they would install a new pontoon to be used by their vessels as well as other harbour craft and visitor boats. The North Kilbrannan farm was key to the extent of this development, with increased production and jobs being crucial.

He advised of the benefits they would bring to the Carradale Harbour, with the creation of 10 new jobs and support for numerous others within the supply base. They were committed to significant investment, to re-energise the Carradale Harbour area and support commercial and tourism opportunities in the local community.

Stephen MacIntyre

Mr MacIntyre pointed out that the development has been recommended for approval by the Planning officials and that they had already received their CAR licence from SEPA. He said the development would not have any undue impacts on the environment, landscape or wild fish impacts.

He referred to the issues raised by the application which included the potential for effects on the benthic environment, human health, interaction with predators, wild salmonids, marine species and habitats of conservation importance, commercial fishing and landscape and seascape. The planning report recommended that planning permission be approved subject to a hearing and conditions. He advised that there were no objections from SEPA, NatureScot and Marine Scotland.

He referred to the landscape and visual impacts and advised that best practice mitigation had been incorporated into the site selection process and design of the farm. A visual impact assessment was submitted as part of the EIA report. Comprehensive examination of the potential effects of the fish farm on the landscape and seascape took place. The proposals were found to conform to the Argyll and Bute Local Development Plan and to wider planning guidance. NatureScot concluded that the proposal would not raise landscape or visual issues of national interest.

He referred to the recent Carradale storm incident and a series of recommendations that have been implemented by Mowi including – strengthening mooring lines and anchors of high energy farms, enhanced frequency and intensity of sub surface moorings inspections, improvements in design of equipment, and independent certification of moorings design. The design of the moorings for the North Kilbrannan salmon farm have been independently certified as meeting the requirements of the Scottish Technical Standard.

He advised that a two year generic study comprising 5281 juvenile salmon sampled from 118 locations showed no evidence of generic introgression between wild salmon and the escaped farm raised salmon from Carradale. He advised that as discussed in the EIA report, a range of mitigation measures were proposed to manage sea lice levels on farm raised fish at the proposed North Kilbrannan salmon farm.

He said the risk to wild salmonids had been overstated in representations of their proposal. Their extensive sea lice dispersal modelling demonstrated that North Kilbrannan salmon farm was unlikely to be a significant additional hazard to wild salmonids and the site could be licenced under the new SLRF. When the new sea lice risk framework is introduced, North Kilbrannan would have limits set on its sea lice numbers (as will all fish farms in the Clyde area) to protect wild salmon.

He then referred to the representations made about the impacts on wild salmonids in the Endrick SAC and other SACs in England and Ireland and advised that appropriate conditions have been agreed that would ensure protection of these SACs and ensure the protection of wild salmon smolts.

These include -

- The fish farm is operated **strictly in accordance** with the agreed Environmental Management Plan.
- The site **will be fallow** between the 15th March and 1st June each alternate year, coinciding with the second year of production.
- MOWI **will notify** the Local Authority in writing within 14 days of the site being stocked and fallowed.
- The site **will not be stocked** until the EMP wild fish monitoring plan has been agreed.
- The site **shall not be restocked** until an EMP review has been undertaken of relevant farming and wild fish monitoring data collected during the previous cycle, and the review has been agreed by Argyll and Bute Council, in consultation with NatureScot.

He also referred to the representations received in respect of the assessment of risk to open water swimmers from bath medicines. Reference was made to an independent study commissioned to address concerns raised regarding the potential health risk to open water swimmers in the vicinity of fish farms. Taking account of the available

evidence it was concluded that discharges of the bath medicines, from the proposed North Kilbrannan fish farm would not pose a risk to the health of wild swimmers in Cour Bay which was approximately 1.3 km from the fish farm. SEPA's assessment of this study agreed with this conclusion and NHS Highland did not raise any objection to the application.

He then referred to commercial fisheries and the objection from the Clyde Fishermen's Association on a number of grounds including the loss of fishing grounds and advised that they were conscious of the need to avoid space competition with other users of the green environment and acknowledged the pressures facing commercial fishing. He said that best practice mitigation had been incorporated into the site selection process and the design of the farm to minimise space competition and conflict. The marine area of the farm was of low-medium value for nephrops/crab creel and trawl fishing. Data on fishing activity was indicative of low pressure use. Surveying of the location confirmed benthic substrate not supportive habitat for commercially available marine species with low densities of scallop and nephrops. The conclusion of the EIA report was that impact on commercial fishing activity was not considered to be of significance. He referred to the presence of a sub-surface, high voltage electricity cable located 400 m to the north of the site which was an existing constraint on commercial fishing in this area. He said they did not believe that this development would contribute to spatial squeezing but they were open, as they have done elsewhere, to have discussions with commercial fishermen in order to try to design mitigation into their moorings etc to try and minimise potential conflict.

In summary, Mr Hadfield advised that the significant economic benefits were clear with project investment of £8 million in capital investment and a further £2 million minimum for the Harbour redevelopment which they would do in conjunction with other marine users and the community through a period of consultation. 10 new jobs would be created as a result of this. He said that the average annual salary in Mowi being just over £37,000. With highly skilled jobs people tended to stay a long time with the company, with 15 years being the average period. He also referred to supporting other jobs in the supply chain.

He advised the EIA carried out which showed no significant environmental effects. He said they valued the opinion of the objectors and valued some oversight and criticism of what they did in producing high value salmon, but said that there was a tendency to over exaggerate the environmental effect beyond the evidence. He said that they believed the development was well considered, significant in its scope, and significant in its opportunity to redevelop the harbour area and further cement their good relationship with the community and they hoped that the application would be approved today.

CONSULTEES

Clyde Fishermen's Association

Elaine Whyte advised that they supported local economic development and supported sensible, balanced development particularly in aquaculture and cooperation in fishing where it could happy. They also appreciate that local jobs were very important. She said that she appreciated the suggestion of Mowi to work with them on anchors etc but advised that this should have happened before with the site. She said that they had received some information about what was going to happen but never had a discussion about where the location would be etc. She said their concern was about capacity. At the moment in the marine space there were a lot of things happening. There were Highly Protected Marine Areas which have been scrapped but were likely to bring different types

of management. There were PMFs coming up, there were already MPAs, and no take zones. There were a whole lot of areas in the Clyde where they could not fish already. She said she believed they would also have a cod box closure coming up. She said they had extensive protections which meant that there was not a lot of space, so wild fishing grounds were becoming rarer and rarer. She said it was really difficult to get safe, sheltered grounds and advised that this was an area of safe, sheltered grounds. She referred to talk about Scot Map data being used to talk about fishing and it being said that it was low-medium impacts. She said that Scot Map was not a very reliable way of predicting data fishing. She said they were working on ways to improve that data through REM consultations. She said it did not record under 12 metre fishing boats data. For most of the boats fishing in that area, their fishing patterns were not formally recorded on Scot Map so it was important to say it was not a low-medium area for local fishermen, it was a very important area for local fishermen. She referred to the film showing retired fishermen talking about the economic importance and highlighted that there were no current fishermen talking about how they would co-exist with this development. She advised that the fishermen out there right now had contacted her to say this ground was of intense importance to them. She said that it had been underplayed economically here. If you have 10 boats with 4 crew members that all lived locally that were fishing that area, if they could not exist, not only because of this development, but because of cumulative pressures potentially, this may be the last straw for them. She advised that of all the fishing in Scotland, the Clyde was a very contained area and a lot of local boats have been lost over the years for a number of reasons. She said that if this development contributed to losing more boats then we really could be in trouble. She pointed out that Tarbert had went from about 20 boats to about 5 and a lot of those boats would be fishing in those areas. She said there was a need to think about cumulative impact. She said that shelter for fishing was really important and there were not many areas like that and she thought that this was one of those key areas.

She also referred to Carradale Harbour and advised that it was the Clyde Fishermen's Association that built Carradale Harbour. She said a key point was facilities as it could be quite difficult for local boats to access piers and access local facilities. She said there was a need to think about local traffic and safety.

She advised that their members have also expressed concern about debris and mortalities. She said that some of their members had picked up dumped salmon as well. These have been recorded but they did not know where they had come from. She said these things were a concern.

She then referred to lice and wild fish and advised that a lot of things have happened over the years. She said that they did see the lice, particularly on fast moving fish.

She also referred to pesticides and the EQS reports etc and she believed Mr Nickerson would talk more about. She advised that Shetland had done a very interesting study with SEPA which talked about dispersal of those chemicals. She said that the Clyde did not have the same level of tidal dispersal so it was a capacity issue if there were a lot of fish farms in a small area that was not as tidal, it could have a severe impact. She said it was already having an impact on areas like Shetland. She said there was a need to be mindful of the carrying capacity given the number of sites there were already.

She advised that those issues were key for them. She said that local economy fishing was important too and that they, in particular, have had a very hard time. She advised that they were open to working with partners but could guarantee that this was a very

important socio-economic for fishing in Argyll and Bute in this area and particularly for small boats, which were not recorded by the data that was being used.

East Kintyre Community Council

Ian Brodie advised that East Kintyre Community Council would like to lend its support to the Mowi application to establish an extension to their operations in Kilbrannan Sound. Although the application fell within Tarbert & Skipness Community Council area, it also impacted directly upon Carradale and East Kintyre. Carradale had a very good working relationship with the local Mowi team and were delighted that the company offered such good employment in the area. He said if this development went ahead it would bring extra employment and career opportunities to the area. He referred to the local hotel and shops that would benefit and said that everyone here wanted this development to go ahead. He advised that Carradale Harbour was utilised by Mowi as the shore base for their operations and they were keen to encourage that to continue. He advised that East Kintyre Community Council and the Carradale Fisherman's Association have been working in partnership with Mowi to help improve harbour facilities. Dredging and pontoons were developments in the pipeline and both would greatly enhance the harbour area for locals and tourists alike. He said that since they submitted their representation on the planning application Mowi had also purchased the yard formally known as Omans yard, to which they were going to turn it into a shore base as they have out grown their present yard.

SUPPORTERS

Stewart Graham

Mr Graham gave the following presentation:

Good morning my name Stewart Graham, the owner and founder of Gael Force Group.

Gael Force Group is an established Scottish supplier and manufacturer of robust and reliable equipment, technology, and services for the farming of healthy, nutritious Scottish Salmon. We currently employ around 170 people across the rural Highlands and Islands including **26 people** in Argyll and Bute. Our annual sales are in excess of £30M per year and we export 25% of our production. We wish to express support for this planning application in the strongest possible terms.

We are a key supplier to this sector and to Mowi Scotland. We would expect the supply chain across the Argyll and Bute area, as well as wider Scotland, to benefit from this development and for the jobs of those that the Scottish supply chain employs also to be widely supported through this development in the long term. Additionally at a national level it is clear we desperately need economic development in order to generate the revenue our governments require to fund our health, education and social policies which we all seek to sustain.

Speaking on behalf of Gael Force Group we have been involved in this business for 40 years supplying the inshore and mobile fishing sector as well as the aquaculture sector. Over that period, we have witnessed a remarkable turnaround in the economy and prosperity of the remote rural areas of the Highlands and Islands, and this has been consistent with the growth of the production of food and drink, the most significant product of which has been Scottish Salmon. We have seen first-hand over these 40 years how aquaculture has supported and sustained diverse and high paying jobs, sustaining and growing remote rural and island communities.

Visiting and servicing fish farms in the area, we have met many of the new generation of farmers who care so passionately about the marine environment they operate in and for the health and welfare of their livestock. The sector continues to be one of the most heavily regulated in Scotland and we can see that this application, like all other fish farm applications, has gone through a rigorous process to ensure that environmental commitments are being met. The findings of the Environmental Impact Assessment are supported by statutory agencies SEPA, Marine Scotland and NatureScot, with SEPA having approved an environmental licence for the site.

We do not believe nor accept any assertion that there is an unsustainable negative environmental impact from salmon farming. Salmon farming has a significantly lower environmental impact than almost all other significant sources of animal protein production. Standing in stark contrast to the radical claims by possibly well-meaning but often ill-informed environmentalists is the **fact** that Mowi has been awarded “the most sustainable protein producer in the world” for 5 consecutive years by Collier FAIRR Protein Producer Index a globally recognised, most scientifically and professionally respected independent assessor of the environmental impacts of protein producers. There is no disputing this as a fact and I would urge all stakeholders to refer to the **facts** of the matter as referenced by this recognition of Mowi’s sustainability credentials.

The sector has sustained indigenous local rural communities throughout the last 50 years, providing excellent and high paid jobs. Concurrently the growth of the sector has seen huge growth of our tourism sector, contrary to scare stories from objectors about negative impacts on tourism. There are none and the two sectors have demonstrated they can grow hand in hand. Note the footprint of this site is 0.25km²...this is a tiny area.

The constant growth of opportunities within aquaculture holds vast potential to positively impact many young people and their young families in the area who are working in local supply chain businesses; servicing and supporting fish farming. We should not underestimate the massive effect that aquaculture has on the small businesses and livelihoods in the area. We have seen an increasing number of young people looking to the sector and its supply chain for rewarding opportunities at all levels, not just as a job, but a highly skilled and well-paid career.

In terms of our own business, over the past three years (2020 to 2022) our total Payroll was just under £18M. We expect that to grow again this year and next. Our total VAT payments over the same period has been £4M. This along with many other companies in the supply chain and the producers themselves is what supports our vital public services. Naturally, as our business grows alongside Aquaculture and as demand for sustainable food protein continues to grow as expected and independently reported by the United Nations, we can expect our contributions to the local economy to increase too.

Farmed Scottish Salmon has proven to be a resilient and sustainable sector with a strong demand throughout Covid 19, providing a significant contribution to Scotland’s food security. The growth opportunity presented by the aquaculture sector can play a huge part in Scotland rebuilding a greener and fairer economy. Aquaculture is pivotal to the Scottish Governments “Blue Economy” strategy. We all face challenges of a changing environment and aquaculture has shown that it can and will adapt farming techniques and use of science and technology to resolve challenges, but the low environmental impact credentials of salmon as a major healthy protein source compared to other meats is indisputable.

We should be extremely careful not to let this opportunity for investment in the area pass us by, particularly during what are tough times for many and a very challenging outlook for our economy.

We at Gael Force wholeheartedly support this application and urge the councillors and planners to support the planning application too.

Salmon Scotland

With the aid of slides Tavish Scott advised that they recognised the importance of the Council area to the farmed salmon sector. The value of the economy, the number of jobs and the importance not only of Mowi as a production company operating in the Council area, but also the supply chain businesses who supported farmed salmon production.

Mr Scott said that Salmon Scotland's role as a trade body for the entire sector, was to support the activities of the businesses and that they were fully supportive of the MOWI application in Kilbrannan Sound.

He pointed out that salmon was Scotland's number 1 food export and therefore was central to the Scottish Government's policy objectives. He said this happened because of people and that across Argyll and Bute 540 people were directly employed in the sector and a further 2000 worked across 370 supply chain businesses. He said that the average salary in the farmed salmon sector was £36,000 per annum and that they were very proud of the wages, careers and futures provided to so many people in areas where employment opportunities were restricted.

He referred to figures which demonstrated the economic significant to the Argyll and Bute Council area - £69 million spent with local suppliers and export value from the area of £122 million. He advised that was how important the area was to Scotland and the wider economy.

He also referred to some of the major employers in the area that brought highly paid careers to Argyll and Bute. He said that Inverlussa, based in Mull, was a particularly good example.

Finally, he advised that he wanted to recognise, as a former member of a planning committee in Shetland, the importance of the role of elected members both in terms of the challenges members face, the need to make balanced decisions on a rational examination of the evidence, facts and science presented, and that he and his sector respected the decisions they were asked to make and the difficulties and pressures they faced.

Warren Harvey

Mr Harvey, Manager of Mowi fish farm at Carradale, advised that he has lived and worked in Argyll for the last 35 years and he had a team of 10 all of whom all lived in Kintyre, with 7 of them being from Carradale. He said that Carradale fish farm had developed a supportive relationship with the local community over the last 13 years. He referred to a community fund in place and that they looked to help others where they could. He said they were based at Carradale Harbour and that they tried to use local suppliers in Argyll.

The new site would create 10 new jobs and would also be serviced from Carradale. He was hopeful that one of the two apprenticeships they were presently advertising for, would be based in Carradale offering the opportunity for a school leaver to join his team.

Working on fish farms was very rewarding and could lead to a variety of career progression and opportunities.

The purchase of the land resolved a long running eyesore in the harbour. The land has been used for many years as an unauthorised dumping site for waste. The new pontoon would make a big difference and improve access to the sea. It will also be made available to the community, including small boat users who were already in the harbour. He referred to a new well boat which could produce fresh water from sea water to treat the fish. For the last 2 cycles they have had their best performance with the use of cleaner fish to control sea lice. Properly managed they did a fantastic job.

He said he was confident that the Kilbrannan site would be a good site and would be managed well with no adverse impact on the environment and without conflict with neighbours and other marine users. He hoped that the Committee would support the application. He advised that the harbour was central to Carradale but was in decline with no significant investment for many years. This was a great opportunity to reinvigorate it.

Derek Keir

Mr Keir advised that he was the Chief Executive of the Camanachd Association, the governing body for the sport of shinty. They have partnered with Mowi for around 37 years. He said that over the last 6 years Mowi have been responsible and innovative and continued to challenge them to improve. They also advocated for the communities they operated in. He thanked Mowi for their support and the Council's support.

He referred to Argyll and Bute's economic success being based on a growing population. He said that the success of shinty and for the future success of protecting the sport of shinty in Argyll and Bute and the Highlands, it was important for them to work with local authorities to try and do what they could to support a growing population.

He advised that much of their challenges came from a decline in school population so anything in the areas that they were operating shinty on the periphery of those areas, where was an opportunity to increase the population through job creation, was something, he said, they supported. On behalf of the Camanachd Board and its members, he advised that they fully supported the creation of the fish farm proposed today.

He advised that the Council's Economic Strategy also talked about ensuring job opportunities for all. He advised that their vision was to be a vibrant part of our national culture and recognised as Scotland's community sport. Mowi have contributed to that vision since 1987. He advised that there were more than 3300 participants to shinty on a weekly basis. He referred to the opportunities that would exist with this development – long term employment opportunities, more families in the local community, supporting the local economy, increased school rolls, and increased engagement in shinty.

Over the last 37 years Mowi have contributed to organising over 15,000 games. On an annual basis there are over 418 fixtures and this would not be possible without the support of organisations like Mowi feeding into the local community and caring for the rural communities that want opportunities on their doorsteps. Since 2018 Mowi have also contributed youth grants which created opportunities and access to equipment. He referred to 2 local clubs that had just been awarded Youth Club of the Year - Inveraray and Community Club of the Year – Dunadd/Kilmory. He advised that one of their objectives was to reach out and grow the sport in the periphery of these areas so job creation in this part of the world was something they were really supportive of.

Referring to the strategy of Argyll and Bute – growing population and thriving economy, and how that could lead to greater participation and greater health and wellbeing for communities, he advised that Mowi contributed to their communities and contributed to their strategy. They contributed to their strategic plan for shinty and they supported their inclusive aspirations - quality and inclusion action plan in their sponsorship of the women's and girl's games and would continue with that sponsorship for the next 3 years. Mowi were also extending that to include the Disability Festival.

He said again that increasing the school roll was important as it led to increased engagement in shinty and through Mowi's work shinty continued to survive and thrive in their communities.

OBJECTORS

Harry Nickerson

With the aid of slides, Mr Nickerson gave the following presentation:

Good morning. I run Cour farm which owns the coastline and fishing rights.

Every resident at Cour and nearly every household between Claonaig 5 miles north and Grogport 3 miles south have objected.

The Tarbert and Skipness Community Council have objected.

The Clyde Fishermen's Association have objected.

The Scottish Creel Fishermen's Federation have objected.

Fisheries Management Scotland have objected.

Argyll District Salmon Fisheries and most of the other fishing authorities within 100 miles have objected.

Local Development Plan Policy DC 6 requires the developer to identify and mitigate the effects on other fisheries. We have not seen an assessment that complies in respect of ourselves and all the people I have just mentioned.

The effect of this fish farm is likely to impact on fishermen's jobs by reducing their fishing area and harming shellfish, but the handling report just dismisses this. We confirm the Clyde Fishermen's Association comment that small fishing boats regularly operate right at the proposed site.

We stand by all the objections that we have submitted in writing but there is no time to explain them all so I will only mention a few and cover a couple in detail.

The fish farm is unlikely to withstand the storms at Cour. A previous shell fish farm to the north was wrecked and destroyed. MOWI's survey platform for this application capsized and it took 16 days to right it. Storm Ellen broke up Carradale fish farm releasing 50,000 fish.

After that a MOWI official admitted to the media that this would happen again. He seems to be right because there was an incident in Iceland this year involving a mass escape and sea lice which is causing a lot of publicity. Their mitigation is to build a farm that can withstand storms of 70 miles per hour once every 50 years but we get winds stronger than that every year.

The council is legally bound to abide by the North Atlantic Salmon Conservation Organisation treaty which requires the reduction of escapes to zero. The council is also bound by the Scottish National Marine Plan GEN5 which requires them to beware of the increasing likelihood of climate change storms and plan accordingly.

The siting of fish farm here seems unlawful on both these counts.

This fish farm will be visible from most places along this unspoilt coast. It will ruin our ability to operate residential and tourist accommodation. The unspoilt and stunning bay is at the heart of our hamlet and business and is key to the maintenance of our jobs and community at Cour. Fish farm lights noise and activity will completely change the character of the area. In a remote location like this it will create a disproportionate impact.

We do not understand how this can comply with LDP AQUA 1 which requires planners to identify cumulative significant adverse effects. We currently employ 8 local people and provide indirect employment for several more. LDP DC7 requires negative economic impacts to be identified but we don't think this has happened in relation to our business.

This fish farm will damage over 200 acres of seabed and ruin our local environment.

MOWI's environmental survey missed over $\frac{3}{4}$ of the local flora and fauna including a colony of 60 seals recorded in the National Biodiversity Network Database of Cour Bay.

It will be sited on top of a prime lobster fishing site.

The Crown Estate sold us the salmon and sea trout fishing rights which take legal precedent over other rights and these will be rendered unusable – another infringement of DC6. We already experience dead fish and rubbish washing up along our shore from the Carradale fish farm and many locals have mentioned this in their objections.

The Council have received hundreds of objections which mention the use of the bay for swimming and recreation and many have specifically stated that these activities take place outside the bay at the proposed site of the fish farm. The swimming and recreation is a vital part of our business model which will be ruined by a fish farm. LDP DC6 para 6.7.10 states Aquaculture development will be resisted where development is considered to have a significant adverse impact on recreational activity. We have not seen any consideration of our recreational activities in the handling report; only those of visiting yachtsmen.

There will be at least two main types of pollution from this fish farm. The visible effluent that will discolour the water and the unseen chemicals. The slide on the left was produced by SEPA and shows the accumulated concentrations of Azamethiphos from multiple farms which will impact the east coast of Kintyre. The slide on the right is from a model which shows how the eddying of the rising and falling tide draws pollution into Cour Bay where it concentrates.

During daily operation, fish farms create a greasy plume consisting of fish faeces, fish feed, anti-fouling paint and other chemicals that stretches for miles.

Figures from Carradale Fish Farm suggest that North Kilbrannan which would hold 2500 tonnes of fish might produce annual pollution in the order of the following. This are not precise measurements but they give you an idea:

543 tonnes of organic carbon from waste food and faeces. That is equivalent to dumping the raw sewage from a town of 27,150 inhabitants which is larger than the combined populations of Helensburgh, Oban and Campbeltown.

Fish faeces may harbour bacteria, viruses or other contamination, which may be cold blooded varieties, but the risk of jumping species still exists, like Covid did.

Any farmer will know that SEPA is tightening up the rules on slurry tanks and slurry spreading. Allowing slurry anywhere near a water course is illegal and yet here we are discussing dumping 90 trailer loads of untreated sewage in an area where people swim.

68 kg of animal grade antibiotics

23 tonnes of phosphorus from food and faeces

17 tonnes of nitrogen in the form of ammonia and urea

0.7 tonnes of copper from nets

0.5 tonnes of zinc from feed and nets

All of these materials can be harmful to humans apart from zinc and the fish farm will be surrounded by them all year round, so we have asked SEPA whether they considered the impact of these before they issued the CAR Licence.

They answered on Thursday that they have not considered them because they do not see the need to. That omission casts doubt on the lawfulness of the CAR Licence.

The Local Development Plan says that you must not consent a planning application if there are any adverse effects on the amenity of neighbouring residents and in this case there are many adverse effects.

You have a legal duty to protect and assert public rights of way on water.

The proposed mitigation measure of alerting the public and imposing an exclusion zone during treatments seems to have been dropped, but if it was considered necessary, it would be unlawful.

It is also an offence against the Health and Safety at Work Act to permit pesticides to drift across a public right of way and the sea is a public right of way.

There seems to be a worrying tendency to accept as certified truth anything in an official report even when it is obviously wrong. For example the handling report accepts that the fish farm is not really in view of Cour House because that is what the applicant's visual impact report said. Those of you who were on the site visit will have seen for yourselves that this statement and therefore the record is completely wrong because the fish farm will be very visible.

Hydrogen Peroxide is a form of bleach. Deltamethrin is a chemical used to kill sea lice. It is so toxic it kills lobsters up to 10 kilometres away. Azamethiphos is another sea lice pesticide which is an organophosphate like sheep dip.

As farmers we understand the dangers of this and many of us will know shepherds who have been affected by dippers flu.

The data sheets for Azamethiphos clearly state that it must not be released into the environment. They also state if it is so dangerous that you must wear full protective

clothing, remove unnecessary workers from the area and take regular blood tests to check that workers are not being harmed.

In spite of these warnings SEPA issues Controlled Activity Regulations or CAR licences to pour this pesticide straight into the sea.

If we did something similar on our farm we would be prosecuted.

Again I would like to confirm a point made by the Clyde Fishermen's Association when they say this area is not dispersive. In a recent communication MOWI suggested that the tide runs at 1 knot. I don't know where they got that from, but the Admiralty Tables show that the maximum tide in the middle of Kilbrannan Sound is only half a knot and usually below 0.3 of a knot. SEPA also assert that the area is dispersive, but there are two other official documents which say that it isn't.

You are being advised to accept the Industry report on the safety of swimmers, which SEPA has endorsed at the end of last week, but this does not stand up to scrutiny.

It is Not independent – Not peer reviewed – Not government produced

It contains flaws which are obvious to non-scientists, such as it assumes that everyone weights 72kg or 11 stone 5 pounds. Clearly many women and children are lighter than this and for these people, the risk of harm from chemicals increases.

Three highly qualified toxicologists including a member of UK HAZMAT panel state:

- That the report itself admits that Hydrogen Peroxide emissions will be emitted at 27 times above safe levels
- Other assumptions in the report are flawed leading to unsafe conclusions eg you don't have to swim for two hours to swallow two mouthfuls of contaminated seawater.
- Wetsuits will not protect you from swallowing water and 1/3 of a wine glass would put you above levels of harm
- New evidence exists about accumulative harm from organophosphates which was never considered by WCA or SEPA.

Also organophosphates are accumulative so if you use them at home in weedkillers and then swim in contaminated water, you are accumulating harm. The Industry denied these criticisms, but failed to disprove them.

The Canadian Government have produced what is probably the only official study on Hydrogen Peroxide in seawater and found that it does NOT degrade as quickly as standard data suggests and it can last for days rather than hours. SEPA seem to have only considered the Industry report and not taken any account of the multiple sources of opposing evidence.

All the evidence states that there is some risk, including the Industry's own research and yet SEPA is stating that there is no risk. SEPA have not produced any evidence to explain their conclusion. Therefore the Precautionary Principle must apply. Environmental Standards Scotland are considering an investigation.

For the last three years, SEPA could not guarantee the safety of swimmers at all let alone beyond reasonable doubt. So we asked all other relevant agencies whether they could guarantee the safety of swimmers. The answer from all of them was no.

The Veterinary Medicines Directorate are the UK agency who assess chemicals before they can be sold or used in the UK. When asked, they stated that the licensing process never considered the risk that unprotected swimmers might be in the area of use. More recently they have identified a risk of using some of these chemicals near pregnant women.

Pregnancy is a protected characteristic which requires an Equality Impact Assessment, but we do not believe that either SEPA or the Council have considered this issue. Marine Scotland have never conducted any work on this subject.

The Health and Safety Executive have never studied this subject, but they do issue guidance stating that allowing pesticide spray to drift across a public right of way is an offence which is what is being proposed here. An offence against the health and safety at work act occurs if a risk of harm to people is created and it is not necessary for the harm itself to have occurred.

When NHS Highland declared that they were not qualified to provide expert assistance, we submitted a Freedom of Information Request to the Chief Medical Officer to release everything that they hold on this subject. The response revealed that there is no department anywhere in the medical services that holds any data on the risk of swimming in aquaculture pesticides.

You have been told that there has only been one other partial planning application for this site, but that is not true because there have been many previous applications under different planning regimes and we have provided all the reference numbers of them. None of the applications made it to consent because once people started looking at the consequences for this beautiful bay, they backed off.

Marine Plan Chapter Gen 21 requires the planning authority to consider cumulative impact. When you think of all the large and small objections to this fish farm it will have a considerable cumulative impact. There have been multiple objections which all departments and agencies seem to have been at pains to defeat individually at all costs.

But you are required to consider this cumulative impact and although the handling report mentions this, it has not considered the real effects on real people.

For this reason and all the other policy reasons that we have submitted in writing and just now, we believe that you should reject this application

The Chair ruled, and the Committee agreed to adjourn the meeting at 12.40 pm for lunch.

The Committee reconvened at 1.15 pm and it was noted that all parties were present.

MEMBERS' QUESTIONS

Councillor Audrey Forrest advised that she had 4 questions for the Applicant. Firstly, she wanted to know why they had not been working with the Clyde Fishermen's Association. Secondly, she asked for more information about any of the chemical treatments they used and how many treatments were given over a year. She also asked if they had considered

any mitigation for possible storm surges or storm effects. Finally, she asked for comment on the Oyster fisheries at the development site.

Mr MacIntyre referred to consultation with stakeholders. He said this was a long application process which began in 2018 with a scoping scheme done for site comparisons. There was a comprehensive engagement strategy with all interested stakeholders and that included the Clyde Fishermen's Association. Once the application was submitted he said they met with the Clyde Fishermen's Association as well, when they expressed their concerns on the site. He advised that as now and as was then they would be happy to work with them to try and address any concerns they have on the site. He advised that they've had a long of experience on other sites of working with those with local fishing interests so they can fish right up to the site. He said that the grounds and round the sites were quite rich in diversity and there were a lot of shell fishermen that fished right up to the edges of the sites. He said they would be happy to work with the Clyde Fishermen's Association to mark the site and identify safe passage around the site so they can fish right up to it.

Mr Hadfield echoed Mr MacIntyre's comments about being keen to work with the Clyde Fishermen's Association. He said it was possible to fish right up to the pens and underneath them. Much of the data coming out of Canada where there were huge lobster fisheries, have shown that the fish farms are actually an area of sanctuary for crustaceans because they provide shelter and space in an area directly beneath where you can't fish. He advised that they respected the concerns of the Clyde Fishermen's Association but said that collaboratively working together they could find a way where they can fish right up to the site. He referred to chemical treatments and advised that there were very rarely used for salmon farming anymore. He said that they used fresh water on the well boats, making fresh water from sea water through a process of desalination to treat for sea lice and amoebic gill disease. He said that when chemicals were used, they were used against models that SEPA managed to ensure no damage to the environment beyond certain distances from the cages. He referred to the application being delayed in order to provide time to provide evidence that would give confidence that there was no risk to wild swimmers. The expert opinion is there was no risk.

Mr Gillibrand referred to carrying out for every application a quite extensive work of modelling to predict the dispersion of medicines. SEPA imposed quite stringent environment quality standards. All their files were submitted to SEPA for assessment and they were content that the application did not breach any environment quality standards and did not pose a risk to human health through swimming.

Mr Hunter said that he thought that they had only used medicine treatments at Carradale over the last 5 years over 12 days.

Mr Hadfield referred to the storm event that had happened in Carradale, and said that this was unprecedented August summer strong and that they had been shocked by it. He advised that the team worked over 7 days to save the farm and get it back moored. He advised that the Carradale community had been really supportive during that time and Mowi have taken the view that this must not happen again. He said that everything that they have engineered is all over spec which drives in a lot of costs but also drives in security. Steps have been taken to ensure that it is third party audited to make sure that all the equipment stands up to the storm surges that are predicted. He advised that everything was engineered up to the one in 250 year event going forward.

Mr Hadfield also referred oyster fisheries and commented that they had to clean the nets every 2 weeks to prevent mussels, oysters and scallops growing on them. He said it was unfair and scientifically inaccurate to say that fish farms killed shellfish. He said huge volumes of shellfish could be found growing on the nets and the moorings etc. He advised that they were safe to eat and were not a problem.

Councillor Brown sought and received clarification from Mr MacIntyre that in relation to hydrogen peroxide, that had been used for 12 days within a 5 year period. He advised that they have begun a process of phasing this out completely. He referred to investment in a well boat and said that it was their intention to arrive at a point where this chemical would not be used at all.

Councillor Brown asked how they pulled the mussels and oysters off the fish farm nets. Mr Hadfield advised that the structure of the nets was ideal for growing shellfish. He said that they used high pressure water and steam on the nets every week in the summer and once a week in the winter.

Councillor Brown asked the Planners if they, in the event the application was improved, would have the capacity to ensure that all the conditions were met and adhered to. She asked who would monitor this. Mrs Davies said she believed they would have enough capacity to monitor this. She referred to SEPA taking over some of these functions next year regarding interactions with wild fish. She said there was an obligation on fish farms to get in touch with planning when various things happened.

Councillor Brown sought clarification that the onus was on the company to get in touch. Mrs Davies explained that there were a diverse range of conditions which would require consultation with NatureScot and the company would not be able to proceed until these were to be signed off. She confirmed that the Planning Service would have the capacity to monitor this.

Councillor Armour said he was concerned to hear about the lack of discussion that had taken place with the Clyde Fishermen's Association. He asked Ms Whyte if there was anything that could be done that would give her, the Association's members, and the fishing communities, peace of mind with this application.

Ms Whyte advised that discussions took place back in 2018 and that they had expressed their concerns then. She said that was when there was last any meaningful engagement. She said they had since seen the details of the plans but there had been no negotiation about potentially moving the site. She referred comments made by the Applicant about this being a diverse and rich fishing ground. She also referred to Mr Nickerson advising that he had seen all types of boats, lots of small boats, fishing there all the time. She said that it would be difficult to say that this would ever be a fantastic site to co-ordinate with wild fishing. She said there was probably other sites where we could co-exist but on this occasion this would always be a spatial issue because it would be surpassing wild fishing. She referred to Section 6 of the current National Marine Plan and advised that current wild fisheries should be protected where possible. She said she did not think this could be done in this case. She said a further discussion on location would have been helpful in advance of getting to this stage.

Councillor Armour asked the Applicants why there had been no meaningful dialogue since 2018.

Mr Hadfield acknowledged that there was competition for space in this area. He advised that they had consulted with the Clyde Fishermen's Association. He referred to both sides trying to fight it out and it was up to the Committee to decide either way. He said that they were open to find a way for fishing to take place right up to the site. In terms of shellfish this was being taken out of context as it was low value.

Mr MacIntyre referred to their own environmental impact assessment which showed a low density of species like lobster etc, with there not being enough for trawling. He said that they recognised the conflict in terms of access for small fishing. He advised of having a good working relationship elsewhere that allowed small fishers to get up close to the pens if they chose to.

Councillor Armour asked the Applicants when they had last attempted to have meaningful dialogue with the Clyde Fishermen's Association.

Mr MacIntyre referred to engagement during the pre-application process. He said he could recollect a meeting after the application was submitted but could not recall the actual date. He said the application was submitted in August 2020. He advised that within the last 18 months they had held 4 stakeholder consultation events and that all stakeholders had been consulted. He said it would have been after 2020/2021.

Mr Hadfield said that they wanted to work with the Clyde Fishermen's Association. He advised that they have had a standard objection to fish farm applications which has been long standing for more than a decade. He said that they expected this objection and that they tried to work with them to find a way for fishermen to fish right up to the site. He referred to the planned improvements to Carradale Harbour which would benefit the workers and fishermen.

Councillor Armour asked Ms Whyte when she thought her Association last had meaningful dialogue with the Applicants.

Ms Whyte advised that it was probably in 2018. She said that was the last meeting where they sat down and discussed the plans and that they had been very clear about the concerns they had. She referred to their standing objection and said this was about the applications sites. She said they would like to see testing the same as was done in the Shetlands. She said their concerns would remain until they got this testing. She said their objection was not without reason. She said she wanted it to be safe. She referred to working with other companies and being able to find a compromise. She said it was unfortunate to be only discussing this now.

Councillor Armour commented that this dialogue should have taken place long before today.

Councillor Philand asked the Applicant when they had last spoken with Mr Nickerson.

Mr MacIntyre advised that during the pre-application process they had issued an invitation to a consult with a number of landowners and that he did not believe Mr Nickerson had responded to this.

Mr Hadfield said they had tried to engage with him many times to talk through this. He advised that they would like nothing more than to sit down with Mr Nickerson to talk through all the things he has read on the internet. He referred to the experts and

scientists employed by Mowi that could explain things. He confirmed that they had not received a response to their request to meet with him.

Councillor Philand asked Mr Nickerson why he had not been able to engagement with Mowi. Mr Nickerson advised that he could categorically state that he has never received any form of communication whatsoever from Mowi. He was sure that they had held community engagement events but said that they had never tried to contact him personally. He said that he had not had a single conversation with them and that they had never tried to get a hold of him.

Councillor Philand referred to Mr Nickerson saying in his presentation that Deltamethrin kills lobster. He also referred to hearing from the Applicants that the chemicals would not affect crustaceans. He asked Mr Nickerson if he could elaborate on what he had said.

Mr Nickerson explained that he was not a scientist but advised that he had been told that Deltamethrin kills lobsters up to 10 miles away. He said he also understood that Mowi were not using it these days but did not know if that was true. He said that he knew that landowners on Mull who were growing mussels and when a nearby fish farm was consent all the mussels in the area died and they had to pack up their mussel farm completely. He said it wasn't Mowi, but a different fish farm company. He said again he was not an expert. He advised that he believed this chemical was not being used anymore.

Councillor Philand asked that Applicants if they used or would be using that particular chemical.

Mr Hadfield said that chemical was not used at Carradale fish farm and was not used routinely anymore within the industry. He advised that all the chemicals that Mr Nickerson uses on his farm would kill lobsters and crustaceans in high enough doses. He said that SEPA set specific levels that could be discharged without effect to the wider environment. He said that the idea that these medicines were allowed to be released by SEPA was false. Scientists have said that it was safe with the right level of precaution taken.

Councillor Philand asked the Planners if the chemicals used around the farm impeded the right of way of swimmers would this contravene policy.

Mrs Davies advised that this was not a planning issue and the responsibility of Marine Scotland to consider when issuing licences.

Mr Bain said that there were perhaps 2 issues here. The first was the impact of any access to the fish farm area which would be covered through the Marine Scotland licencing process. He referred to WCA report provided to support this application and advised that there was identified to be potential impacts within the immediate vicinity of the fish farm from the release of hydrogen peroxide for very limited periods prior to that dispersing. This could be interpreted that if you were a wild swimmer you would not want to be in the water at that particular time and place. He pointed out that there were also other caveats about how long you would need to spend in the water to be impacted by that.

Councillor Hardie asked Mr Nickerson how often wild swimmers swam in the bay. Mr Nickerson said his mother used to swim every day. He said that people did swim all year around and that many of the locals at Cour did swim all year round. He commented that it was great fun to do this on New Years Day. In terms of numbers, he said there were a few people that swam very day with maybe more in peak summer. He commented that on

the day of the site visit there was perhaps 6, 7 or 8 people swimming. He said the upper limit varied but mostly all year round there were people swimming.

Councillor Blair asked Planning to comment on what Mr Nickerson had said about the CAR licence being unlawful. He asked if that was the case.

Mrs Davies advise that the CAR licence was issued by SEPA who were the Council's advisers. She said that they had no objection to this application so there was no reason to think that it was unlawful.

Councillor Blair referred to crustaceans being below the fish farm and asked Ms Whyte if this was considered a positive thing or not. He commented on looking at the area and the footprint where the cages where and having an enclave to grow and thrive was his understanding. He asked if it was advantageous to have enclaves of that description for the continuation of different types of crustaceans.

Ms Whyte said it always depended on the species. She commented on hearing that wild fish would eat the feed underneath the cage. She said generally that was not a positive thing as the areas under the cages tended to the sludgy and also chemical output would be a problem. She referred to the loss of good fertile ground for fishing and said there had been a lot of lost ground already in the Clyde. She referred to 5 MPAs in the area and no take zones etc. She advised that she would not say that she had heard any fisherman say that the addition of any aquaculture site had been good for conservation of the stocks fished they for. She said the last meeting she had was in October 2017 with Marine Harvest in Crianlarich.

Councillor Blair sought and received confirmation from the Planners that Mr Nickerson was not a statutory consultee but he had submitted an objection to this application.

Councillor Green asked Ms Holdstock to comment on what Councillor Blair had referred to regarding what was underneath the cages in terms of the enclave of safety for lobsters and other crustaceans and possible concerns about debris from nets sinking down underneath the cages.

Ms Holdstock said she would not see it being an advantage to species underneath the cages. She commented that the area of the fish farm was .3 km squared in total which was a small mooring area and was not going to have significant impact. She said she was need to go down and dive to investigate properly. She said she had not seen any evidence so could not comment on whether there was any spill over or not. She advised that the area was small in terms of the whole size of the fishing triangle which was 3,496 km squared.

Councillor Kain referred to the issues for fishermen and commented that no more sea beds were being made so there would continue to be competition for space. He referred to previous engagement and commented on there not being cooperation between inshore fishermen and the industry that could have avoided getting into this situation. He asked the Applicants if they employed any local fishermen to fish for Wrasse and if they used it.

Mr Hadfield advised that they had wide co-operation with the fishermen the length and breadth of the West Coast and the Outer Hebrides and that they provided employment for approximately 25 fishermen to fish for wild Wrasse. They also employed fishermen to clean nets and help us get to the sites and transport people out to the sites. In terms of the refuse element he said that he dived and that there was a high density of crab, lobster

and other crustaceans around farms. He said that they could show videos of the density of these crustaceans.

Councillor Kain sought and received confirmation from the Applicants that they had used Hydrogen Peroxide on 12 days over the last 5 years. Mr Hadfield advised that Hydrogen Peroxide broke down into hydrogen and oxygen and was very benign in the environment. He advised of making sure they had scientific evidence that there was no risk to wild swimmers. The concern that someone swimming there would be exposed to chemicals was not real.

Councillor Kain referred to competition for space and not making any more sea beds. He asked the Applicants if they would be willing in the future to have more collaborative arrangements with inshore fishermen in general over the use of Wrasse.

Mr Hadfield advised that they had a lot of engagement with inshore fishers. He said they tried to communicate effectively with all fishermen to try to work together for the benefit of employment etc. He advised that he had checked and they had met with Ms Whyte in 2020 and that it was not correct to say they had not met since 2017. He referred to a meeting on 26 March 2020 and advised that to say there was no meeting since 2017 was not correct.

Councillor Kain referred to the site visit and commented that debris could be seen washed up on the beach. He asked the Applicant to comment on what they did to safeguard the coastline and what action they took.

Mr Hadfield advised that equipment was catalogued and inspected daily. He advised of running a programme of beach cleaning and having a hotline number that people could call to report on any debris. He advised that they routinely assisted the Coastguard with rescues. He advised that workers had to report any missing equipment on a daily basis.

Mr Hunter also referred to the hotline and lots of engagement with stakeholders up and down the coastline. He said that they would retrieve fishing gear etc and that they published on social media regular beach cleans in areas near fish farms and that there was a lot of evidence of that.

Councillor Hampsey asked if Mowi used a framework to measure the environmental impact mentioned by Objectors.

Mr Hadfield advised that they ran a huge programme of self-monitoring which was independently verified and SEPA and the Marine Director ran their own monitoring. He advised that ranged from fish health, to current flows in oceanography, from benthic impacts. A team of around 12 people in the company presented that information to SEPA and they reported annually on all levels of impact. He referred to Mowi being awarded for the fifth year running The Most Sustainable Producer in the World. He advised that the idea that they were polluting the waters around Scotland to an unsustainable level was not correct. He said they grew high value salmon product which was exported from Scotland to worldwide acclaim. He said it was grown under sustainable and environmentally responsible conditions.

Mr Gillibrand said they did a lot of work with the regulatory authorities. They modelled and monitored in great detail the impacts and dispersions of medicines used. He said they were held to very strict environmental quality standards to ensure there was no adverse environmental impacts. He advised that they provided all their modelling information to

SEPA for assessment and in this particular instance they were satisfied completely that there were no adverse environmental impacts from the consents they have provided.

Mr Hunter advised that the salmon required good high oxygenated water, good clean water and as a business it was not in their interest to cause pollution around a farm.

Councillor Hardie referred to the support from East Kintyre Community Council and asked Mr Brodie if he could comment further on the positive impact this development would have on the community.

Mr Brodie advised that the outcome for them was that workers shopped locally. Contractors brought in to come to work on the land would spend locally as well as in the shops but also in local accommodation as they work that had to do would last more than a day.

Councillor Philand referred to the cumulative risk of sea lice. He referred to page 39 of supplementary pack 1 where is stated that "the Kilbrannan Sound is likely to represent an area of higher risk". He asked who had done the sea lice modelling and had it been independent verified. He referred to further down the passage where it had said that SEPA were not sure about it until they carried out a full risk assessment.

Mr Gillibrand advised that there has been several modelling exercises of sea lice dispersal in the Kilbrannan Sound carried out by them, by SEPA and by the objectors and they have all shown similar broad scale results. They show that Kilbrannan Sound does show slightly higher levels of lice from not just this application, but from all farms in Loch Fyne, all the way down Kilbrannan Sound. He advised that what was not known was the absolute level of risk. It was only a relative risk assessment at the moment. He advised that until the new Sea Lice Risk Framework was introduced and had some monitoring it would be difficult to assess the absolute risk. He advised they were confident that there was no absolute risk and that the thresholds wild fish would be exposed to even swimming all the way down Loch Fyne and down Kilbrannan Sound would not impose harmful effects on wild fish survival.

Mr Hadfield advised that SEPA had a dynamic process. 95% of the time there was no risk in the second year. He referred to their proposal to be fallow in the second year so the risk would go down. This was governed by SEPA and if there was a risk of sea lice they would be instructed to take action.

Councillor Armour sought and received confirmation from Mr Nickerson that he had not reported any debris on the beach to Mowi.

Councillor Armour commented that the Applicant's photomontages were great. He said it would have been helpful to have received some taken from Cour House or Cour Bay. He advised that would have helped them to see how the fish farm would have looked from the house and bay.

Councillor Armour referred to improvements to Carradale Harbour. He sought and received confirmation from Mr Hadfield that if this application was rejected today these improvements would still go ahead. Mr Hadfield said if the application was rejected it would take longer to justify spend but they would not let the community down.

Councillor Blair asked what the checks and balances were in terms human resources to ensure proper monitoring and quality assurance was at its best.

Mr Hadfield advised that they employed 1,500 member of staff and most people stayed for a long time. He referred to the variety of different well paid jobs. He referred to their training budget to develop careers and also their apprenticeship scheme which he advised they were very proud of. He advised that fundamentally since 1965 they have done everything they could to support the people they had.

Mr Hunter advised of upskilling staff through the Mowi Academy which has helped to retain staff and have the best people. He said that he started with a 3 month contract and, 27 years later, he had never left.

Mr Hadfield referred to employees being able to study for HNDs and Degrees. He also referred to having a whistle blowing line if something happened within the company that staff were not happy about. He also advised that they had a strong code of conduct within the company.

Councillor Blair referred to the development of sealed systems and asked the Applicants if they had any plans to look into this.

Mr MacIntyre said they had looked at sealed containment but not progressing any imminent proposes. He advised that there has been a lot of research done in Norway. Potentially these new pen innovations would have advantages and it time may become a viable option.

Mr Hadfield advised that for 12 years there has been a programme of closed containment in Norway but it was not ready for development. He advised of the need for pristine, clean water around salmon farms. He referred to a semi closed containment system which they did use which was a skirt around the pens to prevent lice. The use of a semi closed containment in Scotland was close to 4 - 6 years away.

Councillor Brown sought and received confirmation from Mr Hadfield that the fish were checked for lice twice a week during the summer and once a week in the winter.

Councillor Brown asked about use of a bath system. Mr Hadfield said the area was not subject to high sea lice and that Mr Harvey and his team at Carradale used cleaner fish. He said 200,000 lump suckers cohabited with the salmon and ate the lice in the pens. He advised that they wanted to expand this at this good location.

Councillor Brown referred to the proposed to fallow the site for 3 months and the end of the second year cycle. She asked the Applicants if they had any plans to introduce that at other sites.

Mr Hadfield said that it happened at other sites. He confirmed that they would have no fish after the 15 March in the second year and explained the process that would be followed. He advised that they were very aware to keep sea lice to a minimum.

Mr MacIntyre said that their environmental management plans provide a forum for discussion with stakeholders to adapt the management of farms to ensure wild fish are protected. Thirty sites were under environmental management plans from North of the Western Isles right down to Carradale. At all these locations there were various agreements in place with local stakeholders.

Councillor Green asked the Applicants why this area was good for not having much in the way of lice.

Mr Hadfield referred to the flushing rate from the Kilbrannan Sound being quite high. It could be seen from modelling that there was a high level of flushing out into open water and dispersion was good from this process. He said the management of the site here was very good. He advised that Mr Harvey and his team worked very hard to manage cleaner fish so there was no need to use medical treatments. He advised that there was a low level of wild fish in the Kilbrannan Sound compared to the other side of Arran where there were more wild fish going up the Clyde and the rivers there. It could be seen the fish did exceptionally well here and treatment was very infrequent.

Mr Gillibrand pointed out that sea lice were a natural parasite. He said that when they put fish to sea they had no lice on them and that they probably picked them up from wild fish passing initially. He advised that through tracking this has revealed that very few wild salmon came from the Kilbrannan Sound and that most went down the east coast of Arran.

Councillor Green referred to medicines used on the site and asked the Applicants if they expected medicines to disperse quickly given the conditions around the farm.

Mr Hadfield advised that the site has been in the top 20% for dispersion for the 56 sites they operated. The dispersal of waste was very beneficial.

Councillor Green referred to the phasing out of hydrogen peroxide and asked if other chemicals used would also be phased out. He asked if they were regarded as benign like hydrogen peroxide.

Mr MacIntyre advised that all chemicals used were approved by SEPA. Before they got to that stage they were subject to detailed toxicological risk assessment by the Veterinary Medicines Directorate which set the safe environmental standards that were operated. The amount of medicine used was linked to these standards in order to protect the environment and the species in the environment.

Mr Hadfield advised that the use of hydrogen peroxide was no longer as effective due to the rising temperature of the sea. He said the use of this chemical was not as effective as putting the fish in fresh water. He said that he expected that within a year there would be a ban on the use of hydrogen peroxide as it was very expensive and better welfare results were achieved with fresh water.

Councillor Green sought and received confirmation from Mr Hadfield that they currently had 3 well boats that could make fresh water from sea water.

Councillor Green asked Mr Hadfield what would happen if there was a rise in sea lice levels in this area and the well boats were being used at other sites. Mr Hadfield advised of various other methods to remove lice, for example, mechanical treatments and the use of cleaner fish. He advised that any medical treatments used were prescribed by a Vet within the standards set by SEPA to protect the environment. He referred to there being over 250 fish farms for decades and said there had not been a single environmental incident relating to the discharge of medicines lawfully. He said that some of the evidence presented today was exaggerated and not scientifically correct.

Councillor Hampsey sought and received confirmation of Mowi's investment into the community. She referred to the Mowi wagon used to fundraise locally. She received information on other means to support they provided to the community.

Councillor Green referred to comments made about 70 mph winds and that they would happen again asked the Applicant if this was something they recognised. He asked if this was a sustained wind or for gusts of wind.

Mr Hadfield said this was in reference to a lecture that their Communications Director, Mr Roberts, had given about off-shore farming and farming out in the middle. He has advised that Mr Roberts was watching this meeting online from Canada and had emailed to advise that the quote was taken out of context. He explained that when development into those locations accidents would happen and learning would result from that and that escapes would happen. He advised that they would do everything they could to minimise the risk of escape and where it did happen, they would follow this up with genetic studies to show the level of introgression was tiny.

Mr Hadfield advised that while he recognised Mr Nickerson's concerns, he said that a lot of what Mr Nickerson had said he did not recognise and did not find accurate or validated. He advised that they had to design equipment to the 1 in 250 year event. This had to be independently verified and certified. He advised that they have done everything they could to ensure this equipment could stand up to the worst environmental conditions that could be foreseen.

Councillor Brown sought and received clarification from the Applicant that the mortality rate for fish at Mowi sites was 20%. Mr Hadfield referred to it being particularly bad during the El Nino effect which caused warm waters. He said that the mortality rate could be as low as 2 or 3%. He referred to the investment in well boats to treat fish with fresh water.

SUMMING UP

Planning

Peter Bain, Development Manager, summed up as follows:

During the course of the hearing, Members have heard arguments seeking both to support and oppose not only the proposed development, but also some general debate on the more environmental credentials of aquaculture as an industry.

Notwithstanding the ongoing wider debate on the current state and future of salmon farming in Scotland, members should keep in mind that fin fish farming remains a legitimate activity which continues to be promoted by the Scottish Government in recognition of the economic and social value that the industry brings to Scotland through the provision of jobs in rural areas, investment and spend within communities, and the stimulation of economic activity both locally and wider afield in its supply chain. Support for sustainable expansion of the aquaculture sector is also recognised and valued by the Council in its Economic Development Action Plan.

Members have today heard from the applicant that the proposal represents a significant investment in the locality which will give rise to new employment and support for the wider local supply chain economy and also in other anticipated benefits for the local community. This position is however balanced against concerns raised by both the Clyde Fisherman's

Association and objectors that the introduction of new aquaculture activity may undermine existing employment in commercial fishing and tourism sectors.

The national debate on aquaculture focuses on the requirement for sustainable development that maintains a balance between fish farming activity and the retention of healthy and functioning marine ecosystems. The Scottish Government identifies that effective and efficient regulation which is informed by the best available science and evidence will support the sustainable development of the aquaculture sector by ensuring that development takes place within environmental limits with due regard to animal health and welfare, wildlife, marine users and communities.

The Precautionary Principle is one of the guiding principles on the environment and defined in the UN Rio Declaration on Environment and Development 1992 as “where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation”.

This intent has subsequently been reflected in the EU precautionary principle and developed through caselaw.

The Scottish Government’s recent publication setting out Scotland’s Guiding Principles on the Environment expands on this and sets out that “the precautionary principle enables protective measures to be taken without having to wait until harm materialises and is considered a useful tool in approaching risk management. This approach can aid decision makers when weighing up risks where there is a level of uncertainty about environmental impacts or where scientific information is lacking about a specific issue. Where there is uncertainty as to the extent of potential environmental damage, but there is evidence of high risks then measures can be put in place to prevent the risk of harm through regulation of activities. Decision makers are required to consider the likelihood of damage as well as the potential severity and wider impacts that may be caused.

Today’s discussion has included consideration about the appropriate application of the “Precautionary Principle”, in particular in relation to areas where there can be less certainty about the potential impacts of the development, and also in relation to upcoming changes in the regulation of the industry which will in particular impact upon the modelling and management of sea lice. Members are however reminded that that the Scottish Government’s position is that is not appropriate to impose a moratorium on new marine fin fish development at this time and as such even where there is an element of uncertainty it is up to the decision maker to ensure that their decision is fully informed by the most up to date and best available information at that time.

In this respect, discussion has focussed in on the most contentious aspects of the proposed development and in particular the issues of impacts on wild fish and impacts on human health where it has been necessary to delay determination to ensure that appropriate, up to date information is available to inform members decision. The hearing today has allowed members to hear directly from and seek clarification directly from consultees, third parties and the applicant in respect of concerns raised in relation to the potential risk of adverse harm arising from the interactions of the development with wild fish, the potential risk of harm to human health from the use of bath treatments and deposition of other pollutants into the marine environment that might arise from the operation of a fish farm; and also the potential impacts that might arise to commercial fishing interests from loss of access to the site and its locality.

The advice provided to the Council by consultees, and Nature Scot in particular has guided the assessment to a point where it is concluded that the effects upon habitats, species and nature conservation sites both directly and indirectly arising from the development would be acceptable subject to appropriate mitigation, including the implications for the qualifying interests of the four SAC sites and one SPA which are identified and addressed in detail within the Appropriate Assessments appended to the report pack.

The concerns raised by third parties in relation to the potential impacts upon the health of wild swimmers have been taken seriously and has incurred extensive delay in the assessment of the application whilst these matters have been subject to considerable scrutiny. In reaching a view on this matter, officers are guided by the consultation responses from NHS Highland and SEPA in particular who have most recently advised that they are satisfied that the discharges of bath medicines will not pose a risk to wild swimmers in Cour Bay.

In reaching a decision on this application, Members are reminded of the requirements placed upon decision makers by Section 25 of the Town and Country Planning (Scotland) Act 1997 to determine all planning applications in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. In the case of aquaculture development, the key provisions of the Development Plan are set out within Policy 32 of National Planning Framework 4, and Policy AQUA 1 of the Argyll and Bute Local Development Plan 2015 which set out the relevant criteria to be taken into account in the determination of this application. Members are also reminded of the enhanced status of Proposed Local Development Plan 2, and whilst this has not yet been adopted by the Council its provisions are now of relevance as a material consideration.

Notwithstanding the issues raised by third parties, it is the view of officers that the proposed development is consistent with the requirements of NPF 4 Policy 32 and LDP Policy AQUA 1 in that it does not give rise to significant landscape, seascape or visual impacts and

The current application is considered to be compliant with all other relevant policies of the Development Plan and there are no other material considerations, including those matters raised by consultees and third parties to indicate that the effects directly attributed to the development upon the receiving environment would be of such significance that they would merit planning permission being withheld.

Accordingly, the proposal is commended to members for approval subject to the conditions and reasons appended to Supplementary Report No. 4.

Applicant

Stephen MacIntyre

Mr MacIntyre said this was a good location for a fish farm. He referred to this being a lengthy and contentious application that had allowed for a comprehensive and detailed analysis of a whole range of issues which arose during that process. He said there were no issue in terms of planning as the Planning Officer has not recommended refusal. He referred to securing a CAR licence from SEPA and advised that throughout both processes they had been open and transparent and had engaged with consultees, held community engagement events, and widely engaged with others. He advised that they acknowledged the concerns of the Clyde Fishermen's Association and said that they

would be happy to continue to work with them as they have done elsewhere to develop a strategy that would allow their members to fish right up to the site.

Ben Hadfield

Mr Hadfield advised that they had tried to communicate their proposals as much as possible and said that they had records that they had tried to contact Mr Nickerson. He referred to his big beautiful house close to the location and advised that he was a key person to try and form a relationship with. He advised that they would try to do this going forward no matter the outcome. He referred to a good working relationship with Ms Whyte. He said that they had checked their records and that there had been a telephone conference in 2020. He thanked the Committee for listening to their proposals.

Consultees

Clyde Fishermen's Association

Ms Whyte advised the last sit down meeting with Mowi had taken place in 2017. She said that it had been a good meeting. The next time was a quick phone call on 26 March 2020, almost 4 years ago. She said they asked for a sit down meeting and other meetings which did not happen due to Covid. On 23 April 2020, she said Mowi got in touch regarding a halting to some of the plans and they advised that they would be in touch but that did not happen. She said the last meaningful meeting was in 2017 and that was the truth. Referring back to the National Marine Plan, she said that existing fishing opportunities had to be safeguarded wherever possible. She advised that this was a small but very productive area. She said it happened in small areas where fish was found and that this was a really important and valuable space. Fishing has had deteriorated somewhat but there was an opportunity to develop that. She said that development of one industry should not be at the expense of another and that there should be a way to work together to find a balance.

East Kintyre Community Council

Mr Brodie said that they in East Kintyre and especially in Carradale have had a great working relationship with Mowi. If this development went ahead it would bring more prosperity to the area. It would allow people to stay in the area. He said if it didn't go ahead they would be happy to acknowledge the fact that the harbour development would go ahead in a slightly longer timescale. He advised that they supported this in every way possible whether it be by the local hotels and local people wanting everything to go ahead. Carradale Fishermen's Association were working with the Community Council and Mowi to help develop the harbour.

Supporters

Stewart Graham

Mr Graham said he started working 40 years ago making fishing gear which he still did today. He advised that he saw remote communities that were withering away – the islands and the remote coastal areas down the west coast of Scotland. He said that they had seen a great turnaround. He referred to challenging times being faced at the moment and advised that he would whole heartedly support this economic development as he knew what positive effect it would have on families, young communities and the future of the rural areas.

Tavish Scott

Mr Scott said he understood the pressures faced by the Clyde Fishermen's Association in respect of the overall policies towards inshore fishing areas. He said that a lot of what Ms Whyte introduced at the meeting today was not about the Mowi application but much more generally about overall policy towards the inshore fishing industries. He said that Salmon Scotland worked closely with the fishing industry more broadly under the Scottish Fishermen's Federation so understood the points that Ms Whyte had raised. He said he did not think that they were material to the Mowi application today. He referred to Shetland and commented that communities there would not have local schools, never mind local shops, if not for the introduction of salmon sector over the last 40 years. He hoped that point had been put over today in the presentations given.

Warren Harvey

Mr Harvey referred to his workforce and advised that 5 of his team were ex fishermen and used to fish the local area. He said they had moved to fish farms when fishing declined. He advised that shellfish, crabs, lobster etc were within the moorings and anchors at Carradale and said that there was life around the farm.

Derek Keir

Mr Keir advised that he thought the scientific evidence presented by Mowi had been evident and compelling and on behalf of the Camanachd Association he fully supported the application.

Objectors

Harry Nickerson

Mr Nickerson said it was extremely hard to sum up as there was so much had been considered today. He said that it was quite clear that fish farming was a divided issue. He said they were pro employment and provided it themselves and did encourage it. He advised that they would support fish farming if it was on land and not just tramping about on common ground that other people owned. He acknowledged that there would be benefits to Carradale and pointed out that the fish farm would not be located at Carradale but would be part of Skipness. He said it did not seem right that the Carradale community would get to benefit with the Skipness community paying the price. He commented that it had been inferred that there was support for this from the whole of the Carradale community and he advised that this was not true. He said that the Community Council and those closely involved in the harbour supported it and that they had good reason for that. He advised that there were a lot of people in Carradale not happy about it. He said it was fairly evident that Mowi was not going to be welcome to the north of Carradale and he asked the Committee to consider the impact of creating an enduring situation of tension and conflict if this fish farm came into the area. He referred to Councillor Armour's question to him about whether he had reported to Mowi about rubbish on the Bay and his reply being no. He explained his reason for this. He referred to the management side of Mowi and said that the company was very heavy handed and suggested they may be arrogant. He referred to issues down at Carradale fish farm and said that some workers from that fish farm had been relocated due to their behaviour. He said that Mowi were not welcome and if there was rubbish at Cour Bay the community would clear it themselves. He advised that the main issue was that someone was going to come to the area and stick

a factory at the mouth of their bay. He said that it would wreck their business. He referred to their experience of having a well boat in the area. He referred to the noise that went on day and night and also to lights that were so bright they shone through his curtains.

He commented that the Councillors had focussed on the chemicals. He said that switching to mechanical alternatives would lead to slime and froth coming into the bay. He said it would not be possible to have a holiday business with a factory right at the entrance of the bay. He said there were multiple reasons to refuse this application. He referred to comments made by the Clyde Fishermen's Association and said there were not good relationships there with the Applicant not attempting to work with them.

He advised that he could categorically state that he had never received a letter, email or telephone call from anyone at Mowi. He commented that they may have sent out flyers but they had not tried to get in touch with him and what they had said in this respect was not true. He said the main thing was the many different cumulative impacts which, he advised, all added up to one very big reason to say no. He said he believed that was what the policies said the Committee should do.

Everyone confirmed that they had received a fair hearing.

DEBATE

Councillor Forrest thanked everyone that had made a presentation today which, she said, had all been fascinating and really good to hear the different views. She said she thought that the precautionary principle had been dealt with through the proposed extensive conditions put on this application and believed they would go a long way to cover the issues raised today. She said she knew that they would be enforced. She noted that SEPA had already granted the CAR licence, and advised that she put weight on this as SEPA were the Council's expert adviser in this respect. She also referred to MOWI being granted a sustainability award. She commented on the community benefit and the improvements that would be made to the Carradale Harbour. She noted that the Community Council for Carradale on board with this proposal and keen for it to go ahead. She advised that for these reasons should would support granting this application.

Councillor Hardie thanked everyone that took part today. He said he was satisfied that environmental concerns had been addressed. He referred to the economic benefit this development would bring to the area and said he would have no hesitation in granting the application.

Councillor Kain concurred with his fellow Councillors and said that the development would be of huge benefit to the community. He suggested there was the potential for better communication between Salmon Scotland and inshore fishermen in respect of completing for space that was limited. He said that he wholeheartedly supported the application.

Councillor Armour advised of this concerns with the way the Clyde Fishermen's Association were consulted on this. He also noted that Tarbert and Skipness Community Council, whose area the fish farm would be located, had objected to this application. He urged both MOWI and the Clyde Fishermen's Association to get a far better working relationship like they did in the past. He said he found it appalling that no meaningful meeting had taken place since 2017, apart from one phone call in 2020. He said that needed to change. Referring to health issues, he advised that it was his opinion, based on the responses from consultees, including NHS Highland, this had been addressed. He referred to the jobs the development would bring to the fragile Kintyre economy. He

commented that Mr Nickerson had put forward his points very well but weighing up everything he would support the application.

Councillor Hampsey thanked everyone for their presentations. She highlighted the desire to co-operate with the local fishermen especially via the Clyde Fishermen's Association. She offered her support to this application.

Councillor Blair agreed with all that had been said. He thanked the Planners for all their work in respect of preparation of all the fully comprehensive reports. He also thanked Mr Nickerson for the hospitality shown the day the Committee visited the site. He said that it had been really good to see what the issues were. He thanked the Applicants for answering all their questions. He advised that he thought communication was really good and that he would quite sure the wild swimmers of Skipness would be seeking support from communities. He said he was quite happy and minded to support the application.

Councillor Brown referred to communication with the local community and said it would be helpful if there was more of that going forward especially for the community of Skipness. She commented that her concerns about hydrogen peroxide had been addressed and said she was delighted to hear that the use of it would soon stop. She confirmed that she would support this application.

Councillor Philand congratulated everyone for their presentations and commented that the debate had been fascinating and that it was interesting to hear all sides. He said that the key thing for him was whether any policies would be broken. He said this was not an emotional thing and that it was important to note that none of the policies had been broken which gave him reassurance. In terms of the CAR licence he was reassured to note that if anything was to happen this would be dealt with. He commented that the proposed conditions were onerous and hopefully would protect the area. He said he would be happy to support the application.

Councillor Wallace echoed what had been said. He said he shared Councillor Armour's disappointment regarding communication with the Clyde Fishermen's Association and advised that he would like to see an improvement there going forward. He confirmed that he was also minded to support the application.

Councillor Green echoed Councillor Blair's thanks in respect of the site visit. He said he appreciated that on the day they visited the Applicant had made sure the site was visible by putting buoys out and that it was good to see what the effect would be on the landscape. He commented that there had been a lot of discussion today and advised that he was in agreement in thinking that this would benefit the area and that appropriate mitigations would be in place to ensure the impact was minimal.

Councillor Green formally moved approval of the application subject to the conditions and reasons detailed in supplementary report number 4, contained within supplementary pack 1, and this was seconded by Councillor Forrest, with no one otherwise minded.

DECISION

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

Standard Time Limit Condition (as defined by Regulation)

Additional Conditions

1. The development shall be implemented in accordance with the details specified on the application form dated 29/7/20, the Environmental Impact Assessment Report dated 2020 (and subsequent addendum); 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 (as amended).

The developer and subsequent operator(s) shall at all times construct and operate the development hereby permitted in accordance with the provisions of the Environmental Statement accompanying the application with mitigation measures adhered to in full, and shall omit no part of the operations provided for by the permission except with the prior written approval of the Planning Authority.

Plan Title.	Plan Ref. No.	Version	Date Received
Location Plan	1 of 12	-	25/8/20
Supplementary Location Plan	2 of 12	-	25/8/20
Site Coordinates	3 of 12	-	12/8/20
Plans and Elevations Typical Pen Design Top Net Support	4 of 12	-	12/8/20
Feed Barge	5 of 12	-	25/8/20
Underwater Lighting Technical Sheet	6 of 12	-	25/8/20
Plans and Elevations Typical Net Design	7 of 12	-	12/8/20
Plans and Elevations Typical Mooring Design	8 of 12	-	12/8/20
Plans and Elevations - Proposed Site Configuration	9 of 12	-	12/8/20
Plans and Elevations Typical Pen Design	10 of 12		12/8/20
Admiralty Chart Extract	11 of 12		25/8/20
Site Plan	12 of 12		25/8/20

Reason: For the purpose of clarity, to ensure that the development is constructed and operated in the manner advanced in the Environmental Impact Assessment Report,

upon which the environmental effects of the development have been assessed and determined to be acceptable.

2. Biomass

The development hereby approved shall not be operated other than with a biomass of 2475.54 tonnes or less.

Reason: The environmental effects of this proposal have been assessed against this maximum biomass.

3. Acoustic Deterrent Devices

Notwithstanding the details given in the Predator Mitigation Plan, no Acoustic Deterrent Devices (ADDs) shall be deployed at the site hereby approved.

Reason: In the interests of nature conservation. This planning application has been determined on the basis that ADDs will not be used. The use of ADDs would be regarded as a material change to the proposal.

4. Wild Fish Monitoring Plan

The site shall not be stocked until the wild fish monitoring plan has been agreed which shall include a requirement to monitor the juvenile salmon population in coastal waters within a zone of 30km from the Management Area.

Reason: In the interests of nature conservation.

5. End of Cycle Review

The site shall not be restocked until a review has been undertaken of relevant farming and wild fish monitoring data collected during the previous cycle, and the review has been agreed with Argyll and Bute Council, in consultation with NatureScot. The review must be completed and agreed sufficiently in advance of the following cycle, to allow timely restocking, and all relevant parties will agree on the review process in advance.

Reason: In the interests of nature conservation.

6. Drift Nets etc.

There shall be no use of drift nets, vertical static nets or gill nets to recapture escaped fish.

Reason: In order to avoid putting marine birds, including guillemots, shags, divers and others at risk.

7. Fallowing

The site hereby approved shall be fallowed between the 15th March and 1st June each alternate year coinciding with the second year of production. Any changes to the production strategy shall be agreed in writing with the Planning Authority in consultation with NatureScot prior to these changes being implemented.

Reason: In the interests of nature conservation.

8. Notification of Stocking and Fallowing

The operator shall notify the Planning Authority in writing within 14 days of the site being stocked and fallowed.

Reason: In the interests of nature conservation.

9. Specification of Nets

The pole mounted top net system hereby approved shall be as noted below unless otherwise agreed in writing with the planning authority in consultation with NatureScot:

	Height (m)
Perimeter Pole Support	Maximum height of 5m above the water surface
	Mesh Size (mm)
Sidewall netting from the bottom to 2m height	25
Ceiling net panel and remaining sidewall netting	100
Colour	Dark grey to black

This shall be subject to review, underpinned by systematic monitoring. The Planning Authority shall be immediately notified in the event of emergence of patterns of entanglement or entrapment of marine birds.

Reason: To minimise the risk to all bird species and to ensure that there are no significant effects on the qualifying interests of the Ailsa Craig Special Protection Area.

10. Wildlife Recording and Reporting

The proposal shall be undertaken strictly in accordance with the following criteria:

- a. Operators shall maintain daily records of wildlife entanglement / entrapment using a standardised proforma which shall be submitted to the planning authority and copied to NatureScot at 6 monthly intervals or other specified period to be agreed in writing with the planning authority in consultation with NatureScot. The first proforma shall be submitted 6 months after the development is brought into use unless otherwise agreed in writing with the planning authority in consultation with NatureScot.
- b. In the event of any significant entrapment or entanglement of gannets, and any other SPA interests identified as relevant to a particular fish farm (e.g involving three or more birds of any named species in any one day and / or a total of ten or more birds in the space of any seven day period and / or repeat incidents involving one or more birds on four or more consecutive days), the operators shall immediately notify both the planning authority and NatureScot;
- c. Adaptive management approaches should be agreed in writing with the planning authority in consultation with NatureScot in advance of these being implemented.

Reason: In order to ensure that there are no significant effects on the qualifying interests of the Ailsa Craig Special Protection Area. Gannet have an extensive range and would have the potential to become entangled in nets.

11. Environmental Management Plan

The site shall be operated, monitored and managed in accordance with the Kilbrannan Sound Environmental Management Plan (EMP) attached to the planning portal on 22 December 2022 and subsequent approved variation thereof. Prior to the commencement of development, a revised Environmental Management Plan (EMP) shall be submitted to and approved in writing by the Planning Authority which includes a commitment that outputs of the modelling and risk assessment process generated under the SEPA's proposed Sea Lice Risk Framework will feed into and influence the first end of cycle review.

Reason: In the interests of nature conservation.

12. Sea Lice Management and Efficacy Report

The site shall be operated in accordance with the North Kilbrannan Sea Lice Management and Efficacy Report dated 2020 or any subsequent updates of this document which shall be submitted to and approved in writing by the planning authority.

Reason: In the interests of nature conservation.

13. North Kilbrannan Containment and Escapes Contingency Plan

The site shall be operated in accordance with the North Kilbrannan Containment and Escapes Contingency Plan dated 2020 and the North Kilbrannan Inspection and Maintenance Schedule with the exception of any proposed actions contained within these documents limited by other conditions on this planning permission. Any subsequent updates of these documents shall be submitted to and approved in writing by the planning authority.

Reason: In order to minimise the risk of escapes in the interests of nature conservation.

14. Removal of Equipment

In the event that the development or any associated equipment approved by this permission ceases to be in operational use for a period exceeding three years, the equipment shall be wholly removed from the site thereafter, unless otherwise agreed in writing by the Planning Authority.

Reason: In the interest of visual amenity and to ensure that redundant development does not sterilise capacity for future development within the same water body.

15. Colour of Equipment

The finished surfaces of all equipment above the water surface, excluding the feed barge, but inclusive of the surface floats and buoys associated with the development hereby permitted (excluding those required to comply with navigational requirements)

shall be non-reflective and finished in a dark recessive colour in accordance with the details provided in the EIAR unless otherwise agreed in advance in writing by the planning authority.

Reason: In the interest of visual amenity.

16. Lighting

All lighting above the water surface and not required for safe navigation purposes should be directed downwards by shielding and be extinguished when not required for the purpose for which it is installed on the site.

Reason: In the interest of visual amenity.

17. Waste Management Plan

Prior to the commencement of development a further Waste Management Plan shall be submitted to and approved in writing by the planning authority. This shall include details of the arrangements for the storage, separation, and collection of waste from the site including proposals for uplift from areas where fish farm equipment has become detached from the site.

Reason: To ensure that waste is managed in an acceptable manner.

18. Water Supply

No development shall commence until an appraisal of the wholesomeness and sufficiency of the intended water supply and system required to serve the development has been submitted to and approved by the Planning Authority.

Reason: In the interests of public health and in order to ensure that an adequate water supply in terms of both wholesomeness and sufficiency can be provided to meet the requirements of the proposed development and without compromising the interests of other users.

19. Noise

The Noise Rating Level attributable to the operation of the approved fish farm operation shall not exceed background noise levels by more than 3dB(A) at any residential property measured and assessed in accordance with BS4142:2014.

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

(Reference: Report by Head of Development and Economic Growth dated 12 May 2023, supplementary reports 1 dated and 2 dated 23 May 2023, supplementary report number 3 dated 28 August 2023 and supplementary report number 4 dated 24 November 2023, submitted)

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

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

Reference No: 22/01418/PP
Planning Hierarchy: Major
Applicant: TSL Contractors Ltd
Proposal: Detailed planning application for the erection of residential development comprising 97 residential units and a commercial unit (class 1) with all associated external works and landscaping.
Site Address: Land North West of Isle of Mull Hotel, Craignure, Isle of Mull, Argyll and Bute.

DECISION ROUTE

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

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of 97 residential units (mixture of house and flat types as per schedule and plans)
- Erection of a commercial unit
- Associated roads infrastructure to include new junction to public road
- Formation of formal and informal amenity space
- Provision of on-site parking
- Landscaping Proposals
- Provision of SUDs compliant drainage infrastructure

(ii) Other specified operations

- Connection to public water supply
 - Connection to public foul water system
-

(B) RECOMMENDATION:

It is recommended that Planning Permission be granted subject to appropriate conditions.

(C) CONSULTATIONS:

Scottish Environmental Protection Agency (28/09/2022) – has no objection subject to the imposition of a planning condition requiring the development to connect to the public sewer. This is due to the scale of the development and that the development is within a settlement area, served by a public sewer.

(08/03/2023) – Following the applicant updating their Drainage Layout to show connection to the public foul water sewer network, SEPA removed their requirement for a planning condition.

Scottish Water (28/09/2022) – has no objection and notes that Tobermory Water Treatment Works would service the development and at present has sufficient capacity to serve the development. The site would be served by Craignure Waste Water Treatment Works. A Pre-Development Enquiry is required to be submitted to Scottish Water, once any planning permission is granted to confirm capacity of water and waste water.

NatureScot (14/10/2022) - notes there are no statutory designations within the proposed development site and the area of peat identified does not raise uses of national interest but there are opportunities for biodiversity net gain and habitat improvement. Agree the recommendations of the submitted Ecological Report which states further survey work should be undertaken. A Bird Protection Plan is recommended for the White Tailed Eagles within the area.

West of Scotland Archaeological Service (06/10/2022) – notes that the application lies in a landscape populated with recorded archaeological sites of prehistoric, medieval and later date. The Officer has no objection to the proposal, subject to the inclusion of a planning condition requiring the agreement and implementation of an archaeological written scheme of investigation.

ARGYLL & BUTE COUNCIL INTERNAL CONSULTATION RESPONSES

Council's Flood Risk Assessor (19/01/2023, 24/02/2023, 18/05/2023, 11/08/2023 and 24/08/2023) – has no objection following receipt of additional flooding and drainage information. They note that surface water will be collected at each of the dwellings and routed through a series of pipes to one of two detention basins before discharge to nearby watercourses. Content with the proposed drainage discharge rate to the watercourses and notes that there is no surcharging or flood risk observed in the network for the 30 year + 30% climate change flood event. It is confirmed that the sizing of the detention basin is acceptable.

Council's Areas Roads Officer – Oban (26/10/2022 and- 13/09/2023) has no objection subject to conditions. The proposal is situated off the UC80 Java Housing Road within a rural 30mph speed restriction. The existing access at connection with the A849 requires proportionate upgrade. Recommended planning conditions include: appropriate road drainage, roads to be built to adoptable standards and road gradient recommendations, sizing of footways, car parking provision to meet Council Guidance and suitable arrangements for refuse storage and collection.

Council's Environmental Health Officer (28/10/2022) – has no objections to the application subject to the inclusion of planning conditions relating to the agreement of an environmental management plan, and restriction of construction hours in the interests of protecting amenity of surrounding occupants from any adverse nuisances arising from the construction of the development.

Council's Local Biodiversity Officer (26/10/2022, 24/8/23 and 26/9/23) - has no objection to the proposal, noting that there are no designated sites within the

proposed development. The proposed losses of habitats are of low botanical value with the exception of the broadleaved woodlands and marshy grasslands. However the habitats are also common and widespread within the area and therefore predicted not to be a significant loss. The officer concurs with the mitigation report in relation to ecological, ornithological and the actions to deliver the mitigation. Planning conditions are recommended to include, detailed landscape planting plan, incorporation of the species action plans into the General Environment Management Plan and the production of an Invasive Non-native species management plan.

In relation to NPF4 Policy 3 – Biodiversity, the applicant submitted further documents relating to Biodiversity Net Gain and the Biodiversity Metric. The Biodiversity Officer has confirmed that neither of these are currently used in Scotland and therefore requested that the applicant complete a checklist of the 24 Biodiversity Measures to demonstrate Biodiversity Net Gain. This was duly completed by the applicant and the Biodiversity Officer has confirmed that she is satisfied with the proposals.

Council's Core Path's Officer – no comments received.

Education (dated 21/1/23) - I can confirm on behalf of Education that in relation to application 22/01418/PP for the Erection of 97 houses at Craignure on Mull, Education not wish to put forward any objection.

COMMUNITY COUNCIL COMMENTS

Mull Community Council (28/09/2022 and 27/09/2023) – support the development and welcome the community consultation undertaken by the applicants prior to the submission. The Community Council raises concern regarding potential second home ownership of the housing proposed and welcomes the potential future phases of the development including care and nursery facilities.

(D) HISTORY:

21/02336/PAN – Proposal of Application Notice for Development comprising circa 90 residential units, care home, nursery and commercial unit with all associated external works and landscaping. The PCC Field, Land North West of Isle of Mull Hotel, Craignure, Isle of Mull, Argyll and Bute. Decision issued 04/03/2022.

22/01060/SCREEN – Screening Opinion for proposed housing and commercial development. Land North West of Isle of Mull Hotel, Craignure, Isle of Mull. Opinion issued: 12/07/2022.

(E) PUBLICITY:

Regulation 20 Advert Major Application Expiry Date: 06/10/2022

(F) REPRESENTATIONS:

(i) Representations received from:

Oban Access Panel 07.11.2022

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.

(ii) Summary of issues raised:

- The Panel welcome the commitment that the internal layout of the houses have been designed to enable them to be readily adaptable for use by disabled persons.
- The location is central to the Island, close to facilities and shops and the island's transport hub making it a good place to live for disabled people.
- They recommend the installation of dropped kerbs at appropriate pedestrian crossing routes.
- They recommend that 2 of the 97 units are designed on Inclusive Design principles.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) **Environmental Impact Assessment Report:** Yes No
- (ii) **An Appropriate Assessment under the Conservation (Natural Habitats) Regulations 1994:** Yes No
- (iii) **A Design or Design/Access statement:** Yes No
- (iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** Yes No

The application is supported by the following documentation:

- Drainage Strategy Report;
- Ecological Appraisal;
- Flood Risk Assessment;
- PAC Report;
- Planning Statement;
- Transport Statement;
- Soft-works Specification and Maintenance
- Tree Survey
- Waste Strategy and Bin Storage
- Waste Management Strategy
- NPF4 Policy Review
- NPF4 Policy Considerations- Flood Risk Addendum

- Biodiversity Metric Calculations and Biodiversity Net Gain Feasibility Report
- SUDS Basin calculations and Surface Water Calculations

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: Yes No

(I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: Yes No

(J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application

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

(ii) 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

- NPF4 Policy 1 – Tackling the Climate and Nature Crises
- NPF4 Policy 2 – Climate Mitigation and Adaption
- NPF4 Policy 3 – Biodiversity
- NPF4 Policy 4 – Natural Places
- NPF4 Policy 5 – Soils
- NPF4 Policy 6 – Forestry, Woodland and Trees
- NPF4 Policy 7 – Historic Assets and Places
- NPF4 Policy 9 – Brownfield, Vacant and Derelict Land and Empty Buildings
- NPF4 Policy 12 – Zero Waste
- NPF4 Policy 13 – Sustainable Transport
- NPF4 Policy 14 – Design, Quality and Place
- NPF4 Policy 15 – Local Living and 20 Minute Neighbourhoods
- NPF4 Policy 16 – Quality Homes
- NPF4 Policy 20 – Blue and Green Infrastructure
- NPF4 Policy 21 – Play, Recreation and Support
- NPF4 Policy 22 – Flood Risk and Water Management
- NPF4 Policy 23 – Health and Safety
- NPF4 Policy 25 – Community Wealth Building
- NPR4 Policy 28 – Retail
- NPF4 Policy 29 – Rural Development

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

- LDP STRAT 1 – Sustainable Development
- LDP DM 1 – Development within the Development Management Zones

- LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment
- LDP 8 – Supporting the Strength of our Communities
- LDP 9 – Development Setting, Layout and Design
- LDP 10 – Maximising our Resources and Reducing our Consumption

Local Development Plan Schedules

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

- SG LDP ENV 1 – Impact on Habitats, Species and our Biodiversity
- SG LDP ENV 2 – Impact on European Sites
- SG LDP ENV 6 – Impact on Trees / Woodland
- SG LDP ENV 7 – Water Quality and the Environment
- SG LDP ENV 11 – Protection of Soil and Peat Resources
- SG LDP ENV 14 – Landscape
- SG LDP ENV 20 – Impact on Sites of Archaeological Importance
- SG LDP HOU 1 – General Housing Development Including Affordable Housing Provision
- SG LDP HOU 2 – Special Needs Provision in Housing Developments
- SG LDP HOU 3 – Housing Green-Space
- SG LDP Sustainable – Sustainable Siting and Design Principles
- SG LDP SERV 2 – Incorporation of Natural Features / SuDS
- SG LDP SERV 3 – Drainage Impact Assessment
- SG LDP SERV 5(b) – Provision of Waste Storage & Collection Facilities within New Development
- SG LDP SERV 6 – Private Water Supplies and Water Conservation
- SG LDP Sust Check – Sustainability Checklist
- SG LDP TRAN 1 – Access to the Outdoors
- SG LDP TRAN 2 – Development and Public Transport Accessibility
- SG LDP TRAN 3 – Special Needs Access Provision
- SG LDP TRAN 4 – New & Existing, Public Roads & Private Access Regimes
- SG LDP TRAN 5 – Off-site Highway Improvements
- SG LDP TRAN 6 – Vehicle Parking Provision

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

- Third Party Representations
- Consultation Responses
- Planning History
- [ABC Technical Note – Biodiversity \(Feb 2017\)](#)
- Scottish Government's policy on control of woodland removal: Implementation guidance February 2019

[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.

- Policy 01 – Settlement Areas
- Policy 02 - Outwith Settlement Areas
- Policy 04 – Sustainable Development
- Policy 05 – Design and Placemaking
- Policy 06 – Green Infrastructure
- Policy 08 – Sustainable Siting
- Policy 09 – Sustainable Design
- Policy 10 – Design – All Development
- Policy 15 – Supporting the Protection, Conservation and Enhancement of Our Historic Built Environment
- Policy 21 – Sites of Archaeological Importance
- Policy 32 – Active Travel
- Policy 33 – Public Transport
- Policy 34 – Electric Vehicle Charging Points
- Policy 35 – Design of New and Existing, Public Roads and Private Access Regimes
- Policy 36 – New Private Accesses
- Policy 37 – Development Utilising an Existing Private Access or Existing Private Road
- Policy 38 – Construction Standards for Public Roads
- Policy 39 – Construction Standards for Private Accesses
- Policy 40 – Vehicle Parking Provision
- Policy 41 – Off Site Highway Improvements
- Policy 46 – Retail development – The Sequential Approach
- Policy 58 – Private Water Supplies and Water Conservation
- Policy 59 – Water Quality and the Environment
- Policy 60 – Private Sewerage Treatment Plants and Wastewater Drainage Systems
- Policy 61 – Sustainable Urban Drainage Systems (SUDS)
- Policy 62 – Drainage Impact Assessments
- Policy 63 – Waste Related Development and Waste Management
- Policy 64 – Housing Development on Allocated Sites
- Policy 67 – Provision of Housing to Meet Local Needs Including Affordable Housing
- Policy 68 – Housing Greenspace
- Policy 73 – Development Impact on Habitats, Species and Biodiversity
- Policy 77 – Forestry, Woodland and Trees
- Policy 78 – Woodland Removal
- Policy 79 – Protection of Soil and Peat Resources
- Policy 81 – Open Space Protection Areas

Local Development Plan 2 Schedules

(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: Yes No (if Yes confirm date of screening opinion and reference below)

(L) Has the application been the subject of statutory pre-application consultation (PAC): Yes No (if Yes provide summary detail of PAC below)

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

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

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

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

- SEPA Flood Zones (Surface Water)
- Core Paths

(P)(ii) Soils

Agricultural Land Classification:

Class 5.2

Peatland/Carbon Rich Soils Classification:

- Class 1
Class 2
Class 3
N/A

Peat Depth Classification:

2.0 in the southern region of the site and up to 0.75 for the remainder of the site

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

(P)(iii) Woodland

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

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

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

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

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

ABC pLDP2 Settlement Strategy
 (tick all relevant boxes)

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

Very Sensitive Countryside Zone

Greenbelt

ABC LDP 2015 Allocations/PDAs/AFAs etc:

The red line boundary includes a small segment of Potential Development Area 6/11 which has a community facilities use.

ABC pLDP2 Allocations/PDAs/AFAs etc:

The site is allocated for housing development under allocation ref: H40022. This covers 6.14 Ha.

The site also includes land allocated as Open Space Protection Area which covers 1.8Ha and is located within the south-eastern area of the application site.

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

The proposal seeks to develop an allocated housing site within LDP2 to provide 97 dwellings of varying sizes. The site is located in rural area, with the housing allocation playing a pivotal role in meeting the housing needs of the Island.

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). LDP2 is very close to adoption. The deposit period for the Intention to Adopt commenced on 23rd October 2023 with the plan likely to be adopted in the near future.

The identified relevant policies and housing allocations of PLDP2 represent a material consideration that indicate that the application should be determined otherwise than in accordance with the adopted development plan. This justification is set out in Section S below.

The principle of development is acceptable having regard to the allocation of the land for residential development in LDP2. The proposal will provide an appropriate layout and design for this site.

Taking account of the above it is recommended that planning permission be approved.

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

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

The proposal is for a residential development and ancillary commercial premises on a site allocated for housing with pLDP2. The Examination period of this plan has now concluded and, at the time of writing, the plan is currently on Deposit and is likely to be in the near future. It is considered that the plan carries sufficient weight to outweigh the designation of land as countryside in the adopted LDP. It is therefore considered that planning permission should be granted subject to conditions.

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

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). LDP2 is very close to adoption. The deposit period for the Intention to Adopt commenced on 23rd October 2023 with the plan likely to be adopted on 20th November.

The identified relevant policies and housing allocations of PLDP2 represent a material consideration that indicate that the application should be determined otherwise than in accordance with the adopted development plan.

In the event that pLDP2 is adopted prior to the committee, this proposal would still represent a minor departure from LDP2 as a small area to the north west of the site lies outwith the allocation and within the countryside zone. No houses are proposed within this area and this would be required to accommodate one of the two Sustainable Urban Drainage Areas (SUDs) required for the drainage of the site. It is proposed to provide a windust pedestrian footpath to this area which would also connect the development with further paths to the west of the site. The landscape plan indicates that a wildflower meadow would be planted around the SUDs area. Taking account of the above, it is considered that the area would still retain an open, countryside appearance which would not conflict with the aims of the countryside policy.

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

Author of Report: Sandra Davies

Date: 7th December 2023

Reviewing Officer: Peter Bain

Date: 7th December 2023

Fergus Murray
Head of Development & Economic Growth

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. (22/01418/PP)**1. PP - Approved Details & Standard Notes – Non EIA Development**

The development shall be implemented in accordance with the details specified on the application form dated 8/7/22; , 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 as Existing	200661A-10-002	Rev.D	06/09/2022
Topographical Survey Plan as Existing	200661A-10003	Rev.A	06/09/2022
Location Plan – Craignure Context as Existing	200661A-10-001	Rev.C	06/09/2022
Location Plan as Proposed	200661A-PL-001	Rev.G	09/11/2023
Site Plan as Proposed	200661A-PL-003	Rev.C	9/11/2023
Site Cross Section Detail as Proposed	200661A-PL-002	Rev.A	18/08/2022
External Levels Layout	J5336-001		11/07/2022
Drainage Layout	J5336-011	Rev.F	09/03/2023
Cottage Flats-Affordable Plans & Elevations	200661A-PL-010	Rev.A	18/08/2022
2 & 3 Bed Terrace-AFF. Plans & Elevations	200661A-PL-011	Rev.B	06/09/2023
3 Bed Semi-Detached –AFF Plans & Elevations	200661A-PL-012		11/07/2022
1 Bed Flats- PFS Plans & Elevations	200661A-PL-013	Rev.A	18/08/2022
2 Bed Flats –PFS Plans & Elevations	200661A-PL-014	Rev.A	18/08/2022
2 Bed Bungalow – PFS Plans & Elevations	200661A-PL-015	Rev.A	18/08/2022
3 Bed Flat & Retail Uni- PFS Plans & Elevations	200661A-PL-016	Rev.B	05/04/2023
3 Bed Semi Detached- PFS Plans & Elevations	200661A-PL-017	Rev.A	18/08/2022
3 Bed Detached-PFS Plans & Elevations	200661A-PL-018		11/07/2022

4 Bed Detached-ST- PFS Plans & Elevations	200661A-PL-019		11/07/2022
4 Bed Detached In-PFS Plans & Elevations	200661A-PL-020		11/07/2022
4 Bed Detached Wide- PFS Plans & Elevations	200661A-PL-021	Rev.A	18/08/2022
4 Bed Detached Large- PFS Plans & Elevations	200661A-PL-022		11/07/2022
2 & 3 Bed Terrace – AFF. Combined Plans	200661A-PL-023	Rev.A	06/09/2022
3 Bed Detached – Handed Plans & Elevations	200661A-PL-024		18/08/2022
4 Bed Detached St – Handed Plans & Elevations	200661A-PL-025		18/08/2022
4 Bed Detached Inv-Handed Plans & Elevations	200661A-PL-026		18/08/2022
4 Bed Detached Wide-Handed Plans & Elevations	200661A-PL-027		18/08/2022
4 Bed Detached Large-Handed Plans & Elevations	200661A-PL-028		18/08/2022
1 & 2 Bed Flats – PFS Plans & Elevations	200661A-PL-029		06/09/2022
Garage Units Plans & Elevations	200661A-PL-051		18/08/2022
Vehicle Swept Path Analysis for a Refuse Vehicle	J5336-004		11/07/2022
Proposed Landscape Layout	1641-01	Rev.F	18/08/2022
Softworks Specification & Maintenance	1641-03	Rev.B	04/07/2023
Proposed trees to be removed & retained	1641-02	Rev.B	04/07/2023
Waste Strategy & Bin Storage	200661A-PL050	Rev.A	06/09/2022

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

Note to Applicant:

- This planning permission will last for three years from the date of this decision notice, unless the development has been started within that period [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]
- In order to comply with Sections 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start. Failure to comply with this requirement constitutes a breach of planning control under Section 123(1) of the Act.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.

2. **Archaeological Works**

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

Reason: In order to comply with the requirements of NPF4 Policy 16F.

3. **Requirement for Public Sewerage Connection**

The development hereby approved shall connect to the public sewerage system.

Reason: The site is located within a settlement area served by a public sewer. The use of a private system would be a material change and would require the submission of a further planning application.

4. **Open Space Provision**

No development shall commence until details for the provision and maintenance of areas of communal open space and equipped play area(s) identified on the approved plans have been submitted to and approved in writing by the Planning Authority. The details shall comprise:

- i) Provision to satisfy the minimum standards set out in the Development Plan; 6sqm of equipped play space and 12sqm of informal open space per dwelling unit;
- ii) Specification of play equipment to be installed, including surface treatments and any means of enclosure, designed in accordance with the provisions of BS5696 (Play Equipment Intended for Permanent Installation Outdoors);
- iii) Proposals for the timing of the implementation of the play area(s) in relation to the phasing of the development. The equipped children's play area shall be completed before the occupation of the 50th dwelling;

- iv) A maintenance schedule for communal open spaces and equipped play areas in accordance with the provisions of BS5696 including details of on-going inspection, recording and procedures for detailing with defects.

The communal open space and equipped play area(s) shall be provided in accordance with the duly approved details and shall be retained and maintained to the specified standards thereafter.

Reason: In order to secure provision of communal open space and equipped play areas within the development in accordance with the requirements of NPF4 Policy 16F.

5. Construction Environmental Management Plan

No construction works shall be commenced until a Construction Environmental Management Plan (CEMP) and a Site Waste Management Plan (SWMP) have been submitted to and approved in writing by the Planning Authority. The CEMP shall be overseen by an Ecological Clerk of Works (ECoW) and shall cover the following details:

Public Protection Issues:

- a) Consideration of all local noise sensitive receptors and the impact which would be had during land clearance and construction and the controls for this
- b) The use of equipment, such as mobile crushers and pecking equipment which may be in use and the controls which are put in place for these
- c) Any controls for dust on the site to ensure that this does not cause a nuisance to nearby receptors
- d) Any site lighting which may be used during the project and how this will be controlled so as not to cause a light nuisance to local receptors
- e) Proposed hours of works
- f) Best Practical Means measures to be put in place during any land clearance and construction work phases.

Biodiversity Issues:

- (a) No development shall commence until a scheme for the retention and safeguarding of trees during construction has been submitted to and approved by the Planning Authority. The scheme shall comprise:
 - i) Details of all trees to be removed and the location, canopy spread and root zone of trees to be retained as part of the development;
 - ii) A programme of measures for the protection of trees during construction works which shall include fencing at least one metre beyond the canopy spread taking account of root zone of each tree in accordance with BS 5837:2012 "Trees in Relation to Design, Demolition and Construction".Tree protection measures shall be implemented for the full duration of construction works in accordance with the duly approved scheme. No trees shall be lopped, topped or felled other than in accordance with the details of the approved scheme unless otherwise approved in writing by the Planning Authority.
- (b) Prior to the commencement of development an updated habitat survey shall be carried out, the findings of which shall be submitted to and

approved in writing with the planning authority- this information should form part of a Habitat Management Plan.

- (c) If tree works are proposed during the bird nesting season (March – August inclusive) a pre-commencement inspection for active bird nests should be carried out by a suitably qualified person. Only if there are no active nests present should works proceed.
- (d) Otter mitigation shall be undertaken in accordance with the recommendations contained within the original ecological survey for otter
 - An ecological toolbox talk will be presented to all site contractors as part of their pre-works site induction in accordance with best practice;
 - Where the species data is older than 18 months, the reported baseline should be updated by further survey work and included as part of a Species Management Plan outlining the species management for each of the species mentioned (Otter, Bats both European protected Species, birds (none specific).
- (e) If any of the trees which have been identified as being suitable for bats are to be removed between May-September, a further inspection of these trees shall be carried out by a licensed Bat worker prior to their removal. A European Protected Species Licence will need to be acquired from NatureScot in order for the bats to be translocated by a licenced Bat Worker.
- (f) An ecological toolbox talk on bats and what to do if bats or field signs of bats are encountered shall be presented to all site contractors as part of their pre-works site induction.

Further information can be found in the Biodiversity Technical Note in terms of surveys and mitigation calendars Page 20 and 21:

https://www.argyll-bute.gov.uk/sites/default/files/biodiversity_technical_note_feb_2017_4.pdf

- (i) An Invasive Non Native Species Eradication Plan for *Rhododendron ponticum* should be included in the CEMP ready for implementation.
- (j) Details of pollution controls during construction.

Reason: In order avoid, minimise or mitigate effects on the environment and surrounding area.

6. **White Tailed Sea Eagle**

Prior to the commencement of development confirmation of the outcome of discussions with the Mull RSPB Officer (currently Dave Sexton) with regard to requirements for a Bird Protection Plan for White Tailed Eagle shall be submitted to and approved in writing by the Planning Authority. In the event that a Bird Protection Plan is required, this shall be submitted to and approved in writing by the Planning Authority prior to the commencement of development. Thereafter the development shall proceed in accordance with this plan.

Reason: In order to establish whether a Bird Protection Plan will be required as the nesting locations of White Tailed Sea Eagles varies each year.

7. Drainage Maintenance Arrangements

Prior to the commencement of approved drainage works, details of the maintenance responsibility and schedule of intended maintenance arrangements of the approved drainage works shall be provided to the Planning Authority for their approval. This schedule shall include inspection, recording and procedures for detailing with defects. For the avoidance of doubt this shall also include the maintenance of the SUDs ponds. The drainage works for the development shall thereafter be maintained in accordance with the approved details.

Reason: To ensure appropriate maintenance provisions in respect of the approved drainage details are secured in the interests of alleviating any potential flood risk arising from surface water.

8. Landscaping Details

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) Details of compensatory tree planting as show on the proposed landscape drawing produced by Hirst Landscape Architects (1641 01 rev F).
- vi) A programme for the timing, method of implementation, completion and subsequent on-going maintenance.
- vii) Surface materials proposed for private communal parking areas.

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

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

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

9 Road Built to Adoptable Standards

All new roads other than private accesses serving no more than 5 dwellings shall be built to an adoptable standard in accordance with Designing Streets and the National Roads Development Guide.

Reason: In the interests of road safety to ensure the provision of a road commensurate to the scale of development.

10 **20mph Speed Limit**

Within 12 months of the occupation of the first dwelling house the internal road network shall have a 20mph limit.

Reason: In the interests of road safety.

11 **Junction Improvements**

Full details of improvements to the existing junction of the UC80 and the A849 shall be submitted to and approved in writing by the Planning Authority in consultation with the Road Network Manager. This shall include resurfacing of the UC80 east footway from the junction of the development to the A849.

Reason: In the interests of road safety.

12 **Visibility Splays**

Prior to work starting on site the junction of the development access with the UC80 shall have a visibility splay of 42m x 2.4m x 1.05m. 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.

13 **40mph Speed Limit**

No development shall commence until a 40mph speed limit is introduced on the A849 from the existing 30mph limit at Craignure to an agreed location west of the UC80. Prior to the implementation of this speed limit full details of the extent of the speed limit shall be submitted to and approved in writing by the Planning Authority in consultation with the Road Network Manager.

Reason: In the interests of road safety.

14 **Traffic Management Plan**

Prior to development commencing, a Traffic Management Plan shall be submitted to and approved in writing by the Planning Authority in consultation with the Area Roads Engineer. The Plan shall detail the phasing of the construction elements of the development, a proposed phasing schedule of the plant and materials deliveries to site, proposed and approved access routes, agreed operational practices, and shall provide for the provision of an appropriate Code of Practice to drivers of construction and delivery vehicles. The development shall be implemented in accordance with the duly approved Traffic Management Plan unless as otherwise may be agreed in writing by the Area Roads Engineer.

Reason: To address traffic associated with the construction of the development in the interests of road safety and having regard to the access arrangements to the site.

15 **Electric Vehicle Charging**

Prior to any dwelling being occupied which has private in-curtilage parking provision, dedicated cable ducting connecting each private residential parking space to the nearest electricity supply connection point capable of supporting the installation of a 7 kilowatt EV charging point shall be provided.

Prior to dwellings being occupied where communal parking is proposed, a minimum of one EV charging point for every five residential communal off street spaces shall be provided. In addition, dedicated cable ducting shall be installed to allow all remaining communal parking spaces to be provided with a charging point in the future.

Reason: To ensure that the development has adequate provision for the charging of EVs in accordance with policy 34 of LDP2.

16 Biodiversity Enhancement Measures

Biodiversity enhancement measures shall be undertaken in accordance with the Biodiversity Measures document dated 11th July 2023. Prior to the occupation of the first dwelling further details of the proposed enhancements as detailed in this document including their design, location and timing of completion shall be submitted to and approved in writing by the Planning Authority. Thereafter these biodiversity enhancement shall be maintained in accordance with these details.

Reason: To ensure that the development includes biodiversity enhancements as required by NPF4 Policy 3.

17 No Permission for Care Home or Nursery

No permission is given or implied for the proposed nursery or care home shown indicatively on the approved site plan.

Reason: For the avoidance of doubt.

18 Hours of Construction

The permitted hours of construction works shall be restricted to 08:00 hours to 18:00 hours Monday to Friday and 08:00 hours to 13:00 hours on Saturday. No construction works shall take place outwith these hours, or on Sundays or Bank Holidays, unless the written agreement of the Planning Authority has been obtained in advance, in which case the specified operations shall be confined to activities which do not present any likely source of nuisance in terms of noise, vibration, dust or any other consequence likely to be prejudicial to the interests of residential amenity.

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

19 Affordable Housing

Plots 74 to 97 shall only be managed by a Registered Social Landlord (a body registered under part 3 chapter 1 of the Housing (Scotland) Act 2001, or any equivalent provision in the event of the revocation and re-enactment thereof, with or without modification) and shall not enure for the benefit of any other person, company or organisation.

Reason: To ensure the provision of affordable housing to the standard required by the development plan in the absence of any other agreed means of securing such provision.

20 Materials

No development shall commence until full details /samples of materials to be used in the construction of the dwelling houses and commercial unit hereby approved 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.

21 **Arrangements for Waste**

No development shall commence until a waste strategy detailing how much waste the proposal is expected to generate and detailing the arrangements for the storage, separation and collection of waste from the site, including provision for the safe pick up by refuse collection vehicles, have been submitted to an approved in writing by the Planning Authority. Thereafter the duly approved provision shall be implemented prior to the first occupation of the dwellings which it is intended to serve.

Reason: In order to ensure that satisfactory arrangements have been made for dealing with waste on the site in accordance with NPF4 Policy 12 and Policy SG LDP SERV 5 (b).

22 **Finished Floor Levels**

No development shall commence until details of the proposed finished ground floor level of the development relative to an identifiable fixed datum located outwith the application site have been submitted to and approved in writing by the Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: In order to secure an acceptable relationship between the development and its surroundings.

23 **Phasing of Development**

The development hereby approved shall be constructed in accordance with the potential phasing plan contained within the supporting Design and Access Statement (8.1 Potential Phasing, p53) unless otherwise agreed in writing with the Planning Authority.

Reason: In order to ensure that the affordable housing is delivered in a timely manner.

2
4 Prior to the commencement of development full details of water conservation measures to be included within the development shall be submitted to and approved in writing by the Planning Authority. Thereafter the development shall be implemented with these details.

Reason: In the interests of water conservation.

NOTE TO APPLICANT

- Prior to the commencement of works a Prior Consent form should be completed and returned to the Council's Environmental Health service. Please see the consultation response from Environmental Health for further detail. The Prior Consent form is attached as an appendix to this consultation response.
- This development will require the submission of an application for Roads Construction Consent and subsequent lodging of a financial security Road Bond prior to any construction taking place on site.
- The Traffic Regulation Order administration costs for the 20mph and 40mph speed restrictions and the required signing and lining shall be met by the developer.
- The developer shall be responsible for the supply and installation of street name plates and grit bins at locations to be agreed with roads.
- Please see the representation from Oban Access Panel dated 06.11.2022.

COMMITTEE REPORT	
APPENDIX A – RELATIVE TO APPLICATION NUMBER:	22/01418/PP
PLANNING LAND USE AND POLICY ASSESSMENT	

1. Planning Appraisal

1.1. Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan currently comprises National Planning Framework 4 [NPF4] and the Argyll and Bute Local Development Plan 2015 [LDP], for Argyll and Bute development management purposes. By way of background, in the event of any incompatibility between a provision of NPF4 and a provision of the LDP, NPF4 will take precedence.

1.2. The key planning considerations in this case are:

- a) Compliance with the development plan and other planning policy;
- b) Design and layout (including landscaping and open space);
- c) Roads, access and parking;
- d) Impact on the water environment (including flood risk and drainage);
- e) Impact on the natural environment;
- f) Amenity impacts;
- g) Impact on education and infrastructure;
- h) Impact on historic Environment;
- i) Any other material considerations

2. Settlement Strategy

2.1. The application site covers an area of approximately 8.27ha and this application seeks permission to develop 97 residential units of accommodation together with one commercial retail unit on the site. **Policy 9: Brownfield, Vacant and Derelict Land and Empty Buildings** of NPF4 confirms under criterion (b) that proposal on greenfield sites will not be supported unless the site has been allocated for development or the proposal is explicitly supported by policies in the LDP. This is further supported by **Policy 16: Quality Homes** of NPF4 which supports the development of new homes on allocated sites within LDPs. Where development proposals seek to develop unallocated land, support is only given in limited circumstances where:

- a) The proposal is supported by an agreed timescale for build-out; and
- b) The proposal is otherwise consistent with the plan spatial strategy and other relevant policies including local living and 20 minute neighbourhoods;
- c) And either:
 - i. Delivery of sites is happening earlier than identified in the deliverable housing land pipeline; or
 - ii. The proposal is consistent with policy on rural homes.

2.2. In terms of the Local Development Plan Settlement Strategy, the application site lies within the Countryside Zone, with a small section of the site included within the Potential Development Area PDA 6/11 which the Written Statement Schedules sets out is for community facilities. The subject land is adjacent to Craignure which is a key rural settlement on the Isle of Mull, as defined by the LDP development management zones.

Policy LDP DM 1 of LDP 2015 establishes the acceptable scales of development in each development management zone. Under criterion (E) of the policy, it confirms that within the Countryside Zones, development is supported which is small scale, infill, rounding off or redevelopment sites or changes of use of existing buildings. In exceptional cases development in the open countryside including large scale development may be supported on appropriate sites if this accords with an Area Capacity Evaluation. The policy stipulates that there is a presumption against development that seeks to extend an existing settlement into the Countryside Zone. Based on this policy, the proposed development of the site for housing would be contrary to the settlement strategy of the Local Development Plan 2015.

- 2.3. However, the provisions of the emerging Local Development Plan (PLDP2), as modified by Examination, do now have enhanced status as the most recent expression of policy by the Council and having reached an advanced stage in the Development Plan preparation process. Although not adopted as yet, the PLDP2 policies carry significant weight and are a material consideration in the analysis of this planning application.
- 2.4. A key role of PLDP2 is to provide an effective land supply for new development. This provision is primarily set out in the form of allocations for different specified uses. The allocations include an indication of the number of homes that may be accommodated on housing allocations. It is noted that the housing provision numbers are indicative and appropriate circumstances may be varied at the discretion of the Planning Authority.
- 2.5. Within PLDP2, the proposed development utilises land allocated for housing under ref.H4022 which is indicated for 80 units, and is within the settlement area of Craignure. The proposed development site also extends beyond the allocation to take in further areas as shown on the PLDP2 Proposals Maps as: an open space protection area to the east and a small expanse of countryside area to the west providing open space amenity areas within these parcels of land and also providing access and drainage infrastructure to serve the development. The principle of development and its compatibility with the policies of PLDP2, will therefore be split across 4 matters: the acceptability of the housing; the acceptability of the commercial retail unit; the acceptability of the inclusion of the open space protection area; and finally the acceptability of infrastructure development within the countryside zone.
- 2.6. **Policy 01 and Policy 64** of PLDP2 stipulates that development proposals on allocated land for the proposed use in this Local Development Plan 2 are acceptable subject to the proposal according with all other relevant policies of the PLDP2.
- 2.7. The proposed housing allocation within PLDP2 was included to provide an opportunity to meet an identified need for housing, including affordable housing, and to support local businesses who had advised during the preparation of the PLDP2, that the lack of availability of housing for workers, was a major constraint in their ability to recruit employees, with consequent adverse effects on the local economy. Housing allocations are specifically intended to address the housing requirements identified in the Local Housing Strategy, informed by Housing Need and Demand Assessments, supplemented by local housing studies. The allocation of the site within PLDP2 is therefore based on robust, up to date evidence demonstrating a housing need for the area and the evidence base is therefore more current than that which informed the preparation of the adopted Local Development Plan which predates 2015.
- 2.8. The proposal looks to erect more units than that indicated within the PLDP2 allocation on a smaller area of the site, by providing public open space requirements on additional land to the allocation such as the open space protection area as identified within PLDP2. On the first point, it is noted that housing provision numbers are indicative and appropriate

circumstances may be varied at the discretion of the Planning Authority. Taking this into account, the proposed increase in housing units on the site is considered to be acceptable in principle, delivering more units to meet the needs of the community. Turning to the second point, **Policy 81** of PLDP2 is applicable. Open Space Protection Areas are shown on the LDP2 Proposals Maps and the subject area has been included due to its value as a recreational area. Any loss of Open Space Protection Areas will require robust justification as once such spaces and facilities are lost to alternative built development their opportunity to provide their original or similar uses are typically lost forever. The applicant notes that the inclusion of the Open Space Protection Area is required to facilitate the vehicular access and southern area SUDs basin to serve the housing development. The wider Protection Area will be enhanced and made more accessible to the community through the proposed landscaping proposal with paths connecting to the existing Core Path in the area and a Woodland Management Plan to provide formal management of the Area. In accordance with **Policy 81(a)** of PLDP2, the proposed infrastructure development uses only a very minor part of the site and does not affect the integrity and continued use of the Open Space, and it enhances amenity value by providing a long term Management Plan for the area. In addition, the formal development of the allocated site provides additional informal and formal amenity space areas as well as a community growing space, maintaining the overall capacity in the area. This also aligns with NPF4 **Policy 23** as the provision of informal and formal open and the provision of pedestrian routes through the development will help to promote healthy lifestyles. Similarly, the provision of high quality blue and green infrastructure spaces within the development would accord with NPF4 Policy 20. This also accords with pLDP2 **Policy 8** which requires residential development to consider Growing Spaces.

- 2.9. Regarding the inclusion of a commercial retail unit of 93 sqm to serve the development and local vicinity of the Java area of Craignure, **Policy 29: Rural Development** of NPF4 supports development proposals in remote, rural areas where the new development can often help to sustain fragile communities by supporting local employment; supporting and sustaining existing communities and is suitable in terms of location, access, siting, design and environmental impact. **Policy 28: Retail** of NPF4 also provides support for new small scale neighbourhood retail development- which contributes to local living, and 20 minute neighbourhoods. **Policy 46** of the adopted PDP2 aligns with these policy principles. The nearest retail food shop is situated over a 20 minute walk away from the site, near the Craignure Ferry Terminal. The addition of a small –scale retail unit to serve the allocated development helping to deliver sustainable 20 minute neighbourhoods in accordance with policy provision, is considered to be acceptable, on this basis and a minor departure from the allocation for housing within PLDP2.
- 2.10. The fourth point of consideration relates to the inclusion of land identified as being within the Countryside Area by **Policy 02** of PLDP2. The land is proposed to be developed to include the north SUDs detention basin for the housing development and to provide further open space amenity area to serve the development. This is located within the north-western corner of the site. **Policy 02(a)** of PLDP2 states that within these areas, there is a presumption in favour of sustainable development where this is of an appropriate scale, design, siting and use for its location. On this basis the proposed SUDs basin and additional open space to serve the adjacent housing development is considered to be appropriate in the wider context of the area and its principle is therefore acceptable.
- 2.11. It is noted that the applicant has indicated on the proposed site plans (bound by the green line) future development prospects and phases of the development site to include a potential nursery and care home located in the northern area of the site near to the Community Hospital. Any future development of this area would be subject to review under a separate application for planning permission and the merits of such uses would

be determined through that process. Within the current scheme, this area is included as additional informal open space.

- 2.12. A clear conflict therefore arises between the significance of allocation and the acceptability of such a development as precluded within the adopted Development Plan. The provisions of PLDP2 indicate by the identified allocation of the site, that an alternative outcome is justifiable in this case as a departure to the provisions of the current development plan. The different approach between the settlement strategies of the LDP and the PLDP2 allows for greater flexibility than the current development plan, particularly within minor settlements and countryside zones. Taking account of the updated housing need evidence base of PLDP2, a departure from the adopted LDP is considered acceptable in this case, providing a wider community benefit.

3. Location, Nature and Design of Proposed Development

- 3.1. The proposed application site is located to the north of Craignure, with the Isle of Mull Hotel to the east and the Mull & Iona Community Hospital to the immediate north. Clusters of residential housing infill the land between the hotel and hospital outwith the development site, which includes the Java Place cul-de-sac. The existing site comprises 5.65ha of rural, undeveloped grassland and 1.5ha of woodland area. The site is bounded by the A849 Tobermory Road to the south west.
- 3.2. The proposal will form the new western extent of Craignure. It is positioned in a transitional location between the built up area of the rural settlement to the east and the open countryside to the west. By virtue of its inclusion within the PLDP as a housing allocation, which was not subject to modification by the Scottish Ministers, it has already been accepted that this is a suitable housing site in landscape terms and subject to an acceptable layout and good landscaping, the proposal would accord with **SG LDP ENV 14** of LDP and **Policy 04** of LDP2.

4. Built Environment

- 4.1. **Policy 14: Design, Quality and Place** of NPF4, promotes well designed developments that make successful places by taking a design-led approach and applying the Place Principle. Proposals should be consistent with the six qualities of successful places: healthy, pleasant, connected, distinctive, sustainable, and adaptable. **Policy LDP 9** and emerging **Policies 5 and 10** of PLDP2 relate to design and place making and development setting, layout and design.
- 4.2. In accordance with **Policy 16(c): Quality Homes** of NPF4 the housing mix of the scheme improves affordability and choice by being adaptable to changing and diverse needs. This includes the provision of affordable homes and accessible units. The proposed development comprises the creation of 97 homes, including 25% affordable homes. The new homes include a mix of flatted, terraced and detached housing, comprising a mix of 1, 2, 3, and 4 bed dwellings. The design considers the relationship between the buildings to each other and to the street, and all streets are overlooked to create pleasant pedestrian environments and active street frontages. Car parking for the majority of units is contained on-plot or within specific courtyards away from the street to promote a pedestrian friendly environment throughout the development.
- 4.3. In respect of the character and density of surrounding development, within the wider area predominantly takes a linear form to roads with a higher density of units erected within Java Place, formed of terraced, two-storey, housing around a central amenity area.

- 4.4. The site slopes gradually to the west from the east, with the highest point midway along the southern boundary. The housing development takes form centrally within the site with open space areas (formal and informal to the north, north-west and south-east of the site) linked by smaller open space areas within the housing development itself. The development includes an access road from the south-eastern site boundary, which joins Java Road. This internal road leads north-westerly into the site connecting all the units via a series of loop roads, with a primary loop and two secondary shared surface loops, with a further tertiary link and residential courtyards.
- 4.5. The architecture of the site takes form from Highland vernacular with a modern design element. Simple forms have been used in both flatted buildings and houses to maintain a clean aesthetic with structures ranging from single storey to 2 storey, reflecting housing scales and massing with the wider character of Craignure. All units are proposed with traditional features of dual pitched roofs. Dwellings are proposed with a limited palette of external finishes comprising: white/ cream/ grey rendered elevations with elements of timber cladding, and dark grey, concrete slate effect roof tiles. The design, scale and massing of the housing is appropriate for its setting. The layout of the housing provides a series of street networks within the site with good permeability being provided.
- 4.6. Although a higher number of dwellings is proposed than that recommended within the PLDP2 housing allocation, it is considered that the submitted plans demonstrate that a development of this scale can be accommodated within the site and still provide a high quality environment including sufficient amenity and open space. The density and massing of the development is therefore acceptable. In addition, all residential units would have private amenity space and the plot ratios are considered to be acceptable.
- 4.7. **Policy SG LDP HOU 3** of the LDP and **Policy 68** of PLDP2 require residential developments at the scale of the proposed development to provide associated housing green space of both a casual and formal nature. This comprises a minimum of 12sqm of communal casual open space per dwelling, and 6sqm of children's play space, including provision for under 5 year olds. This policy also requires the developer to maintain and provide public liability insurance for the play space. The submitted plans demonstrate that a total of 3,970sqm of shared amenity space; 600sqm of dedicated children's play space; and 310sqm of Community Growing Space are provided within the scheme. A planning condition is recommended to secure the final details of the play equipment for the children's play space, together with a maintenance scheme. This also accords with NPF4, Policy 20 and pLDP Policy 6 which support developments which provide enhanced blue and green infrastructure and requires the provision of well-designed play, recreation and relaxation areas.
- 4.8. The development has been designed and will be constructed to make provision for the access of people with disabilities including the design of dwellings to enable the internal layout to be readily adaptable for use by disabled persons as well as a central location close to facilities and shops and the Island's transport hub making it a good place to live for disabled people, as highlighted by the Oban Access Panel. The proposals are therefore considered to comply with SG LDP HOU 2.
- 4.9. The overall development, is considered to present an attractive and appropriate residential design for this site which will accord with policy objectives of the LDP and NPF4. The proposals are therefore considered to accord with the requirements of policies LDP 3, LDP 9, SG LDP HOU 2, SG LDP HOU3 of LDP; Policies 5, 8, 9, 10 and 68 of PLDP2 and policies 14 and 16 of NPF4.

5. Natural Environment

- 5.1. **Policy 1: Tackling the Climate and Nature Crises** of NPF4 requires that significant weight is given to the global climate and nature crisis when consideration is given to new development. **Policy 3: Biodiversity** seeks to ensure that development will conserve, restore and enhance biodiversity. **Policy 4: Natural Places** seeks to protect, restore and enhance natural assets including protected areas.
- 5.2. There are no local, national or internationally important statutory environmental designations on the proposed site. The site itself is dominated by unmanaged grassland with woodland within the southeast boundary. Sheep grazed grassland lies beyond the southern boundary. To the north, beyond Community Hospital is small areas of woodland and felled conifer plantation beyond. Allt a'Chadhain burn and tributary lies approximately 50m to the south of the site boundary and Craignure Bay is located approximately 160m southeast of the site.
- 5.3. The Local Biodiversity Officer has reviewed the submitted ecological information and survey work in relation to biodiversity, habitats and species and is satisfied that subject to the survey work recommendations being undertaken, the proposal will not have an adverse impact on ecological interests of the site. NatureScot also confirm their agreement with the conclusions and recommendations of the submitted ecological survey work. A planning condition is recommended to secure this. A Construction Environment Management Plan is recommended by condition which should reference the associated species and habitat management plans, pre-start ecological checks and a toolbox talk for operatives, with this to be overseen by an Ecological Clerk of Works.
- 5.4. Regarding invasive species, the removal and management of the *Rhododendron ponticum* from the woodland is welcome and an Invasive Non-Native Species treatment plan is recommended by condition.
- 5.5. In accordance with Policy 3: Biodiversity of NPF4, a Biodiversity Measures Statement has been completed for the proposal. The proposed housing development includes hard infrastructure and green spaces. The broadleaved woodland in the east will be largely retained, aside from a section in the south east to accommodate site access and SUDS ponds. Control of invasive *Rhododendron* in the woodland under canopy is planned, as well as the installation of a footpath. A small area of the wet woodland in the west will be removed to accommodate a second SUDs basin. Amenity and wildflower grassland will be seeded in the east and west of the site adjacent to SUDS ponds. The project also involves the planting of 130 individual trees throughout the site, with some areas containing an under-canopy of mixed scrub. The Biodiversity Enhancements are centred around three key areas, namely Planning for Nature, Providing Homes for Nature and Managing Water within Nature. Various measures have been proposed within each of these categories. The Biodiversity Officer has welcomed these measures and considers them to be acceptable.
- 5.6. The application proposal provides opportunity to improve the biodiversity opportunities of the site by providing a more varied habitat mosaic across the site and remove invasive species, and in respect the proposals are in accordance with the objectives of the LDP and Biodiversity Action Plan. The proposals are therefore considered to be in accordance with SG LDP ENV 1, SG LDP ENV 8 of the LDP; policies 6 and 73 of PLDP2 and Policies 1, 3 and 4 of NPF4.

6. Impact on Woodland

- 6.1. The site includes a substantial mature woodland compartment at the south eastern edge of the site which is proposed to be managed and protected. The dominant species within the woodland area to the east is sycamore with some groups of Scots

Pine, Alder, larch, lime and downy birch are also present. The shrub layer of this woodland is dominated by invasive *Rhododendron ponticum*. A parcel of designated wet woodland is located within the northwest part of the site. Wet woodland is considered to be a Scottish Biodiversity list priority habitat and the trees in this area are dominated by birch and grey willow.

- 6.2. To facilitate the development, tree removal is required. The proposal would look to remove wooded areas to the south-east and to accommodate SUDs detention basins and to the west to provide the site access. Two individually surveyed trees are also proposed to be removed within the eastern area of the site (B and C quality). Removal of woodland is only permitted where it complies with the Scottish Government's Control of Woodland Removal Policy and where the removal of the woodland would achieve clearly defined benefits. This Policy stance is reiterated within **Policy 6(c)** of NPF4. Policy 77 of pLDP2 notes that the removal of woodland resources will only be permitted where it would achieve significant and clearly defined additional public benefits. None of the trees form part of any ancient semi-natural woodland or any woodland recorded in the Ancient Woodland Inventory. The woodland area to be removed to the west is included within the Copse C1 Native Wet Woodland designation, which is a priority habitat. The general quality of trees to be removed is of B quality.
- 6.3. In this case, woodland removal can be justified in terms of rural / community development as referred to in Annex 4 of the Scottish Government's Implementation Guidance on the Policy on the Control of Woodland Removal. This falls within a category where there is a need for compensatory planting. Supporting information notes that on site compensatory planting, landscaping and biodiversity enhancement, including pedestrian access and paths through the existing woodland area is proposed, providing significant additional public benefits.
- 6.4. An area of woodland in the centre of the existing wet woodland area would be removed to accommodate one of the SUDs facilities. Areas of wet woodland trees would still remain on either site and the area around the SUDs would be planted up as a wildflower meadow.
- 6.5. The proposed public benefit of providing affordable housing to meet the community needs, on an allocated site within LDP2, is considered, on balance to outweigh the local contribution of the subject trees and a planning condition is recommended for compensatory planting, as part of the revised landscaping scheme. In addition, a condition is recommended to agree the tree protection measures for the trees to be retained on site.

7. Impact on Soils

7.1 The majority of the site comprises a field of improved grassland which is categorised as Class 5 (No peatland habitat recorded, but is peat soil and may also show bare soil). There is however a small part of the northwest of the site which is classified as an area of peat. This is in a location where the one of the two SUDs facilities covering the site is proposed. NatureScot has advised that from looking at the aerial photographs, it is possible that there is a mapping error on the peat map as the area in question contains some woodland and improved grassland as does the majority of the proposed site. As such, NatureScot advise that the proposed site would not be considered to have particularly high peatland conservation value and it is therefore advised that this would not raise issues of national interest. Given that the this area does not form part of the development site other than the SUDs and NatureScot has advised there may be an error in mapping and it is not of high peatland conservation value, it is not considered proportional to require a Peatland Management Plan in line with policy NRF4, Policy 5. In

addition, Policy 79 of pLDP2 refers to development which would have a significant adverse effect. Given that the majority of the proposal is an allocated housing site it pLDP2 and the area outwith is small and of low peatland habitat value is not considered that the effects would be significantly adverse.

8. Historic Environment

- 8.1. Policy 7: Historic Assets and Places of NPF4 requires developments to demonstrate how they have mitigated against potential impacts on the historic environment and LDP Policy 3 and SG LDP ENV 20 accord with this provision seeking for development to be assessed against the impact they may have on the historic environment. Policy 15 of PLDP2 further iterates that development proposals will not be acceptable where they fail to protect, preserve, conserve or enhance the established character of the historic built environment. Policy 21 of PLDP seeks to ensure the same protection occurs with archaeological heritage.
- 8.2. There are no designated heritage assets within the Proposed Development Area or within the immediate wider area to which the proposal would affect the setting of. With regards to non-designated heritage assets, it is understood that the application site lies in a landscape populated with recorded archaeological sites of prehistoric, medieval and later date. The large area of ground that will be disturbed by this development stands a good chance of unearthing visible or buried unrecorded remains which could be of any period and as such the West of Scotland Archaeological Service recommend the inclusion of a programme of archaeological works as a planning condition on any subsequent decision.
- 8.3. Having due regard to the above and subject to the condition recommended by the West of Scotland Archaeology Service, it is concluded that the proposal will not have any adverse impacts on the historic environment, including listed buildings and their settings, and is therefore consistent with the provisions of Policy 7 of NPF4, together with LDP Policies LDP 3 and SG LDP ENV 20 and Policies 15 and 21 of PLDP.

9. Affordable Housing and Statement of Community Benefit

- 9.1. **Policy 16** of NPF4, **SG LDP HOU 1** of the LDP and **Policy 67** of the PDLP 2 require large scale housing developments to include a minimum of 25% affordable housing within the scheme. The long term delivery of affordable housing shall be sustained by an appropriate housing association, landlord or developer. In this case the proposal includes the provision of 24 affordable properties comprising:

Number of Units	Type of Unit	Number of Bedrooms
8	Cottage Flat	2
4	Terraced Villa	2
4	Terraced Villa	3
8	Semi-detached Villa	3

- 9.2. The application details confirms that the tenure will be a mix of social rent and shared equity units and are to be retained as affordable units and managed by the West Highland Housing Association.
- 9.3. **Policy 16 (b)** of NPF4 requires the consideration of a Statement of Community Benefit explaining how the proposed development will contribute to the community by meeting housing needs, providing or enhancing local infrastructure and services and improving residential amenity of the surrounding area. This would also align with the aims of NPF4 policy 25 as it will provide homes for local people to enable them to live and work in the area.

9.4. In this case the submitted development accords with the affordable housing provision, and also proposes to utilise a Priority Purchaser scheme for 16 low cost, additional units within the site which comprise 1 and 2 bedroom flats and 2/3 bedroom bungalows and semi-detached villas. The scheme means that the 16 plots will be marketed exclusively to local, first time buyers and business employers for a period of 3 months with Priority Purchasers being offered first refusal on the selected properties for the priority purchaser period. This is included as part of the proposal in response to the Pre-Application Consultation which took place for this development whereby it was raised that jobs within the area were available but accommodation was not. The proposal has sought to respond to these community concerns by providing the affordable housing and Priority Purchaser scheme. In addition to the housing, the proposed development includes the provision of a small retail unit to provide a convenience store to serve the housing development and the area of Java. The nearest shop to the site is located opposite the ferry terminal which is beyond a 20-minute walk. The proposed addition of a shop is considered to enhance the local services. The proposal will also improve residential amenity of surrounding housing by providing managed open spaces and more open space options. On this basis the proposal is considered to accord with Policy 16 of NPF4, SG LDP HOU 1 of the LDP and Policy 67 of the PDL P 2.

10. Road Network, Parking and Associated Transport Matters.

10.1. The site is proposed to be accessed from a single priority junction at Java Place, located in the southern area of the development site, adjacent to the Isle of Mull Hotel. The internal street network proposes footways on both sides of the carriageway which extends from the current adopted road at Java Place to all aspects of the development site ensuring a continuous link to all residents. Some private accesses are also proposed within the development. These would be in accordance with Policy 36 of pLDP2 which is supportive of private accesses in housing developments which do not serve more than 5 dwelling houses.

10.2. Vehicular parking is proposed within the site to include a mix of private and visitor/communal provision. Private spaces are proposed within the plot curtilage and within parking courtyards. Visitor parking is proposed within the adopted street network. The number of parking spaces proposed accords with the Local Development Plan's Parking Standards. In terms of electric vehicle parking as required by pLDP2 policy 34 a condition is recommended to ensure that this policy will be complied with.

10.3. Policy 13: Sustainable Transport of NPF4 supports developments that demonstrate the transport requirements generated have been considered in line with the sustainable travel hierarchies. Policy 15: Local Living and 20-minute Neighbourhoods supports development which contributes to local living and the Place Principle and where, among other things, there is the opportunity for sustainable modes of transport including high quality walking, wheeling and cycling networks.

10.4. In accordance with pLDP2 Policy 41 – Off Site Highway Improvements, the proposal looks to improve the footways on Java Place which connect to the network of footways within the site which will all be a minimum of 2m and provide access to all areas of the development. It is considered that the inclusion of external footway connections to the Java Place and enhanced footways on Java Place promote journeys on foot from the site and accommodate the expected uplift in pedestrian activity. Regarding accessibility to the public bus network, the residents of the development will utilise the existing bus stops located on Java Place and on the A849 to access this public transport provision for the area, and this are within the recommended walking distance thresholds. The services

available connect with the main settlements on the Island and the local schools which ensures they will be attractive to residents.

- 10.5. The roads infrastructure works will also be further controlled by the Area Roads Engineer as an application Roads Construction Consent will be required to ensure that the details of the roads construction are satisfactorily addressed.
- 10.6. In respect of construction traffic for the current application, a Traffic Management Plan is recommended by planning condition to ensure road safety issues are addressed to both the A849 during construction phases of the development and also in respect of any internal phasing of development, to ensure that any occupied houses will have safe pedestrian and vehicular routes available within the site.
- 10.7. The Transport Assessment which has been provided in support of the application is considered acceptable by the Area Roads Engineer. The area roads engineer is content with the proposals, and raises no objections subject to the imposition of appropriate conditions. The proposals are therefore considered to accord with Policies LDP 11, SG LDP TRAN 1, SG LDP TRAN 2, SG LDP TRAN 4, SG LDP TRAN 6 and SG LDP SERV 5(b); Policies 32, 33, 34, 35, 37, 38 and 40 of PLDP2 and Policies 13 and 15 of NPF4

11. Infrastructure

- 11.1. Policy 2: Climate mitigation and adaptation of NPF4 requires that development is sited and designed to adapt to current and future risks from climate change. The site is not at risk of fluvial flooding. The south western corner of the site is overlain by indicative limits of surface water flooding and it is noted that no construction will take place within this indicative at risk area, although a SUDs basin will be located within this area as recommended by the Flood Risk Assessment as a suitable location due to the existing ground depression. Regarding potential surface water flood risk, the supporting Flood Risk Assessment confirms that the development is supported by a robust drainage strategy incorporating attenuation through Sustainable Drainage System (SUDs) features. Finished flood levels are also proposed to be set at 300mm above ground level to further mitigate from flood risk from surface water.
- 11.2. Due to the development site being at a relatively higher elevation to the surrounding area, the supporting documentation concludes that it is unlikely that the development would be impacted by any overland surface water from the surrounding areas, with the proposed drainage intercepting, routing and attenuating runoff generating from within the site. Emergency access and egress provision is unlikely to be impeded by surface water flood risk provided the drainage system is maintained accordingly.
- 11.3. Regarding drainage matters, Policy 22 of NPF4 requires development proposals to manage all rain and surface water through sustainable urban drainage systems (SUDS), which should form part of and integrate with proposed and existing blue and green infrastructure. In addition, Policy 61 of pLDP2 encourages the use of SUDs where appropriate. The submitted drainage layout informs that surface water will be collected at each proposed unit and routed through a series of pipes, via filtration trenches to one of two detention basins before discharge to nearby watercourses. Discharge will be restricted to greenfield runoff rate. The Council's Flooding Advisor has no objections to the scheme. The incorporation of two SUDS basins will also create important biodiversity features and amenity features at either end of the site. The northern SUDS basin will also have an access path around it to allow access to it by less mobile members of the community. This also accords with pLDP2 Policy 6 which requires development

proposals to manage all rain and surface water through SUDS which should form part of and integrate with proposed and existing blue-green infrastructure.

- 11.4. The proposal will be connected to the mains water supply within the area. The Isle of Mull has been identified as an area where there are on-going public water supply shortages. Policy SG LDP SERV 6 and pLDP Policy 58 require that all developments within these areas incorporate water conservation measures such as rainwater harvesting of the reuse of grey water. A condition is proposed in order to ensure that the development complies with these policies. Regarding foul drainage measures, the application details have been revised to conform to SEPA's request that the development will connect into the Scottish Water Craignure Wastewater Treatment Works. On this basis the drainage arrangements are acceptable. Subject to the imposition of planning condition for the agreement of a maintenance regime for all drainage measures, the proposal is therefore considered to accord with Policies SG LDP SERV 2, SG LDP SERV 3 and SG LDP SERV 7 of the LDP, Policies 59, 60, 61 and 62 of the PLDP2 and Policy 22 of NPF4.
- 11.5. With regard to arrangements for waste within the development Policies NPF4, Policy 12, SG LDP SERV 5 require developments to demonstrate how much waste will be generated and how this will be managed in terms of storage, recycling, composting and separation. The emerging policy 63 in pLDP2 maintains a similar policy approach. A condition is recommended to require these details to be submitted prior to the commencement of development.

12. Impact on Amenity

- 12.1. Policy 14: Design, Quality and Place of NPF4 does not support developments that would be detrimental to the amenity of the surrounding area. Policy 8 of pLDP2 requires inter alia that developments should be sited to avoid overshadowing or overlooking.
- 12.2. The Council's Environmental Health Officer highlights the potential noise impacts that could arise through the construction of a development of this scale. Construction inevitably results in disturbance, vibration, noise, and dust which can adversely impact upon the amenity of nearby residents. It is therefore recommended that construction hours are restricted by the agreement of an Environmental Management Plan by planning condition to protect the amenity of the area in terms of a noise nuisance.
- 12.3. The proposal is sited with good distances from neighbouring residential dwellings and therefore the proposal does not give rise to any impacts on neighbouring amenity by way of overlooking, overshadowing, loss of light or privacy. The proposed use is accepted as being compatible with the surrounding land uses by way of its inclusion as an allocation within the PLDP2. The internal housing arrangement of the scheme has been designed to ensure that the amenity of the new occupants will not be adversely affected.
- 12.4. On this basis, the proposal is considered to comply with Policy 14 of NPF4 and policy 8 of pLDP2.

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Location Plan Relative to Planning Application:22/01418/PP



1:3,000

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

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

Reference No: 22/01712/PP
Planning Hierarchy: Local
Applicant: Mrs Karen Davies
Proposal: Partial change of use of flat to form teaching facilities
Site Address: 3 Woodstone Court, Pier Road, Rhu, Helensburgh

DECISION ROUTE

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

(A) THE APPLICATION

- (i) Development Requiring Express Planning Permission**
- Change of use from residential (flat) to combined residential/teaching/training use.
- (ii) Other specified operations**
- None
-

(B) RECOMMENDATION:

Planning permission be refused for the reason set out below.

(C) CONSULTATIONS:

Council Area Roads – 04.11.2022 - Defer consideration until further information is received to allow a full assessment with regard to the provisions of the LDP in relation to adopted car parking standards. This information shall include:

- (i) the number of existing units within Woodstone Court and no. of bedrooms in order to calculate existing parking demand: and,
- (ii) a detailed plan drawing showing how provision can be made for parking and manoeuvring in accordance with adopted standards.

Environmental Health – 14.10.2022 - No objection subject to a planning condition requiring the applicant to submit further information in the form of an assessment of likely noise sources (airborne and structural borne) arising from the proposed use; the adequacy of the sound insulation and any other noise mitigation measures

proposed to reduce noise transmission, for written approval by the planning authority in consultation with Environmental health.

(D) HISTORY:

No relevant planning history.

(E) PUBLICITY:

Site Notice - Conservation Area – Expiry 02.11.2022
Listed Building/Conservation Advert - 10.11.2022

(F) REPRESENTATIONS:

(i) Representations received from:

A total of 19 representations have been received as set out below: -

4 no. Support

- Mark Fisher - 8 Woodstone Court Pier Road Rhu Helensburgh Argyll And Bute G84 8LH
- Stephanie Lees - 5 Woodstone Court Pier Road Rhu Helensburgh Argyll And Bute G84 8LH
- Graham Miller - 5 Woodstone Court Pier Road Rhu Helensburgh Argyll And Bute G84 8LH
- Sarah Osborne - 51E West King Street Helensburgh Argyll And Bute G84 8EB

15 no. Objections

- Mr. James Michael Brown - Ard Craig Pier Road Rhu Helensburgh Argyll And Bute G84 8LH
- Mr. Leslie Craig - Seefels Pier Road Rhu Helensburgh Argyll And Bute G84 8LH
- Lynsey Stephen - Tigh Na Creag Pier Road Rhu Helensburgh Argyll And Bute G84 8LH
- Rebecca Shields - No Address Given
- Mark Shields - No Address Given
- Linda Shields - No Address Given
- Gabrielle Stephen - Tigh Na Creag Pier Road Rhu Helensburgh Argyll And Bute G84 8LH
- Anne Palmer - 1 Honeysuckle Court 68A East King Street
- Elizabeth Montgomery Smith – No address provided.
- Denise N Walker - 1 Woodstone Court, Pier Road, Rhu, Helensburgh
- James Walker - 1 Woodstone Court, Pier Road, Rhu, Helensburgh
- JK Mackie - Budore Pier Road Rhu Helensburgh Argyll And Bute G84 8LH
- GE Mackie - Budore Pier Road Rhu Helensburgh Argyll And Bute G84 8LH
- JDM Forrester - 2 Woodstone Court Pier Road Rhu Helensburgh Argyll And Bute G84 8LH
- Signed representation with no address given. The name of the objector cannot be reliably identified from the signature, however it is considered that it is not the intention of this objector to remain anonymous, and as such can be taken into account as part of this assessment.

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.

Summary of issues raised:

Support

- Through its teaching and training facilities the proposed use will provide a much-needed asset in terms of support for people experiencing difficult life situations, both locally and further afield.
- The location is ideal.
- Planning permission should be granted as this is a partial change of use intended for participation by only small groups for meditation.
- The practice of meditation does not involve disruptive noise nuisance.

Objection

- Any intensification of traffic will exacerbate existing road safety hazards at the junction of the private access road with Pier Road.
- Resultant increase in traffic will adversely impact on the peace and tranquillity of a quiet residential area within the Rhu Village Conservation Area.
- Shared private residential access and parking area is in a poor condition. Intensification of use resulting from a commercial nature of use would result in a further deterioration of the road/parking surface condition.
- Any permission should be subject to upgrading over the full length of the private road, including traffic calming measures.
- Insufficient car parking which could lead to obstruction of the access, including for emergency vehicles.

Comment: - This issue is assessed in detail within Section (P) and Appendix 1 (below.)

- Conflict between non-residential/commercial activity and residential use of the site and its surroundings. Increased use of footpath entrance will result in damage to the footpath and intensification of use will be detrimental to the residential amenities of residents by reason of general disturbance; loss of privacy; and security concerns resulting from this scale of commercial use. Intensification in use of the entrance foyer will change the character of the building.
- Impact on value of properties.
Comment: - Not material to this planning assessment.
- Concerns are expressed with impact upon the wellbeing of residents with regard to alleged details of the proposed use.
Comment: - Not material to this planning assessment.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) **Environmental Impact Assessment Report:** Yes No
- (ii) **An Appropriate Assessment under the Conservation (Natural Habitats) Regulations 1994:** Yes No
- (iii) **A Design or Design/Access statement:** Yes No
- (iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** Yes No
-

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: Yes No

- (I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** Yes No
-

- (J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application**

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

**[National Planning Framework 4 \(Adopted 13th February 2023\)](#)
Part 2 – National Planning Policy**

Sustainable Places

NPF4 Policy 1 – Tackling the Climate and Nature Crises

NPF4 Policy 7 – Historic Assets and Places

NPF4 Policy 13 – Sustainable Transport

Liveable Places

NPF4 Policy 14 – Design, Quality and Place

NPF4 Policy 16 – Quality Homes

NPF4 Policy 23 – Health and Safety

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

LDP STRAT 1 – Sustainable Development

LDP DM 1 – Development within the Development Management Zones

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

LDP 5 – Supporting the Sustainable Growth of our Economy

LDP 8 – Supporting the Strength of our Communities

LDP 9 – Development Setting, Layout and Design

LDP 11 – Improving our Connectivity and Infrastructure

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

Historic Environment and Archaeology

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

Bad Neighbour Development

SG LDP BAD 1 – Bad Neighbour Development

Sustainable Siting and Design

SG LDP Sustainable – Sustainable Siting and Design Principles

Transport (Including Core Paths)

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

SG LDP TRAN 6 – Vehicle Parking Provision

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

- Third Party Representations
- Consultation Responses
- Planning History

[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 11 – Design – Conversions and Change of Use

Policy 14 – Bad Neighbour Development

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

Policy 17 – Conservation Areas

Connected Places

Policy 32 – Active Travel

Policy 33 – Public Transport

Policy 34 – Electric Vehicle Charging Points

Policy 37 – Development Utilising an Existing Private Access or Existing Private Road

Policy 40 – Vehicle Parking Provision

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

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

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

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

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

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

- Conservation Area

(P)(ii) Soils

Agricultural Land Classification:

Built Up Area

Peatland/Carbon Rich Soils Classification:

Class 1

Class 2

Class 3

N/A

Peat Depth Classification:

N/A

Does the development relate to croft land?

Yes No

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

Yes No N/A

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

Yes No N/A

(P)(iii) Woodland

Will the proposal result in loss of trees/woodland?

Yes

No

(If yes, detail in summary assessment)

Does the proposal include any replacement or compensatory planting?

Yes

No details to be secured by condition

N/A

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

Status of Land within the Application

Brownfield

Brownfield Reclaimed by Nature

Greenfield

ABC LDP 2015 Settlement Strategy
 LDP DM 1

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

ABC LDP 2015 Allocations/PDAs/AFAs etc:

N/A

ABC pLDP2 Settlement Strategy

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

ABC pLDP2 Allocations/PDAs/AFAs etc:

N/A

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

The application site edged red on the supporting drawings a large, detached former dwellinghouse, now converted and altered to create 9no. separate flatted residences, and its curtilage. The site is located within a residential area in the settlement of Rhu.

Vehicular access is by means of a shared private access road, known as Woodstone Court, off of Pier Road. This private road serves 6-7 residential houses in addition to the flats at Woodstone Court.

The premises subject to this application is a two-bedroom residential flat situated on the 1st (top) floor of the 'block' of residential flats,

Access to the flat is via a common entrance via shared lobby and internal staircase. The entrance lobby and stairs serves a number of other residential flats.

The proposed development is for a partial change of use where a total of some 60m² of floorspace comprising an existing living room, bedroom, kitchen and wc is proposed to be used as a retreat centre to learn meditation and mindfulness with spiritual teaching. One of the two main rooms will be used for teaching and the other for individual contemplation. The kitchen will have facilities for self-service and cold drinks for students. The proposed use will operate with weekly programmes led by guest teachers largely within the hours of 09:30-16:30 with occasional evening use within the hours 19:00-21:30. Officers consider that this proposed use falls within Class 10 – "Non-residential Institutions" – of the Town and Country Planning Use Classes (Scotland) Order 1997.

The site is located within the Settlement for Rhu, wherein Policy LDP DM 1 supports sustainable forms of development of an appropriate scale relative to the nature and scale of the settlement on appropriate sites. As set out in further detail in the appendix A to this report, it is considered that part of a two-bedroom flat, within a block of flats with common access and limited car parking, within a quiet, residential area is not an appropriate site for a commercial use of this nature and intensity. The level of intensification resulting from the use of up to 15 students/teachers using part of a two bedroom flat for teaching over a weekly programme from 09:30 – 16:30, and potentially as late as 21:30 will result in a significantly adverse impact on the residential amenities of the occupiers of adjacent and nearby flats and

dwellinghouses by reason of noise, vibration and general disturbance over prolonged periods. Additionally, it has not been demonstrated that on-site car parking can be provided to meet existing demand plus the intensified demand for vehicle parking associated with a use of this intensity. On the basis of the information available, officers consider it highly likely that the proposal would result in a deficiency in on-site car parking to the detriment of road safety and the free flow of traffic within the local public/private access regime. On this basis, this is considered to be a wholly inappropriate site for the proposed use, and as such it is not supported with reference to the Spatial and Settlement Strategy.

As described above, the premises is a 2-bedroom residential flatted unit within a 'block' of flats created by the subdivision of a former dwellinghouse and set in its own landscaped grounds. The complex of flats is surrounded on all sides by residential properties. Access to flat no.3 is via common entrance hallway and staircase that is common to a number of other flats.

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

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

As detailed in Reason for Refusal.

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

Not applicable.

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

Author of Report: Norman Shewan **Date:** 07.12.2023

Reviewing Officer: Kirsty Sweeney **Date:** 07.12.2023

Fergus Murray
Head of Development & Economic Growth

REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO. 22/01712/PP

1. Argyll and Bute Local Development Plan – Adopted 2015 Policy LDP 8 and SG LDP BAD 1 – *Bad Neighbour Development* and the emerging Proposed Argyll and Bute Local Development 2 Policy 14 serves to resist any proposal that would have an unacceptable adverse impact upon the amenity of neighbouring land uses resulting from noise, vibration, etc. In addition Policy LDP 9 – *Development Setting, Layout and Design* seeks to ensure that a high standard of appropriate design that is compatible with the surroundings. It is considered that the nature and scale of the proposal which is a non-residential institutional use, proposed to have week-long courses for groups of 12-15 teachers/students/practitioners within two rooms of a 2-bedroom flat contained in a block of 9 no. residential units is inappropriate. This is due to the access to the proposed teaching/retreat use from the grounds of the building, being via a communal hallway and stairwell shared with a number other residential properties. The flat subject of the application is located on the first floor, with other flats located directly above and below it. No information has been submitted to date with regard to the construction specification of the floor zones between these flats, or the sound insulation performance of the floor construction. In addition, no sound surveys between the flats has been submitted in support of the application. There is a conflict with existing homogenous residential use and potential significant adverse impact on residential amenities. Therefore, this proposal is inappropriate use in a residential context and is contrary to the provisions of LDP Policy 8 and 9, SG LDP BAD 1 and Proposed LDP 2 Policy 14.

2. Argyll and Bute Local Development Plan – Adopted 2015 Policy 11 and SG LDP TRAN 6; and the emerging Proposed Argyll and Bute Local Development Plan 2 Policy 40 serve to require that proposed development that will result in an intensification of traffic and demand for car parking will only be supported where the proposed development includes adequate on site car parking to accommodate all existing car parking demand, and any intensification of demand by virtue of the development proposal. It is considered that the proposed partial change of use from a 2 bedroom residential flat to a commercial use comprising a retreat centre to teach and practice spiritual disciplines including meditation and mindfulness by means of weekly programmes for groups of 12-15 participants during the hours of 9.30-4.30, with the occasional evening use 7-9.30, will result in a substantial intensification of traffic using the existing public/private access regime and on site car parking provision. Whilst the applicant has suggested that groups attending the sessions will be bussed in and out of the premises using a mini-bus or similar, officers do not consider that this is a sufficiently robust justification for accepting development that appears, on the basis of information submitted, to be deficient in car parking spaces with reference to the Council's adopted standards. The supporting information indicates that there are 15 no. existing spaces however this cannot be verified from the drawings submitted and it is not clear that all of these spaces are within the ownership or control of the applicant. Existing parking provision would be based on an application of the standards for residential units i.e the number of residences and the number of bedrooms that each residence has. The adopted standard is 1½ spaces per 1-bedroom unit, 2 spaces per 2-3 bedroom unit; and 3 spaces per unit with 4 or more bedrooms. The applicant has submitted inadequate information to allow an assessment of the number and location of existing on-site parking spaces to meet the current demand. The adopted parking standards relative to a non-residential institution use is 1 space per two staff plus 3 spaces per 100m². The application drawings show approximately 75m² of floorspace to be used for teaching/meditation, which would result in a minimum requirement for 1 additional parking space, plus a further space per two staff members, including visiting teachers. However, as the supporting information advises, it is intended that the rooms be used by groups of up to 15 people at a time, which will result in a significantly higher demand

for car parking provision than an application of the adopted standards. The information submitted does not demonstrate to the satisfaction of the planning authority that the proposal can provide adequate space for car-parking and manoeuvring within the site to accommodate the current demand for car parking, plus the intensified demand likely to result from the proposed change of use with regard to adopted standards. It is considered highly likely that the proposal would result in an inadequate level on-site car parking provision leading to increased demand for car parking in non-designated parking areas, private roads and public roads within the locality to the detriment of highway safety and the free-flow of traffic. In the absence of adequate information to demonstrate otherwise, officers consider that the proposal is contrary to the provisions of NPF 4 Policy 13; the adopted LDP – 2015 Policy LDP 11 and SG LDP TRAN 4 and SG LDP TRAN 6; and LDP 2 Policy 40.

COMMITTEE REPORT	
APPENDIX A – RELATIVE TO APPLICATION NUMBER:	22/01712/PP
PLANNING LAND USE AND POLICY ASSESSMENT	

1. Settlement Strategy

1.1. NPF 4

- Policy 1 requires that significant weight be given to the global climate and nature crises when considering all development proposals.
- Policy 2 seeks to encourage, promote and facilitate development that minimises emissions and adapts to climate change by requiring that development be sited to minimise greenhouse gas emissions; and to adapt to current and future risks from climate change.
- Policy 15 seeks to encourage, promote and facilitate the application of the ‘Place principle’ and create connected and compact neighbourhoods where people can meet the majority of their needs within a reasonable distance of their home, preferably by sustainable transport options. Consideration should be given to the existing settlement pattern and the level and quality of interconnectivity of the proposal with the surrounding area.

1.2. LDP – Adopted 2015

- Policy LDP DM1 gives support to sustainable forms of development subject to the nature and scale of the proposal in relation to the Spatial and Settlement Strategy. It is noted that the application site is located within the Village/Minor Settlement of Rhu as identified on the Proposals Map; within which, Policy DM 1 (C) offers encouragement in principle for small scale development on appropriate sites.

1.3. LDP 2

- Policy 01 establishes a list of criteria, subject to which, development proposals within the Settlement Area will normally be considered to be acceptable. It is noted that the application site is within the Rhu Settlement Area as defined on the LDP Proposals Maps.

Assessment

- 1.4. The planning application site is located within the Village/Minor Settlement Zone for Rhu, as identified in the adopted Argyll and Bute Local Development – 2015, wherein Policy LDP 1 (C) gives encouragement in principle to small scale development on appropriate sites.
- 1.5. There is no change to the ‘settlement zone’ in the proposed Local Development Plan (pLDP2) in relation to this site. Policy 01 – Settlement Areas - establishes that development within settlement areas will be normally be acceptable where the planning authority considers that it is appropriate with regard to a list of specified planning criteria.
- 1.6. There is no assessment of the ‘scale’ of non-residential institutional teaching use/development elsewhere in LDP, however it is considered that a use 3 no. domestic sized rooms as “*a retreat and learning centre for meditation, mindfulness with Spiritual teaching*”, would qualify as small scale for the purposes of this assessment.
- 1.7. As such, the proposed use, and the scale of the use, is acceptable with regard to the spatial settlement strategy LDP1 and also PLDP Policy 01.

1.8. However, Policy LDP DM 1 still requires an assessment with regard to whether this is an acceptable site having regard to the specific merits of this application.

1.9. LDP 2 Policy 01 gives support in principle subject to favourable assessment against specified criteria, including that it:

- is compatible with surrounding uses including but not exclusively; providing access, service areas, infrastructure for existing, proposed or potential future development;
- is of an appropriate scale relative to the settlement;
- respects the character and appearance of the townscape; and,
- complies with all relevant LDP 2 policies.

1.10. Whilst the site is located within the Settlement Zone, and the scale of the proposal is compatible with the scale of the village of Rhu, it is considered that the application site (i.e. a 2 bedroom residential flat within a small block of flats created by the subdivision of a period villa asset within common grounds) is not an appropriate site for the proposed use, having regard to all other material planning considerations, including other policies within the Local development Plan.

1.11. On the basis of this conclusion (set out in detail within the further assessment below) that the application site is not appropriate, then the application proposal is inconsistent with the provisions of the LDP Settlement and Spatial Strategy, and as such is not supported by Policies LDP DM 1 or LDP2 Policy 01.

2. Location, Nature and Design of Proposed Development

2.1. The premises subject to this application is a two-bedroom residential flat situated on the 1st (top) floor of a former large detached dwellinghouse that has previously been altered and extended to provide 9 no. residential flats, and located within a residential area in the settlement of Rhu.

2.2. Access to the flat is via a common entrance via shared lobby and internal staircase. The entrance lobby and stairs serves a number of other residential flats.

2.3. Vehicular access is by means of a shared private access road, known as Woodstone Court, off of Pier Road. This private road serves 6-7 residential houses in addition to the flats at Woodstone Court.

2.4. The application form states that there are 15 no. existing on-site parking spaces and that it is proposed to increase this to 18 no. spaces.

2.5. Details of the scale and nature of the proposed uses are set out in the applicant's supporting statement, as summarised below:-

“The centre will be an exclusive and quiet retreat centre to learn meditation, mindfulness with Spiritual teaching led by some of the top spiritual teachers in the UK.

There will be one teaching room and one for individual contemplation. Cross-reference with the proposed floor plans identify these spaces as an existing living room (21.56m²) and bedroom 1 (17.23m²).

The kitchen will have the facilities for self-service hot and cold drinks. It will also be used for day students to eat packed lunches. There is also a separate toilet. The other part of the flat will stay as residential. All of these rooms are accessed from a hallway.

The hours of use will be 9.30-4.30 with the occasional evening use 7-9.30.

The intention is to have small intimate groups of approximately 12-15 students, where individual attention is possible. There will be weekly programmes with occasional one off classes too. There will also be time during the week courses when there will be time out in the surrounding area.

Interest is expected from foreign students as well as local students. They will be accommodated in the surrounding hotels, with a morning pick up service to the centre.”

3. Compatibility of Proposed Development (Use) with Surrounding Land Uses

3.1. NPF 4

- Policy 23 seeks to protect people and places from environmental harm, mitigate risks arising from safety hazards and encourage, promote and facilitate development that improves health and wellbeing, by supporting development that will have a positive effect on health; and resist development that is likely to raise unacceptable issues including air quality, noise, hazardous substances; and proximity to potentially dangerous sites/zones.

3.2. LPD – Adopted 2015

- Policy LDP 3 requires that applications for planning permission be assessed with the aim of protecting, preserving and where possible, enhancing the built, human and natural environment.
- SG LDP BAD 1 provides additional detail to Policy LDP 8, stating that developments classed as “Bad Neighbour” Developments (as defined in Schedule 7 of the Town Country Planning (General Development Procedure) (Scotland) Order 1992,
- Policy LDP 9 requires that developers and their agents produce a high standard of design in accordance with specified criteria, including but not exclusively, siting and position of proposed development so as to pay regard to its context.

3.3. LDP 2

3.4. The original villa, Woodstone House, has been converted into flats, and renamed Woodstone Court. The date of the conversion, and the levels of any acoustic separation installed, are not readily apparent from Local Authority records. On the basis of the information available, it appears that the conversion work took place in the early 1990s.

3.5. In order to carry out an assessment with regard to planning policy, it is first considered that a determination be made as to whether the proposed development constitutes a form of “*Bad Neighbour Development*” with reference to Schedule 2 of the Town and Country Planning (General Permitted Development) (Scotland) order 1992, as amended. Schedule 2, paragraph (8) specifies classes of development (as Bad Neighbour Development) including the following:

- “the use of buildings or land which will,
- (a) affect residential property by reason of fumes, noise, vibration, etc;

- (b) alter the character of established amenity; and
- (e) introduce significant change into a homogeneous area.”

- 3.6. On the basis of the limited information currently available with regard to the construction specification of the floors between the flats, it is considered that appropriate that a precautionary approach be adopted. Having regard to the nature of the use as a teaching facility with occasional classes involving groups of 12-15 persons during normal business hours on a daily basis, it is considered that the proposal has reasonable potential to affect the residential other residential properties within this block of flats by reason of noise, vibration and general disturbance arising from an intensified use of the flat; the common access/circulation areas; and the external private open amenity space. It is also considered that the introduction of a commercial use for spiritual teaching, practice and classes relating to meditation for weekly courses would alter the established ‘residential’ amenity, characterised by the homogenous residential use of this group of residential units within open grounds; and within a homogenous residential area. On the above basis, and having regard to Schedule 2 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, it is considered that the proposal should be assessed as a class of “Bad Neighbour Development” with regard to Development Plan Policy.
- 3.7. NPF 4 – *Liveable Places* - Policy 14 seeks to encourage, promote and facilitate well-designed development that makes successful spaces in order to improve the quality of an area. Development will be expected to be consistent with the identified ‘*six qualities of successful places*’. This policy continues that, “*Development proposals that are poorly designed, detrimental to the amenity of the surrounding area, or inconsistent with the six qualities of successful places, will not be supported.*”
- 3.8. Adopted LDP 2015 Policy LDP 8 seeks to strengthen our communities, making them better places to live, work and visit. SG LDP BAD 1 – *Bad Neighbour Development* – provides additional detail to policy LDP 8, stating that “*Proposals for development classed as “Bad Neighbour” Development will only be permitted where all of the following criteria are satisfied.*” This criteria includes that there are no unacceptable adverse effects on the amenity of neighbouring residents; appropriate mitigation measures can be included to reduce impact(s); there are no significant transport, amenity or public service objections; technical parking, circulation; access and servicing standards; and, no conflict with any other Development Plan policy and SG. Proposed LDP 2 Policy 14 serves to resist any proposal that would have an unacceptable adverse impact upon the amenity of neighbouring land uses resulting from noise, vibration, etc. In some circumstances it may be possible to mitigate adverse impact upon neighbouring amenity by restrictions via planning conditions/legal agreements. It is considered that pLDP 2 policy 14 is largely aligned with the adopted Development Policy in respect of “Bad Neighbour” Development.
- 3.9. Policy LDP 9 – *Development Setting, Layout and Design* generally seeks to ensure that a high standard of appropriate design that is compatible with the surroundings. However, it is acknowledged that this policy appears to focus on physical/visual design elements of development as opposed to compatibility with surroundings in relation to potentially conflicting land –uses. SG LDP – *Sustainable Siting and Design Principles* – provides further support to LDP 9, however it also focusses on the visual impact upon the amenities of an area; and the impact upon the amenities of nearby properties specifically by reason of loss of privacy by reason of direct overlooking between properties; or loss of natural light due to new built development. Proposed LDP2 Policy 10 is specific to design in relation to conversions and change of use. This policy introduces new criteria in addition to visual impacts, advising amongst other criteria, that the proposed use must respect the character of the traditional use. Additionally, the proposal should not require significant infrastructure that is detrimental to the character or amenity of the place. In the

Examination Report on the objections to pLDP Policy 10, on grounds of “historic buildings” and “flood resilience”, the Reporter considered that no change is required to the Plan.

- 3.10. The proposal is in essence for a commercial, non-residential institutional use typically operating blocks of week-long courses for groups of 12-15 teachers/students/practitioners to take place within two rooms of a 2-bedroom flat within a block of 9 no. residential units that have been formed by the conversion of a large, detached, period dwellinghouse. Access to the proposed teaching/retreat use from the grounds of the building, is via a communal hallway and stairwell shared with a number other residential properties. The flat subject of the application is located on the first floor, with other flats located directly above and below it. No information has been submitted to date with regard to the construction specification of the floor zones between these flats, or the sound insulation performance of the floor construction. In addition, no sound surveys between the flats has been submitted in support of the application.

4. Built / Historic Environment

- 4.1. None of the buildings forming part of the flatted development, “Woodstone Court”, are listed as being of special historic or architectural interest.
- 4.2. The site is located within the village of Rhu Conservation Area.
- 4.3. Two category C listed buildings directly adjoin the application site. The first of these, Woodstone Cottage and Stables, is located adjacent to the north east of the application site, on the northern corner of the junction of the private driveway (to Woodstone Court) and the public road network, Pier Road. This cottage and stables historically served Woodstone House, prior to it being converted to flats, now known as Woodstone Court. The second of these listed buildings, is a detached 2-storey, mid-19th century house, known as “Ardenmohr”, situated adjacent to the south eastern boundary of the application property.
- 4.4. NPF 4 Policy 7 generally seeks to protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places. Specific to this proposal, the policy offers support to development in, or affecting conservation areas, only where *“the character and appearance of the conservation area and its setting are enhanced.”*
- 4.5. NPF 4 Policy 7 is in general alignment with the provisions of Policy LDP 3 and associated Supplementary Guidance SG LDP ENV 16(a) and ENV 17. SG LDP ENV 16(a) requires generally that *“development affecting a listed building or its setting must preserve the building or its setting.”* SG LDP ENV 17 operates a presumption against development that *“does not preserve or enhance the character or appearance of an existing or proposed Conservation Area or its setting.”* The supporting text to SG LDP ENV 17 clarifies that the aim of this SG to maintain and preserve the “amenity” Conservation Areas.
- 4.6. The provisions of the corresponding policies in the proposed LDP2 Policy 15 – *Supporting the Protection, Conservation and Enhancement of Our Historic Built Environment*; and Policy 16 – *Listed Buildings Conservation Areas*, do not require a materially different assessment to the provisions of NPF 4 and LDP – 2015 in respect of impact on the historic environment, having regard to the individual scale and nature of this proposal.

5. Road Network, Parking and Associated Transport Matters.

- 5.1. NPF 4 – Sustainable Transport:

- Policy 13 aims to promote, encourage and facilitate development that prioritise walking, cycling and public transport and to reduce the need to travel unsustainably. Development is to be supported where it provides good walking and cycling links to local facilities; is accessible by public transport; provides EV charging points and safe cycle parking/storage.

5.2. LDP – Adopted 2015:

- Policy LDP 11 aims to improve connectivity and infrastructure and relates, amongst other things, to ensure that the development is well located in relation to sustainable means of transport; has an appropriate standard of access; and provision for car parking.
- SG LDP TRAN 4 advises that acceptance of developments that use existing public roads and private access regimes is subject to the existing access being capable of commensurate improvements considered to be appropriate to the scale and nature of the proposal that takes into account current access issues.
- SG LDP TRAN 6 generally requires that provision be made on site for parking in accordance with the adopted parking standards. The “Car Parking Standards” relating to houses and flatted set out at para. 1.13 requires 1.5 space per 1-bedroom unit and 2 spaces per 2-bedroom unit.

5.3. LDP 2:

- Policy 33 requires a sequential approach supporting patterns of growth which use existing public transport corridors.
- Policy 34 requires consideration of the provision of EV charging points, or the infrastructure to accommodate them, as part of all new development which results in an additional parking requirement. Specifically, EV charging (or the infrastructure to allow charging points, are to be required in relation to all new build houses with off-street parking (my emphasis.)
- Policy 37 relates to use of existing private access to serve new development and is largely aligned with the provisions of LDP-2015 SG LDP TRAN 4 as it relates to this assessment.
- Policy 40 requires on-site car parking provisions in accordance with adopted standards and is largely aligned with the provisions of LDP-2015 SG LDP TRAN 6 as it relates to this assessment. Table 5 – “Car parking Standards” in relation to new houses and flats requires 1 space for a 1-bedroom unit (as opposed to 1 ½ spaces as set out in the adopted LDP 2105); 2 spaces per 2-bedroom unit; and 3 spaces per 4 or more bedroom unit.

5.4. Assessment:

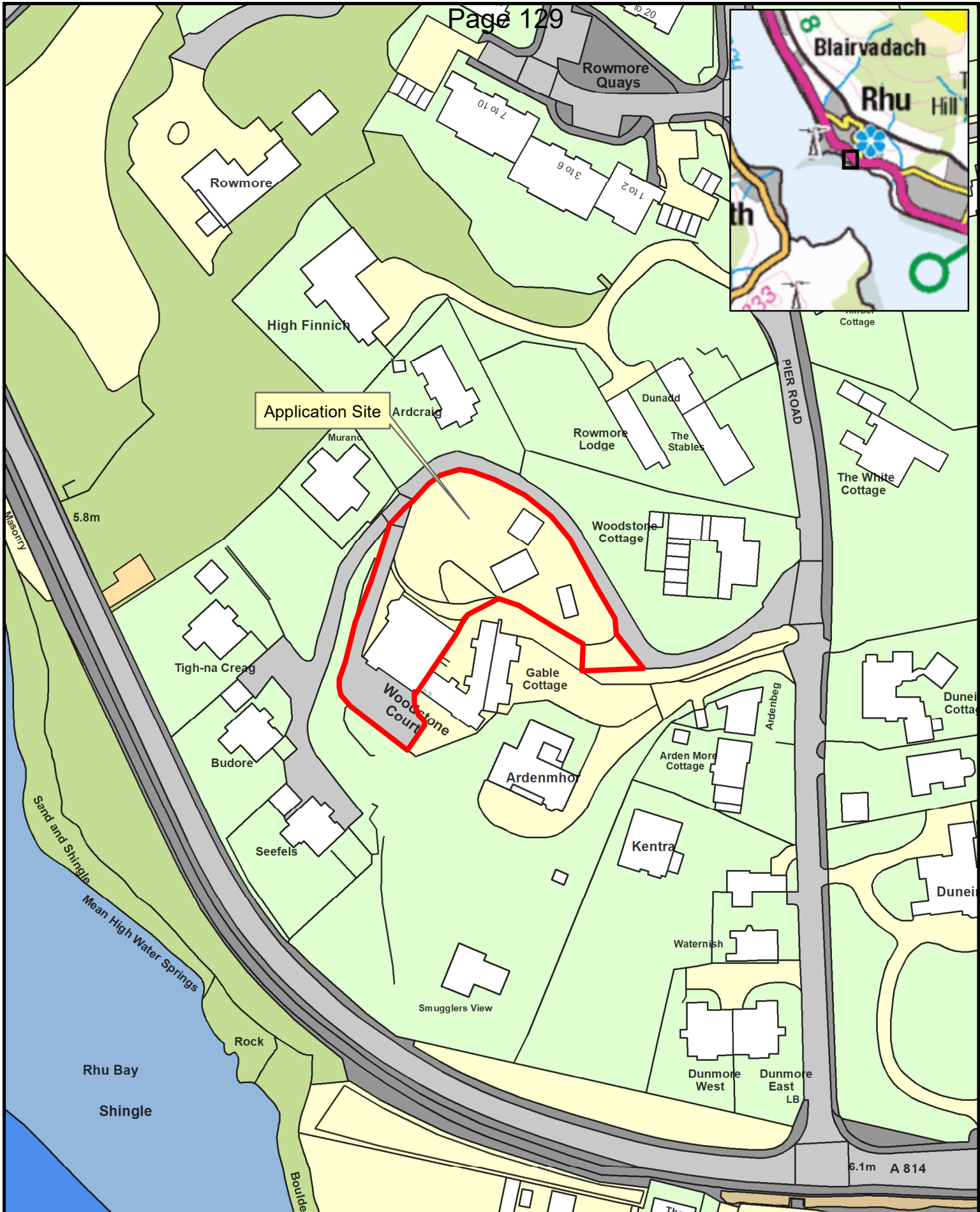
5.5. The application site edged red on the application drawings includes the original main villa (now subdivided into separate residential flats) and the associated grounds. The application site does not include the existing shared private access from its junction with the public road network, at Pier Road, which serves 6-7 separate residential dwellinghouses as well as the flatted development at Woodstone Court. The site does include a private driveway off of the shared private access, which leads up to a forecourt in front of the principal south elevation of Woodstone Court.

5.6. The proposed site plan indicates, in a very general manner, approximate areas of proposed and existing parking. The drawing does not show which parking areas are existing and which are proposed. The application forms state that 15 no. parking spaces

are available on the site, and that it is proposed to provide an additional 3 no. spaces giving a total of eighteen.

- 5.7. The application drawings show very vaguely defined areas for existing and proposed parking. Additionally, there is no clear delineation of parking spaces on the site, or whether the space for parking is allocated to a particular property or used on a 'first come basis.' Without clearly drawn parking spaces to the standard dimensions of 2.4 x 5.0 metres, and disabled bays if available, it is not possible for officers to professionally and rigorously assess this proposal with regard to the policy requirement for car parking provision to serve the development in accordance with the car parking standards set out in the LDP Supplementary Guidance.
- 5.8. The application forms also state that a Land ownership Notice has been served by the applicant under Reg. 15 of the Development Management Procedure (Scotland) Regulations 2013 on Mrs Stephanie Lees, at 5 Woodstone Court, as the only party other than the applicant who was owner of any part of the application site edged red. In other words, the submitted application states that none of the other flat owners within Woodstone Court have any ownership of the grounds, including the areas identified for parking.
- 5.9. It is noted that objectors to the proposed development have submitted, amongst other issues, that the existing car-parking provision is inadequate to meet the current demand, and that even a small intensification in demand would result in issues of cars parking on private turning and circulation areas within and outside of the site, and on nearby public roads including Pier Road, to the detriment of road safety and the free-flow of traffic.
- 5.10. The Council's Area Roads Officer has recommended that determination of the application be deferred until further detailed information has been submitted including:
- Details of the number of residential units within Woodstone Court and Woodstone Cottage, and the number of bedrooms in each unit (in order to allow officers assess the current car parking demand with reference to the standards):
 - A detailed proposed site plan drawing clearly showing how parking and turning is to be achieved within the site in accordance with the Council's 'Roads Guidance for Developers' with adequate manoeuvring space within the site for a vehicle to enter and leave the localised parking areas in a forward gear.
- 5.11. The above additional supporting information was requested from the applicant by officers on 4th September 2023, advising that the application could not be determined without it. The applicant responded by indicating a willingness to answer all of the above questions however providing a detailed accurate site plan drawing of parking is difficult to show on a plan as the estate is so spread out and really needs to be seen.
- 5.12. Officers consider that a site plan drawing showing detailed location and sizes of car parking spaces over this size of site is a very ordinary requirement to support an application and is relatively straightforward to provide, although the applicant has sought to make the application submission personally to date, and it is suggested that the services of a professional agent may be required to provide the parking layout details as required.
- 5.13. In order to now formally determine this application, in order to conclude this application without further delay, officers consider that it would be appropriate to assess and determine the application for change of use on the basis of the information submitted to date.

- 5.14. The supporting information, in the form of existing and site plan drawings, provide an inadequate level and accuracy of information to allow a professional and competent assessment of this application for a proposed change of use.
- 5.15. The information submitted does not therefore demonstrate to the satisfaction of the planning authority that the proposal can provide adequate space for car-parking and manoeuvring within the site to accommodate the current demand for car parking plus the intensified demand likely to result from the proposed change of use with regard to adopted standards, and would result in an inadequate on-site car parking provision leading to increased demand for car parking in non-designated parking areas, private roads and public roads within the locality to the detriment of highway safety and the free-flow of traffic. In the absence of adequate information to demonstrate otherwise, officers consider that the proposal is contrary to the provisions of the adopted LDP – 2015 Policy LDP 11 and SG LDP TRAN 4 and SG LDP TRAN 6; and LDP 2 Policy 40.



Application Site

Location Plan Relative to Planning Application: 22/01712/PP



1:1,250

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

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

Reference No: 23/00376/PPP
Planning Hierarchy: Local
Applicant: Mr Kevin Burnett
Proposal: Renewal of Planning Permission in Principle Reference 18/02720/PPP – Site for Proposed Residential Development
Site Address: Site at Lonan Drive, Oban

DECISION ROUTE

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

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Site for proposed residential development
- Formation of vehicular access

(ii) Other specified operations

- Connection to public water main
 - Connection to public drainage system
-

(B) RECOMMENDATION:

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

(C) CONSULTATIONS:

Argyll and Bute Council – Roads Authority

Report dated 10/03/23 advising no objection to the proposed development subject to a number of conditions being imposed on the grant of permission. The response from the Roads Authority is discussed in more detail in the main assessment in Appendix A of this report.

Argyll and Bute Council – Development Policy Team (DPT)

Memo dated 29/03/23 noting that the application is for the renewal of the previous permission granted for the site and providing a policy background in terms of the adopted Local Development Plan, proposed Local Development Plan 2 and National Planning Framework 4. The application is assessed against the relevant policy framework in the assessment contained with Appendix A of this report.

Argyll and Bute Council – Biodiversity Officer (BDO)

E-mail dated 04/04/23 reiterating the advice set out in her response to the previous application raising no objection to the proposed development subject to a number of conditions being imposed on the grant of permission to secure the submission of survey and management information when any detailed application(s) for the site is submitted. Such surveys to include species surveys for Bats and Red Squirrel; Peat Management Plan; Tree Survey which should be undertaken prior to drafting the design plan for the placement of dwellings, verges, access routes and services; and finally a Japanese Knotweed Eradication Plan.

Argyll and Bute Council – Oban Airport

No response at time of report.

Argyll and Bute Council – Access Officer

No response at time of report.

Scottish Water

Letter dated 13/03/23 raising no objection to the proposed development which would be serviced from the Tullich Water Treatment Works and the Oban Waste Water Treatment Works. Scottish Water do however advise that this does not confirm that the proposed development can currently be serviced and advise that further investigations will be required once formal applications for connection are submitted for consideration. Scottish Water further advise that the proposed development is within the proximity of existing Scottish Water assets and the applicant should be aware that any conflict with assets identified may be subject to restrictions on proximity of construction.

JBA Consulting Ltd (JBA)

Report dated 28/03/23 advising no objection to the proposed development subject to conditions being imposed on the grant of permission to secure a detailed drainage assessment at full planning stage and a requirement for the surface water drainage system to be designed in accordance with CIRIA C753 and Sewers For Scotland 4th Edition. JBA further advise that, should a SuDS pond be proposed, this should be detailed on the site plan submitted at full planning stage.

Oban Community Council (OCC)

E-mail dated 30/03/23 objecting to the proposed development. In summary the points raised are:

- There is insufficient depth within the site to create a SuDS which Scottish Water and SEPA will require.
- Machinery which has been on site has infested the site with Japanese knotweed which now cover over half of the site which will take many years and a great expense to remove. OCC provide an example eradication condition imposed on a development in Tarbert.
- The site has been neglected by its owners and has become an important public open space for residents and the local primary campus who use it as an outside classroom for nature learning.

- If refused it is believed that there will be community support for the purchase of the site as an open space/nature reserve.

Comment: *The Council's flooding advisor, JBA, raised no objection to the proposed development subject to conditions being imposed on permission granted requiring full details of a land drainage design to be submitted with any detailed application. Similarly, should permission be granted, a condition will be imposed requiring the submission of details of programme of works for the eradication of Japanese Knotweed on the site to be submitted with any detailed application.*

Consultation responses are published in full on the planning application file and are available to view via the [Public Access](#) section of the Council's website.

(D) HISTORY:

18/02720/PPP

Site for proposed residential development – Granted: 04/07/19

17/02815/PPP

Site for proposed residential development – Withdrawn: 23/05/18

08/02088/OUT

Proposed site for housing development – Granted: 29/03/10

11/01452/PP

Formation of access track – Granted: 25/11/11

12/02210/PP

Variation of Condition 1 relative to outline planning permission reference 08/02088/OUT (proposed site for housing development) - extension of time period to allow a further period of three years to submit approval of matters specified by condition – Granted: 22/11/12

(E) PUBLICITY:

The proposal has been advertised in terms of Regulation 20 and Neighbour Notification procedures, overall closing date 13/04/23.

(F) REPRESENTATIONS:

(i) Representations received from:

At the time of writing 77 objections from 66 households and one representation had been received to the proposed development.

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

(ii) Summary of issues raised:

- **Traffic and Access Issues**

The traffic and access impacts resulting from development of the site require to be fully considered through a Traffic Impact Assessment.

Access to the site from Lonan Drive is limited and cannot be widened without compromising the stability of the steep rock face. Is it possible to provide a 5.5 metre road with 2 metre paving either side and, in addition, retain the core path at this narrow entrance point.

The proposed access will impact adversely on the driveway serving 25 Lonan Drive which opens out onto the proposed access route.

The proposed development will generate significant additional vehicles entering an already overcrowded and congested road network having implications for emergency service vehicles.

The proposed development has insufficient parking provision which will inevitably result in overspill parking and congestion on Lonan Drive.

Pedestrian crossing points, speed control and parking arrangements should be addressed.

The proposed traffic calming measures are inappropriate and dangerous.

The conditions proposed by the Roads Authority would not provide sufficient assurance that emergency vehicles could properly access the development unhindered by competing traffic in the give/take section of the proposed development.

A fire evacuation strategy should be submitted with the application which should include resident escape routes in the event of a wildfire occurring on the hillside or a fire(s) within the residential development.

Comment: *The Roads Authority was consulted on the proposed development and raised no objection on road or pedestrian safety grounds subject to a number of conditions being imposed on the grant of permission. The comments from the Roads Authority are set out in full in the assessment of the application within Appendix A of this report.*

Access to the development for emergency services, specifically the fire and rescue service, is addressed under the Building Standards Technical Handbook and would be a matter for assessment as part of a Building Warrant submission for the development.

- **Impact on Existing Infrastructure**

The existing water and drainage system is not suitable for further development.

The existing Scottish Water infrastructure within the site would limit either road, or housing development within the site.

Comment: *Scottish Water was consulted on the proposal and in their response raised no objection advising that the proposed development would be serviced*

by the Tullich Water Treatment Works and the Oban Waste Water Treatment Works. Scottish Water do however advise that this does not confirm that the proposed development can currently be serviced and advise that further investigations will be required once formal applications for connection are submitted to them for consideration.

Scottish Water further advised that the proposed development impacts on existing Scottish Water assets and the applicant should be aware that any conflict with assets identified may be subject to restrictions on proximity of construction. An informative to this effect will be attached to the grant of any permission.

During the processing of the previous application the applicant intimated that they were aware of Scottish Waters existing infrastructure within the site and it has always been understood this will need to be diverted as part of construction works, discussions on which have previously been undertaken with Scottish Water at a local level.

- **Surface Water Drainage Issues/Flooding**

The drainage issues are unsatisfactory. Events of flooding in Lochavullin, Glenshellach and Millpark show the inadequacy of the existing drainage infrastructure which will be exacerbated by the proposed development.

The application should provide SuDS as part of the application to show that the effects of the proposed development will be acceptable.

Failure to address this issue prior to permission being granted means that it cannot be scrutinised by the public which, in terms of transparency, is unacceptable.

Comment: *In their response to the application, the Council's Flooding Advisors, JBA, raised no objection to the proposal in principle subject to a condition being imposed on the grant of permission to secure a detailed drainage assessment at full planning stage and a requirement for the surface water drainage system to be designed in accordance with CIRIA C753 and Sewers for Scotland 4th Edition. Such details will require to form part of any detailed proposals for the site and will be reviewed and agreed by JBA in advance of any detailed permission being granted.*

- **Loss of Open Green Space**

The site is the only accessible recreation ground in the area and is an area of considerable amenity to locals being used primarily for recreation and access by children, pedestrians and dog walkers and the local school as an outdoor classroom.

The site is the only such amenity for the hundreds of residents of the surrounding area providing a safe opportunity for outdoor recreation.

The development of the site with housing will result in the loss of the only accessible area of natural greenery in the surrounding area which would have a significant impact on the life quality of many residents.

The argument for retaining this area as a wild woodland suitable for recreation have been set out in the numerous objections to previous applications for the development of the site and for this current application.

During Covid this was the only open space where people could get fresh air and exercise in safety.

There will be no natural areas for recreation left within this part of Oban if the proposed development takes place.

Comment: *The site is within private ownership and lies within the defined settlement boundary for Oban as defined in the adopted and emerging Local Development Plan where there is a general presumption in favour of appropriate forms of development.*

It should be noted that the elevated land adjacent to, but outwith, the application site has been designated as an Open Space Protection Area in pLDP2 where development will not be permitted.

- **Review the Classification of the Site**

Is it not possible to review the classification of the glen which, after all, provides a beneficial amenity for people and a necessary natural habitat for wildlife.

Comment: *As detailed in the assessment of the application in Appendix A, the area of elevated land, outwith the application site, but within the ownership of the applicant, has been identified as an Open Space Protection Area in pLDP2.*

Any further reclassification of land, including the application site, would require engagement with the proposed Local Development Plan 3 process.

- **Impact on Trees and Wildlife**

The proposed development would have an adverse impact on a wide variety of trees which provide shelter and food for many bird species and provide a habitat for bats and red squirrels. Bat and red squirrel surveys are considered necessary.

The trees on the steep slopes provide stability, prevent landslip and afford protection for the properties above. A detailed tree survey is recommended to ensure both in the interest of amenity and geological integrity that any approved development retains sufficient area of mature trees.

Comment: *The Council's BDO was consulted on the proposal noting that the proposal represented renewal of a previous permission. The BDO raised no objection to the proposed development subject to conditions requiring a number of surveys to be submitted with any future detailed application(s) being imposed on the grant of permission to secure the submission of survey and management information when any detailed planning application(s) for the site is submitted. Such surveys include species surveys for Bats (EPS) and Red Squirrel; Peat Management Plan; Tree Survey which should be undertaken prior to drafting the design plan for the placement of dwellings, gardens, verges, access, routes and services; and finally a Japanese Knotweed Eradication Plan. Such details will require to form part of any detailed proposals for the site and will be reviewed by*

the Council's Biodiversity Officer in advance of any detailed permission being granted.

- **Japanese Knotweed**

Japanese Knotweed has established itself within the site and spread extensively. This plant is highly invasive, presenting a problem not only for native wildlife but also for the built environment and relating infrastructure. Once established it is difficult to control and eradicate and can take several years.

Neighbours of the site area anxious of its spread.

Comment: *As detailed above, the Council's BDO has highlighted the presence of Japanese Knotweed on the site and therefore it is proposed to impose a condition seeking a programme of works for its eradication. Such details will require to form part of any detailed proposals for the development of the site and will be reviewed by the Council's BDO in advance of any detailed permission being granted.*

- **Core Path**

The core path should be preserved as an integral asset to the natural environment and the communities wellbeing.

The removal of the woodland path and pedestrian having to use the proposed internal road will not be safe.

Comment: *The site presently provides informal access through the site with a formal link with Feochan Gardens. The application shows the proposed access linking in to the path at Feochan Gardens retaining access through the site with the indicative plans showing that development can be achieved which protects the integrity of the path. During the processing of the original application, the Council's Access Officer raised no concerns regarding the Core Path following the proposed road but advised that any closure during the construction period should be kept to a minimum the details of which will require to be agreed in advance with him. A condition is proposed on the grant of permission requiring full details of the works to retain the Core Path within the development to be submitted as part of any future detailed planning application(s).*

With regards to pedestrian safety at the proposed access into the site, the Roads Authority has raised no objection on this issue.

- **Suitability and Stability of the Site for Development**

Whilst it is noted that there is a need for housing in Oban, there is also an obligation to provide housing in a reasonable environment. The site is surrounded almost totally by elevated ground and is the drainage area for what in effect is a canyon.

There is limited direct sunlight in all but the height of summer and, even then, only for a short period during the day. The houses will be dark and in damp surrounding with the potential for internal dampness being generated. This is not healthy.

The site is a former quarry which would have been exposed to dynamite blasting consequently damaging the geology on both steeply sloped sides of the site.

Many of the neighbouring properties are built on the top of a steep slope with some properties ground extending to the edge of the verge. Owners have witnessed signs of instability/slippage in certain areas and these slopes could be undermined by building works impacting adversely on existing properties.

The vibration from vehicles using the development will destabilise the cliff face posing a danger to vehicles and pedestrians.

A geotechnical site investigation and safety audit should be undertaken to establish the stability along the length of each bank.

Comment: *Ground stability is a matter for good development practise and is regulated by the Council's Building Standards Unit.*

- **Layout and Appearance**

The site is adjacent to parts of Nant Drive, Etive Gardens, Creran Gardens and Loan Drive which predominantly comprise of detached and semi-detached bungalows many set within spacious plots with front and rear gardens with some having garages and outbuildings.

The indicative layout of 44 units is considered to be too great for the site and at odds with the current local built environment.

Any development should be of similar design, layout, visual appearance and finishing materials to the surrounding residential development.

It is difficult to envisage how this site would accommodate single storey houses with gardens, parking spaces, a main road with paving either side and a core path.

Comment: *The site is within the Main Town of Oban in an area where there is a mix of densities and styles of developments. Whilst it is accepted that the development to the west is lower density than proposed in the current application, to the north is the former Local Authority development of Soroba which is a much denser development incorporating numerous blocks of flatted development.*

However, as is stated above, this application is not for any specified number, layout or design at this stage but for planning permission in principle to establish the principle of the development. Whilst the indicative plan demonstrates to the satisfaction of the Planning Authority that the site is capable of accommodating residential development, the specific detail of that development must be properly assessed through a subsequent future planning application(s) which will include the mix and layout of development which will be fully assessed against the relevant policies and guidance of the Development Plan to ensure that no adverse visual impact or privacy or amenity issues arise. Third parties will have the opportunity to comment on the detailed proposals.

- **Noise and Vibration Issues**

The geography of the glen amplifies sound.

Noise from construction works will be extremely disruptive.

Once completed, noise and vibration from vehicles using the development will be disruptive and noisy to neighbouring properties.

Comment: *Construction noise is not a material planning consideration. Should noise from construction become a significant issue, this would be a matter for the Council's Environmental Health Unit. With regards to traffic noise to and from the proposed development once completed, and the use of the development itself, it is not considered this would be a significant issue given that the site is within the main town of Oban adjacent to a large housing development where traffic noise already exists.*

- **Unauthorised Site Works**

Works within the site have taken place with the ground levels altered, a gully pump installed and a watercourse filled in.

Comment: *As a result of submission from third parties, the Council's Planning and Enforcement Officer has reviewed the works undertaken on site with no breach having been identified.*

- **Availability of Other Sites**

Alternative sites for development of additional social housing are available and under development to the north of Oban and offer far more suitable development opportunities than this controversial site.

Comment: *This is not a material consideration in the determination of this planning application. The Planning Authority has to assess any application presented to them in terms of the provisions of the Development Plan in force at the time.*

- **Insufficient Information Submitted**

The applicants justifications for proposing that important material considerations are deferred until the detailed planning stage is not acceptable.

Details with regards to drainage, waste, Japanese knotweed, biodiversity should be submitted and considered under the current application.

Comment: *The purpose of this application is to establish the principle of a residential development, which has previously been accepted by the Planning Authority and Members of the Planning, Protective Services and Licensing Committee. Matters of layout and design will be addressed by way of future application(s) for approval of matters specified in conditions.*

Notwithstanding this, the application has been accompanied by an indicative plan which demonstrates to the satisfaction of the Planning Authority that the site is capable of accommodating residential development.

Furthermore, no objections have been received from consultees with regards to servicing and infrastructure arrangements to serve the proposed development.

- **Non-Compliance with Policy / Outcome of Local Development Plan 2**

The proposal is contrary to a number of Local Plan and NPF4 Policies.

The response to the Planning Authority's request for a statement on the relevant NPF4 Policies is lacking and not acceptable.

Determination of the application should be postponed until the outcome of pLDP2 is known.

Comment: *The proposed development is fully assessed against the relevant LDP and NPF4 Policies in the assessment of the application in Appendix A of this report.*

Proposed LDP2, as recommended to be modified by the Examination Report, is now a significant material consideration in planning applications.

- **Oban and District Access Panel**

There is no Supporting Statement giving a context for the projection of an Access/Design Statement giving a design or layout philosophy. The Panel has no comments on the planning merits of the proposed development but, if it is to proceed, would ask that, in line with draft Scottish Government Policy, at least 10% of the units should be founded on Inclusive Design principles and be accessible to all.

Comment: *These comments are noted and will be passed to the Applicant by way of an informative on the grant of permission.*

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) **Environmental Impact Assessment Report:** Yes No
- (ii) **An Appropriate Assessment under the Conservation (Natural Habitats) Regulations 1994:** Yes No
- (iii) **A Design or Design/Access statement:** Yes No
- (iv) **A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** Yes No

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: Yes No

- (I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: Yes No
-

- (J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application

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

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

Part 2 – National Planning Policy

Sustainable Places

NPF4 Policy 1 – Tackling the Climate and Nature Crises

NPF4 Policy 2 – Climate Mitigation and Adaption

NPF4 Policy 3 – Biodiversity

NPF4 Policy 4 – Natural Places

NPF4 Policy 6 – Forestry, Woodland and Trees

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

NPF4 Policy 12 – Zero Waste

NPF4 Policy 13 – Sustainable Transport

Liveable Places

NPF4 Policy 14 – Design, Quality and Place

NPF4 Policy 15 – Local Living and 20 Minute Neighbourhoods

NPF4 Policy 16 – Quality Homes

NPF4 Policy 18 – Infrastructure First

NPF4 Policy 21 – Play, Recreation and Support

NPF4 Policy 22 – Flood Risk and Water Management

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

LDP STRAT 1 – Sustainable Development

LDP DM 1 – Development within the Development Management Zones

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

LDP 8 – Supporting the Strength of our Communities

LDP 9 – Development Setting, Layout and Design

LDP 10 – Maximising our Resources and Reducing our Consumption

LDP 11 – Improving our Connectivity and Infrastructure

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

Natural Environment

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

SG LDP ENV 6 – Impact on Trees / Woodland

SG LDP ENV 8 – Green Networks

Landscape and Design

SG LDP ENV 14 – Landscape

General Housing Development

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

SG LDP HOU 2 – Special Needs Provision in Housing Developments

Housing Greenspace

SG LDP HOU 3 – Housing Green-Space

Sport, Leisure, Recreation and Open Space

SG LDP REC/COM 2 – Safeguarding Sports Fields, Recreation Areas and Open Space Protection Areas (OSPAs)

Sustainable Siting and Design

SG LDP Sustainable – Sustainable Siting and Design Principles

Resources and Consumption

SG LDP SERV 2 – Incorporation of Natural Features / SuDS

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

Transport (Including Core Paths)

SG LDP TRAN 1 – Access to the Outdoors

SG LDP TRAN 2 – Development and Public Transport Accessibility

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

SG LDP TRAN 6 – Vehicle Parking Provision

SG LDP TRAN 7 – Safeguarding of Airports

(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 Technical Note – Biodiversity \(Feb 2017\)](#)
- [ABC draft Technical Note – Argyll and Bute Windows \(April 2018\)](#)
- [ABC Housing Needs and Demand Assessment](#)
- [ABC Housing Emergency Statement](#)

[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 06 – Green Infrastructure
- Policy 08 – Sustainable Siting
- Policy 09 – Sustainable Design
- Policy 10 – Design – All Development

Connected Places

- Policy 32 – Active Travel
- Policy 33 – Public Transport Policy 34 – Electric Vehicle Charging Points
- Policy 35 – Design of New and Existing, Public Roads and Private Access Regimes
- Policy 36 – New Private Accesses
- Policy 37 – Development Utilising an Existing Private Access or Existing Private Road
- Policy 39 – Construction Standards for Private Accesses
- Policy 40 – Vehicle Parking Provision
- Policy 43 – Safeguarding of Aerodromes

Sustainable Communities

- Policy 61 – Sustainable Urban Drainage Systems (SUDS)
- Policy 63 – Waste Related Development and Waste Management

Homes for People

- Policy 67 – Provision of Housing to Meet Local Needs Including Affordable Housing
- Policy 68 – Housing Greenspace

High Quality Environment

- Policy 73 – Development Impact on Habitats, Species and Biodiversity
- Policy 77 – Forestry, Woodland and Trees
- Policy 81 – Open Space Protection Areas

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

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

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

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

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

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

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

The application has been the subject of 77 objections from 66 households, one representation and an objection from the Oban Community Council.

Whilst the public interest in the application is noted, the site the subject of the application has been the subject of a previous PPP, reference 18/02720/PPP, for the same development. Whilst the previous PPP expired on 31/03/23, it is considered to represent a material consideration in the current application which was submitted and validated within the lifetime of the previous permission.

The previous application was the subject of a discretionary local hearing which resulted in the application being determined with a recommendation of approval.

Since the previous permission was granted, there has been no change in the main policy background within this area and there have been no material changes in circumstances in the locality or in the previously approved access or servicing arrangements which would preclude the renewal of the previous permission.

Whilst pLDP 2 has not yet been adopted, it is noted that the site the subject of the application will remain within the defined 'Settlement' where Policy 01 gives general encouragement to development provided that there is no unacceptable environmental, servicing or access impact and subject to compliance with other relevant policies and guidance.

Accordingly, in this instance, as the circumstances of the site, infrastructure and planning policy have not changed since the previous permission was granted, it is not considered that a further local hearing would add any value to the planning process.

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

- N/A

(P)(ii) Soils

[Agricultural Land Classification:](#)

Unclassified Land

Peatland/Carbon Rich Soils Classification:

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

Peat Depth Classification:

N/A

Does the development relate to croft land?

- Yes No

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

- Yes No N/A

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

- Yes No N/A

(P)(iii) Woodland

Will the proposal result in loss of trees/woodland?
(If yes, detail in summary assessment)

- Yes
- No

Does the proposal include any replacement or compensatory planting?

- Yes
- No details to be secured by condition
- N/A

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

Status of Land within the Application
(tick all relevant boxes)

- Brownfield
- Brownfield Reclaimed by Nature
- Greenfield

ABC LDP 2015 Settlement Strategy

LDP DM 1 (tick all relevant boxes)

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

ABC LDP 2015 Allocations/PDAs/AFAs etc:

N/A

ABC pLDP2 Settlement Strategy

(tick all relevant boxes)

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

ABC pLDP2 Allocations/PDAs/AFAs etc:

N/A

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

The principle of the development on this site has been established by the granting of PPP reference 18/02720/PPP.

Whilst the previous PPP expired on 31/03/23, it is considered to represent a material consideration in the current application which was submitted and validated within the lifetime of the previous permission and which effectively seeks to renew the original

PPP.

The application is seeking to secure PPP for a residential development on an area of land at Lonan Drive, Oban.

Whilst only seeking to establish the principle of development, an indicative layout has been submitted in support of the application showing a layout for 44 units. The indicative layout shows a mix of flats and semi-detached dwellinghouses in 12 blocks situated either side of the proposed access road with an area of casual play space to the south and an equipped play space to the north of the proposed residential units. The indicative layout has been arranged in such a way to avoid the steeply sloping tree covered hillside running along the western edge of the site.

Notwithstanding the above, it should be noted that this is an application for PPP only seeking the approval for the residential development of the land subject of this planning application and not for any specified number, layout or form of dwellings. The submitted plan is solely for indicative purposes. Whilst this indicative plan illustrates a possible development of 44 dwellings, this does not mean that the site is necessarily capable of being developed at that density. The purpose of the indicative plan is simply to demonstrate, to the satisfaction of the Planning Authority, that the site is capable of accommodating residential development to an appropriate standard and generally in accordance with the provision of the LDP.

Vehicular access to serve the site is by extension of Lonan Drive with water supply and drainage via connection to the public systems within the control of Scottish Water.

No adverse comments have been received from consultees with regards to the proposed access and infrastructure arrangements to serve the proposed development.

The application has been the subject of 77 objections from 66 households, one representation and an objection from the Oban Community Council.

The proposal is considered consistent with the terms of National and Local Planning Policy and it is recommended that permission be approved subject to conditions.

A full report is provided in Appendix A.

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

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

The proposal is considered to be consistent with the relevant provisions of the Development Plan and National Planning Framework 4 and there are no other material considerations of sufficient significance, including issues raised by third parties, to indicate that it would be appropriate to withhold planning permission having regard to Section 25 of the Act.

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

N/A

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

Author of Report: Fiona Scott

Date: 29/11/23

Reviewing Officer: Peter Bain

Date: 08.12.2023

Fergus Murray
Head of Development & Economic Growth

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 23/00376/PPP**Standard Time Limit Condition** (as defined by Regulation)**Additional Conditions****1. PPP – Matters Requiring AMSC Submission**

Plans and particulars of the matters specified in conditions 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 below shall be submitted by way of application(s) for Approval of Matters Specified in Conditions in accordance with the timescales and other limitations in Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended. Thereafter the development shall be completed wholly in accordance with the approved details.

Reason: To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended.

Note to Applicant

Regard should be had to Scottish Waters consultation comments and the Oban and District Access Panels comments in relation to the proposed development, details of which are available to view via the [Public Access](#) section of the Council's website.

2. PPP – Approved Details

The development shall be implemented in accordance with the details specified on the original application form dated 18/12/18 and the previously approved drawings listed in the table below.

Plan Title.	Plan Ref. No.	Version	Date Received
Site and Location Plan	1441 01	b	09/03/23
Indicative Site Plan & Site Sections	1440 L(--)-01	g	09/03/23
Site Sections	1440 L(--)-02	a	09/03/23
Road Layout at Lonan Drive	601775-DRG-0001-P1		09/03/23
Road Details at Lonan Drive	601775-DRG-0002-P1		09/03/23

Reason: To accord with Regulation 28 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008.

3. PPP – Timescale to be Agreed for Completion

Pursuant to Condition 1 - no development shall commence until details of the proposed timescale for completion of the approved development have been submitted to and approved by the Planning Authority. Thereafter, the development shall be implemented in accordance with the duly approved timescale for completion unless an alternative timescale for completion is otherwise agreed in writing with the Planning Authority.

Reason: In order to comply with the requirements of NPF4 Policy 16F.

4. PPP – Roads and Access

Pursuant to Condition 1 – no development shall commence until details of the proposed service road and connection with the existing public road have been submitted to and approved by the Planning Authority. Such details shall incorporate:

- i) A vehicular access layout providing a Road over which the public has a right of access in terms of the Roads (Scotland) Act 1984;
- ii) A turning head for the public service vehicle;
- iii) Details of the priority signage for the access into the site.

Prior to work starting on site, the junction with the existing public road shall be fully formed and surfaced with all access roads and footways granted consent constructed to at least base course level prior to any work starting on the erection of the buildings which they are intended to serve and the final wearing surface of the roads and footways shall be applied concurrently with the construction of the final building.

Reason: In the interests of road safety and to ensure the timely provision of a service road commensurate to the scale of the overall development and having regard to the status of the proposed access as a residential service road.

Note to Applicant:

Road Construction Consent under the Roads (Scotland) Act 1984 must be obtained from the Council's Roads Engineers and a Road Bond provided prior to the formation of the access within the development site.

5. PPP – Parking Provision

Pursuant to Condition 1 – no development shall be commenced in respect of any individual building until plans and particulars of the means of parking/turning arrangements to serve that building have been submitted to and approved by the Planning Authority. Such details shall incorporate:

- i) The provision of parking and turning in accordance with the requirements of Supplementary Guidance SG LDP TRAN 6 of the adopted 'Argyll and Bute Local Development Plan' 2015.

The approved parking and turning layout to serve the buildings shall be implemented in full prior to that building first being occupied and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

Reason: In the interests of road safety.

6. PPP – Sustainable Drainage System

Pursuant to Condition 1, no development shall commence on site until full details, in plan form, of the land drainage design for the site and details of its ongoing maintenance has been submitted to and approved in writing by the Planning Authority. Such details shall show a drainage system designed in accordance with CIRIA C753 and Sewers for Scotland 4th Edition.

Reason: In order to safeguard the development from the possibility of flooding.

Note to Applicant

Regard should be had to JBA Consulting Ltd consultation comments in relation to the proposed development, details of which is available to view via the [Public Access](#) section of the Council's website.

7. PPP – Design and Finishes

Pursuant to Condition 1 – no development shall commence in respect of any individual building until plans and particulars of the site layout, open space, design and external finishes of the development have been submitted to and approved by the Planning Authority. These details shall incorporate:

- i) A Design Statement in accordance with the advice set out in Planning Advice Note 68 which shall establish the design principles applicable to the layout of the development as a whole and design of the individual dwellings.
- ii) A statement addressing how the proposed development has been designed to be consistent with the six qualities of successful places, as defined within NPF4 Policy 14;
- iii) A statement addressing the Action Checklist for developing design contained within the Argyll and Bute Sustainable Design Guide 2006;
- iv) Local vernacular design.

Reason: To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended, and in order to integrate the proposed dwellinghouse with its surrounds.

8. PPP – Landscaping

Pursuant to Condition 1 – no development shall commence until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved 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.

All physical biodiversity enhancement measures (bird nesting boxes, 'swift bricks', wildlife ponds, bat and insect boxes, hedgehog homes etc.) shall be implemented in full before the development hereby approved is first brought into use.

All biodiversity enhancement measures consisting of new or enhanced planting shall be undertaken either in accordance with the approved scheme of implementation or within the next available planting season following the development first being brought into use.

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 interests of amenity.

9. **PPP – Tree Retention and Protection**

Pursuant to Condition 1 – no development shall commence until a scheme for the retention and safeguarding of trees during construction has been submitted to and approved by the Planning Authority. The scheme shall comprise:

- i) A survey of trees on and overhanging the site indicating the location, species, height, canopy spread and condition of each tree;
- ii) An assessment of the amenity and nature conservation value of tree groups and individual trees which shall inform the layout of the development proposed;
- iii) Details of all trees to be removed and the location and canopy spread of trees to be retained as part of the development;
- iv) A programme of measures for the protection of trees during construction works which shall include fencing at least one metre beyond the canopy spread of each tree in accordance with BS 5837:2012 "Trees in Relation to Design, Demolition and Construction".

The tree survey should be undertaken prior to drafting the design plan for the placement of dwellings, verges, access routes and services.

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

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

10. **PPP – Japanese Knotweed Eradication Scheme**

Pursuant to Condition 1 – no development shall commence on site until full details of a scheme for the eradication of Japanese Knotweed has been submitted to and approved in writing by the Planning Authority in consultation with the Biodiversity Officer. The scheme shall include a timetable for implementation and clearly identify the extent of the Japanese Knotweed on a scaled plan. Prior to construction works

commencing on site the approved scheme and timetable shall be implemented in full and a validation report confirming details of the remediation treatment carried out and confirmation that the site is free of Japanese Knotweed shall be submitted to the Planning Authority.

Reason: To eradicate Japanese Knotweed from the development site and to prevent the spread of this non-invasive species through development works.

11. **PPP – Affordable Housing**

Pursuant to Condition 1 - no development shall commence until a scheme for the provision of affordable housing (as defined below) has been submitted to and approved by the Planning Authority. The scheme shall:

- a) Provide that a minimum of 25% of the approved dwellings are affordable homes;
- b) Define those properties to be used as affordable homes;
- c) Establish the timing of their provision relative to the phasing of the development, which shall ensure that the last 25% of the dwellings within the development are not commenced until the affordable housing phase has been completed for occupation;
- d) Establish the arrangements to ensure the affordability of the affordable homes for both initial and subsequent occupiers (including any discount rate applicable in terms of (ii) below);

For the purposes of this condition 'affordable homes' are defined as being either:

- i) Social housing (rented or shared ownership or shared equity) managed by a registered social landlord (a body registered under part 3 chapter 1 of the Housing (Scotland) Act 2001, or any equivalent provision in the event of the revocation and re-enactment thereof, with or without modification);
- ii) Discounted low cost sale housing (subject to a burden under the Title Conditions (Scotland) Act 2003), or any equivalent provision in the event of the revocation and re-enactment thereof, with or without modification).
- iii) Housing for sale or rent without subsidy, which is designed to be affordable and to meet the housing needs of the majority of those households identified as in housing need in the Local Housing Strategy or Housing Market Study i.e. one or two person households on average income, with conditions attached to their missives to prevent further extension, thereby helping to ensure that they are likely to remain affordable to subsequent purchasers.

The development shall be implemented and occupied thereafter in accordance with the duly approved scheme for affordable housing.

Reason: To accord with the provisions of the Development Plan in respect of affordable housing provision.

12. **PPP – Ecological Surveys**

Pursuant to Condition 1 - no development shall commence until full details of a Bat Survey and Red Squirrel Survey have been submitted to and approved in writing by the Planning Authority in Consultation with the Biodiversity Officer. Such details shall include when the surveys are to be carried out, the methodology to be employed in both surveys and any mitigation measures, including a timetable for the implementation of mitigation measures.

Reason: To prevent the disturbance of Protected Species.

Note to Applicant

Regard should be had to the Council's Biodiversity Officers consultation comments in relation to the proposed development, details of which is available to view via the [Public Access](#) section of the Council's website.

13. PPP – Peat Survey

Pursuant to Condition 1- no development shall commence until full details of a Peat Survey and Management Plan has been submitted to and approved in writing by the Planning Authority in consultation with the Biodiversity Officer. Such details shall provide details of the depth of the peat deposit on site.

Reason: In order to protect natural heritage assets.

Note to Applicant:

Should the survey determine the depth of peat to be in excess of 0.5 metres the applicant will require to liaise with SEPA for advice on management.

Regard should be had to the Council's Biodiversity Officers consultation comments in relation to the proposed development, details of which is available to view via the [Public Access](#) section of the Council's website.

14. PPP – Open Space/Play Areas

Pursuant to Condition 1 – no development shall commence until details for the provision and maintenance of proposed areas of communal open space and equipped play area(s) within the development have been submitted to and approved by the Planning Authority. The details shall comprise:

- i) A plan showing the location and extent of communal open space and equipped play areas;
- ii) Provision to satisfy the minimum standards set out in the Development Plan; 6sqm of equipped play space and 12sqm of informal open space per dwelling unit;
- iii) Specification of play equipment to be installed, including surface treatments and any means of enclosure, designed in accordance with the provisions of BS5696 (Play Equipment Intended for Permanent Installation Outdoors);
- iv) Proposals for the timing of the implementation of the play area(s) in relation to the phasing of the development;
- v) A maintenance schedule for communal open spaces and equipped play areas in accordance with the provisions of BS5696 including details of on-going inspection, recording and procedures for detailing with defects.

The communal open space and equipped play area(s) shall be provided in accordance with the duly approved details and shall be retained and maintained to the specified standards thereafter.

Reason: In order to secure provision of communal open space and equipped play areas within the development in accordance with the minimum standards set out in the Development Plan.

15. **PPP – Core Path**

Pursuant to Condition 1 – no development shall commence until details for the provision of the Core Path through the development site has been submitted to and approved by the Planning Authority in consultation with the Access Officer.

The details shall comprise:

- i) The route a minimum width of 2.5 metres wide;
- ii) The route finished in a tarmacadam surface;
- iii) The route provided with dropped kerbs where it meets the road surface;
- iv) Gradients kept to a minimum to ensure the route is accessible for people of all abilities.

The route shall be provided in accordance with the duly approved details and maintained to the specified standards thereafter.

Reason: In order to secure the retention of the existing core path in the interests of amenity

Note to Applicant:

The advice contained in the consultation response from the Council's Access Officer in relation to application 18/02720/PPP, available to view via the [Public Access](#) section of the Council's website, should be fully considered in the preparation of the details for the provision of the Core Path within the development.

COMMITTEE REPORT	
APPENDIX A – RELATIVE TO APPLICATION NUMBER:	23/00376/PPP
PLANNING LAND USE AND POLICY ASSESSMENT	

1. Introduction

- 1.1. The proposal the subject of this application is seeking to secure PPP for a residential housing development.

The site the subject of the application has been the subject of a previous PPP, reference 18/02720/PPP, for the same development. Whilst the previous PPP expired on 31/03/23, it is considered to represent a material consideration in the current application which was submitted and validated within the lifetime of the previous permission and effectively seeks to renew the previous PPP.

As an application for PPP, no detailed layout, design or infrastructure details having been submitted. The purpose of this application is to establish the principle of development with the matters of layout and design to be addressed by way of future application(s) for approval of matters specified in conditions.

Whilst only seeking PPP, an indicative layout has been submitted in support of the application showing a layout for a 'large scale' housing development of 44 units.

Whilst this indicative plan illustrates a possible development of 44 dwellings, this does not mean that the site is necessarily capable of being developed at that density. The purpose of the indicative plan is simply to demonstrate, to the satisfaction of the Planning Authority, that the site is capable of accommodating residential development to an appropriate standard and generally in accordance with the provision of the LDP.

The proposal has elicited 77 objections from 66 households, 1 representation and an objection from the Oban Community Council.

2. Location, Nature and Design of Proposed Development

- 2.1. The application site is situated within a long established residential area on the periphery of the Main Town of Oban.

The site is accessed from the end of Lonan Drive where it is contained within a small glen bounded along its western boundary by the established residential development of Nant Drive which is at a significantly higher level. To the east the site rises steeply upwards beyond which is the formal Local Authority development of Soroba. To the north is Feochan Gardens, a continuation of Nant Drive, and to the south Etive and Creran Gardens. Development within the residential areas surrounding the site comprises a mixture of private semi-detached and detached dwellinghouses which are predominantly single storey.

The application proposes to extend Lonan Drive through the glen with the residential development located within the glen and hillside.

As detailed above, as the application is only seeking to establish the principle of the development, no detailed layout, design or infrastructure details have been submitted in support of the application. However, given the constraints of the site, together with the

number of units proposed, an indicative layout has been submitted with the application showing how the site could be developed. The indicative layout shows a mix of flats and semi-detached dwellinghouses in 12 blocks situated either side of the proposed access road with an area of casual play space to the south and an equipped play space to the north of the proposed residential units. The indicative layout has been arranged in such a way to avoid the steeply sloping tree covered hillside running along the western edge of the site.

Notwithstanding the above, it should be noted that this is an application for PPP only. It seeks the approval for the residential development of the land subject of this planning application and not for any specified number, layout or form of dwellings. The subsequently submitted plan is solely for indicative purposes only. Whilst this indicative plan illustrates a possible development of 44 dwellings, this does not mean that the site is necessarily capable of being developed at that density. The purpose of the indicative plan is simply to demonstrate, to the satisfaction of the Planning Authority, that the site is capable of accommodating residential development to an appropriate standard and generally in accordance with the provision of the LDP.

Through the granting of the previous PPP, the Planning Authority was satisfied that the indicative plan successfully demonstrated that the site is appropriate for residential development arranged along a straight, central access road with buildings either side of it and limited to the 'valley floor' without unacceptable encroachment into the steep and wooded valley sides. Whilst the indicative plan demonstrates to the satisfaction of the Planning Authority that the site is capable of accommodating residential development, the specific detail of that development must be properly assessed through a subsequent future planning application(s).

Vehicular access to serve the site is by extension of Lonan Drive with water supply and drainage via connection to the public systems. The infrastructure arrangements to serve the site are discussed in detail in the relevant sections below.

There has been no change in the circumstances of the site, infrastructure and planning policy since the previous permission was granted

3. Settlement Strategy

3.1. In terms of the Settlement Strategy set out in the adopted 'Argyll and Bute Local Development Plan' 2015 (LDP), the application site is situated within the Main Town of Oban where Policies LDP STRAT 1 and LDP DM 1 give general encouragement to development on appropriate sites. These main policy considerations are underpinned by the Supplementary Guidance (SG) contained with SG LDP HOU 1 and SG LDP ENV 14 which offer further support to appropriate scales of residential development where such development would have no significant adverse impact upon the character of the landscape and where there is no unacceptable environmental, servicing or access impact.

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

- 3.1.1. Compliance with the Development Plan and other relevant planning policy
- 3.1.2. Any other material considerations, including the planning history of the site.

4. Compliance with National Policy

NPF4 was adopted on 13 February 2023 which now represents the main policy background against which proposed developments are assessed underpinned by the Policy and SG contained within the adopted LDP.

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

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

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

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

4.2. NPF4 Policy 2 – Climate, Mitigation and Adaption

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

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

4.3. NPF4 Policy 3 – Biodiversity

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

Whilst the site is not subject of any statutory landscape or nature designations, it is within an area where there is significant tree cover with third parties raising concerns regarding the implications of the proposed development on wildlife, particularly squirrels and bats.

The Council's Biodiversity Officer was consulted on the proposal and raised no objection to the proposed development subject to conditions being imposed on the grant of permission to secure the submission of survey and management information when any detailed planning application(s) for the site is submitted. Such surveys include species surveys for Bats (EPS) and Red Squirrel; Peat Management Plan; Tree Survey which should be undertaken prior to drafting the design plan for the placement of dwellings, gardens, verges, access, routes and services; and finally a Japanese Knotweed Eradication Plan.

With regards to the need in NPF4 Policy 3 to secure biodiversity improvements, it is not considered that there are any issues of compliance with Policy 3. No material biodiversity impacts have been identified in the assessment of this application by the Planning Authority. Furthermore, the Supporting Statement (SS) submitted by the applicant outlines that detailed arrangements for biodiversity enhancement within the development will be brought forward concurrently with the design and layout of the housing

development. The SS indicates that such biodiversity enhancement measures could include tree protection measures, new tree planting, native planting and wild flower seed sowing, provision of bat boxes, use of green roofs where appropriate, formation of naturalistic SuDS features and retention of felled tree sections. Accordingly, given that the application is seeking to establish the principle of the development, it is considered that adequate and proportionate measures for biodiversity enhancement and protection can be delivered by a condition imposed on the grant of permission.

With conditions to secure the requirements of the Biodiversity Office and a condition to secure adequate and proportionate biodiversity enhancement and protection measures within the development, the proposal is considered to be consistent with NPF4 Policy 3 as underpinned by LDP Policies LDP 3 and SG LDP ENV 1 and Policy 73 of pLDp2.

4.4. NPF4 Policy 4 – Natural Places

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

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

Whilst the site is not within any of the aforementioned designations, it represents an informal of informal open recreation space within a wider residential development. Accordingly, during the processing of the previous application the Planning Authority negotiated to secure an indicative layout which would have the least impact on this area of valuable open space.

The Planning Authority also sought to negotiate the provision of the elevated area of land within the ownership of the applicant (shown within the site edged blue) adjoining the application site as an Open Space Protection Area (OSPA) as it was considered that the provision of this land as an OSPA would add value to the overall development by offsetting the loss of a substantial area of land which has long been enjoyed as an informal area of public open space.

However, this request was rejected by the applicant and therefore the Planning Authority entered into discussions with the Council's Development Policy Team (DPT) to investigate a mechanism for securing this area as an OSPA within the forthcoming pLDP2.

The DPT advised that the wider area adjacent to the application site had been assessed as part of the preparation for pLDP2 as it was considered that the prominent ridge in this area contributes, at a local level, to both the landscape and townscape structure and identity of Oban. On this basis the DPT proposed that the area of elevated land, outwith the application site but within the ownership of the applicant, be identified as an OSPA in pLDP2.

This elevated area of ground is designated within pLDP2 as an OSPA where built development will not be supported.

As detailed at NPF4 Policy 13 below, the site presently provides informal access through the site with a formal link with Feochan Gardens. However the application shows the

proposed access linking in to the path at Feochan Gardens retaining access through the site with the indicative plans showing that development can be achieved which protects the integrity of the path.

The proposed development is considered to be consistent with NPF4 Policy 4 as underpinned by LDP Policies 3, SG LDP ENV 1 and SG LDP ENV 8 and Policies 06 and 73 of pLDP2.

4.5. NPF4 Policy 6 – Forestry, Woodland and Trees

NPF4 Policy 6 seeks to protect and expand forests, woodland and trees.

Whilst the site is within an area where there is significant tree cover, the site is not located within an area of ancient woodland, nor will it result in the loss of any ancient or veteran trees. Notwithstanding this, at the request of the Biodiversity Officer, a condition is proposed on the grant of permission to secure a tree survey for the site. Such a survey will require details of proposed tree felling, tree retention and tree protection measures for the development.

With a condition to secure a tree survey for the site, the proposal is considered to be consistent with NPF4 Policy 6 as underpinned by LDP Policies LDP 3 and SG LDP ENV 6 and Policy 77 of pLDP2.

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

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

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

Whilst the site the subject of the application is on a greenfield site, in terms of our adopted settlement strategy, the site of the proposed residential development is within the Main Town of Oban where Policies LDP STRAT 1 and LDP DM 1 give general encouragement to development on appropriate sites. These main policy considerations are underpinned by the SG contained with SG LDP HOU 1 and SG LDP ENV 14 which offer further support to appropriate scales of residential development where such development would have no significant adverse impact upon the character of the landscape and where there is no unacceptable environmental, servicing or access impact.

In terms of pLDP2, the site is identified as being within a 'Settlement Area' where Policy 01 gives general support to development provided that it is compatible with surrounding uses; provides appropriate infrastructure; is of an appropriate scale and fit for the size of settlement in which it is proposed; and respects the character and appearance of the surrounding townscape in terms of density, scale, massing, design, external finishes and access arrangements.

NPF4 Policy 9 aligns with the settlement strategy of the LDP and emerging pLDP2 and the current development proposal raises no issue of conflict.

4.7. NPF4 Policy 12 – Zero Waste

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

The development the subject of this planning application seeks to establish the principle of a residential development, with an indicative layout for 44 units shown. Whilst this is a development which will generate waste when operational, it will benefit from regular waste uplifts by the Council and will be expected to comply with our adopted and enforced recycling and reuse strategy.

The proposed development aligns with NPF4 Policy 12 as underpinned by LDP Policies LDP 10 and LDP SERV 5(b) and Policy 63 of pLDP2 and the current proposal would raise no issue of conflict should permission be granted.

4.8. NPF4 Policy 13 – Sustainable Transport

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

The application proposes to extend Lonan Drive to serve the proposed development.

This development is not considered to be a significant travel generating use or a proposal where it is considered important to monitor travel patterns resulting from the development.

The SS submitted with the application details that the application site is readily accessible to existing path and public road networks, as well as the existing public bus network. The SS details that the site offers opportunities for pedestrian access through the centre which connects into existing paths at either end and provides improved access to the undeveloped hillside. The SS states that EV charging points, cycle storage provision, pedestrian crossing points, speed control measures, footpath connection and parking arrangements will be detailed in the future application(s) for the detailed development of the site.

In their response to the application the Roads Authority raised no objection to the proposal or concern in respect of the capacity of the existing road network to accommodate the development subject to a number of conditions being imposed on any permission granted including the construction of the internal road which will require to be to adoptable standard and provision of an appropriate parking and turning area to serve the development.

During the processing of the 2017 planning application, which was withdrawn, the Roads Authority advised that they were minded to refuse permission as there was insufficient development width at the site access to safely provide a two lane 5.5 metre wide carriageway with 2 metre footways/verges either side.

However, whilst the physical circumstances of the site remain the same as the 2017 planning application, during the processing of the 2018 application, which the current proposal effectively seeks to renew, the Roads Authority advised that the design addresses and provides an acceptable roads design solution for the section of the development that cannot achieve a 7.5m road corridor. It is advised that the roads design proposed incorporates a traffic calmed area with a width restriction to the carriageway and give and take vehicular access arrangements (similar to the traffic calming detailed in S6.6.4(9) of the Roads Development Guide). The traffic calmed area at the proposed access has been designed to provide a 3.7 metre wide carriageway with a 2 metre wide

footway on one side for approximately 25 metres with the carriageway within the proposed development 5.5 metres wide with 2 metre footways either side.

The site presently provides informal access through the site with a formal link with Feochan Gardens. The application shows the proposed access linking in to the path at Feochan Gardens retaining access through the site. However, indicative plans show that development can be achieved which protects the integrity of the path. Furthermore, during the processing of the previous application, the Council's Access Officer raised no objection to the proposed development provided that the route is retained with any closure for the minimum possible time period and subject to conditions regarding the Core Path.

With conditions to secure the requirements of the Roads Authority and the Access Officer the proposed development aligns with NPF4 Policy 13 as underpinned by LDP Policies LDP 11, SG LDP TRAN 1, SG LDP TRAN 2, SG LDP TRAN 4 and SG LDP TRAN 6 and Policies 32, 35, 36, 37, 39 and 40 of pLDP2.

4.9. NPF4 Policy 14 – Design, Quality and Place

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

As detailed above, the application is seeking to establish the principle of a residential development. Whilst no specific siting or design has been submitted for assessment by the Planning Authority, the application is accompanied by an indicative layout of how 44 dwellings could be accommodated within the site. However, the purpose of the indicative plan is simply to demonstrate, to the satisfaction of the Planning Authority, that the site is capable of accommodating residential development to an appropriate standard and generally in accordance with the provision of the LDP.

In this instance, whilst the indicative plan demonstrates to the satisfaction of the Planning Authority that the site is capable of accommodating residential development, the specific detail of that development must be properly assessed through a subsequent future planning application(s) which will be expected to comply with the 'place principle' as set out in NPF4 Policy 14 and planning conditions attached to the grant of PPP will ensure that the development is designed to an appropriate standard.

The proposed development aligns with NPF4 Policy 14 as underpinned by LDP Policies LDP 9 and SG LDP Sustainable Siting and Design Principles and Policies 05, 08, 09 and 10 of pLDP2 and the current proposal would raise no issue of conflict should permission be granted.

4.10. NPF4 Policy 15 – Local Living and 20 Minute Neighbourhoods

NPF4 Policy 15 seeks to encourage, promote and facilitate the application of the 'Place Principle' and create connected and compact neighbourhoods where people can meet the majority of their daily needs within a reasonable distance of their home, preferably by walking, wheeling or cycling or using sustainable transport options.

In terms of our adopted settlement strategy, the site of the proposed residential development is within the Main Town of Oban where Policies LDP STRAT 1 and LDP DM 1 give general encouragement to development on appropriate sites. These main policy considerations are underpinned by the SG contained with SG LDP HOU 1 and SG LDP ENV 14 which offer further support to appropriate scales of residential development where

such development would have no significant adverse impact upon the character of the landscape and where there is no unacceptable environmental, servicing or access impact.

It is considered that the scale of the proposed development, and its location, would reasonably comply with Policy 15 of NPF4 given the existing geographical scale of the environment within which the development is to be located, and given its compliance with the existing settlement pattern and the level and quality of interconnectivity of the proposed development with the surrounding area where people can reasonably meet the majority of their daily needs within a reasonable distance of their home.

The proposed development aligns with NPF4 Policy 15 as underpinned by the broad settlement strategy policy contained within LDP Policies LDP DM 1, LDP 8, LDP 10 and LDP 11 of the LDP and Policy 02 of pLDP2 and the current proposal would raise no issue of conflict should permission be granted.

NPF4 Policy 16 – Quality Homes

NPF4 Policy 16 supports development proposals which encourage, promote and facilitate the delivery of more high quality, affordable and sustainable homes, in the right locations, providing choice across tenures that meet the diverse housing needs of people and communities.

Policy 16(a) supports development proposals for new homes on land allocated for housing in LDPs. Whilst the site the subject of the application is on a greenfield site, in terms of our adopted settlement strategy, the site of the proposed residential development is within the Main Town of Oban where Policies LDP STRAT 1 and LDP DM 1 give general encouragement to development on appropriate sites. These main policy considerations are underpinned by the SG contained with SG LDP HOU 1 and SG LDP ENV 14 which offer further support to appropriate scales of residential development where such development would have no significant adverse impact upon the character of the landscape and where there is no unacceptable environmental, servicing or access impact.

It is considered that this application to establish the principle of a residential development would accord with the broad policy aims of NPF4 Policy 16 and would be in a location underpinned by our adopted settlement strategy policies.

The need in Policy 16(e) to make provision for 25% affordable homes within developments will be secured through a condition imposed on the grant of permission.

The need in Policy 16(f)(i) to ensure that development proposals for an agreed timescale for build-out will be covered through the use of a planning condition.

Whilst the development proposed by this planning application is on land not actively allocated for housing in the LDP, it would wholly accord with the adopted settlement strategy and would accord with the principles of 'local living' and '20 minute neighbourhoods' consistent with the requirements of Policy 16(f)(ii).

With regards to Policy 16(f)(iii), the proposal represents a scale of development which is afforded support through the settlement strategy set out in the adopted LDP. Given that the proposal does not represent a major development, it is considered to represent an opportunity for smaller scale development within the defined settlement boundary of Oban, consistent with the requirements of Policy 16 (f)iii.

The proposed development aligns with NPF4 Policy 16 as underpinned by LDP Policies LDP DM 1, LDP 8 and SG LDP HOU 1 and Policy 02 of pLDP2 and the current proposal would raise no issue of conflict should permission be granted.

4.11. NPF4 Policy 18 – Infrastructure First

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

The application indicates water and drainage supplies to serve the proposed development via connection to the public systems in the control of Scottish Water. In their response to the application Scottish Water raised no objection to the proposed development but advised that further investigations may be required once formal applications for connection to their infrastructure are submitted to them for consideration. Scottish Water further advised that, according to their records, the development proposals impact on existing Scottish Water assets and that any conflict with assets identified may be subject to restrictions on proximity of construction. Accordingly, should permission be granted, an informative will be added to the grant of PPP advising the applicant to contact Scottish Water to discuss connection to their infrastructure.

The proposed development aligns with NPF4 Policy 18 as underpinned by LDP Policies LDP 11 and Policies 04, 05 and 08 of pLDP2 and the current proposal would raise no issue of conflict should permission be granted.

4.12. NPF4 Policy 21 – Play, Recreation and Sport

NPF4 Policy 21 seeks to encourage, promote and facilitate spaces and opportunities for play, recreation and sport.

Part (d) of NPF4 Policy 21 seeks that development proposals which are likely to be occupied or used by children and young people will be supported where they incorporate well-designed, good quality provision for play, recreation, and relaxation that is proportionate to the scale and nature of the development and existing provision in the area.

As detailed above, the application is seeking to establish the principle of a residential development with the indicative layout submitted showing how the site could accommodate 44 dwellings and the associated casual and equipped open space. However the specific detail of the casual and equipped open space will be properly assessed through a subsequent future planning application(s).

With a condition to secure the details of the areas of communal open space and equipped play area(s) the proposed development aligns with NPF4 Policy 21 as underpinned by LDP Policies LDP 8, SG LDP HOU 3 and Policy 68 of pLDP2 and the current proposal would raise no issue of conflict should permission be granted.

4.13. NPF4 Policy 22 – Flood Risk and Water Management

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

As detailed above the development proposes connection to the public water supply to which Scottish Water has not objected to. With regards to the management of rain and surface water at the site, in their response to the application, the Council's flooding advisors, JBA, raised no objection to the proposed development subject to conditions

being imposed on the grant of permission to ensure that a detailed drainage assessment is undertaken and that the surface water drainage system for the site is designed in accordance with CIRIA C753 and Sewers for Scotland 4th Edition.

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

5. Public Representation

5.1. The application has been subject to 77 objections from 66 households, one representation and an objection from the Oban Community Council.

It is not considered that the objections raise any complex or technical issues that have not been addressed in the current Report of Handling.

The objections submitted to this application do not raise any new matters to those which were raised and considered during the processing of the previous application.

6. Conclusion

6.1. The principle of development on this site has been established by the granting of PPP 18/02720/PPP.

Whilst this permission has expired, it is still considered to represent a material consideration in the current proposal which effectively seeks to renew the previous permission.

Through the granting of the previous PPP, the Planning Authority was satisfied that the indicative plan successfully demonstrated that the site is appropriate for residential development. However, whilst the indicative plan demonstrates to the satisfaction of the Planning Authority that the site is capable of accommodating residential development, the specific detail of that development must be properly assessed through a subsequent future planning application(s).

No objections have been received from consultees with regards to the proposed infrastructure to serve the proposed development.

There has been no change in the circumstances of the site, infrastructure and planning policy since the previous permission was granted and it is recommended that a further PPP is granted subject to the conditions contained within this report.

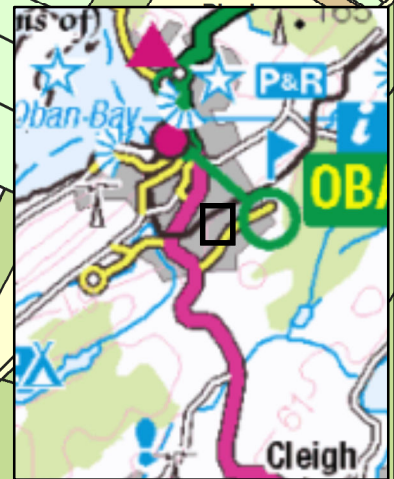
COMMITTEE REPORT	
APPENDIX B – RELATIVE TO APPLICATION NUMBER:	23/00376/PPP
LIST OF CONTRIBUTORS	

OBJECTION		
Contributor Name	Contributor Address	Date Received
Donna Robertson	By e-mail only	13/03/23
Rebecca Horne	By e-mail only	13/03/23
Finlay Mackay	By e-mail only	13/03/23
Mr Scott Hetherington	33 Nant Drive, Oban, PA34 4LA	14/03/23
Mrs Helen Hetherington	33 Nant Drive, Oban, PA34 4LA	14/03/23
Kenneth Devine	7 Creran Gardens, Oban, PA34 4JU	14/03/23
Helen Jackson	By e-mail only	14/03/23
Mrs Maree Neilson	23 Nant Drive, Oban, PA34 4LA	15/03/23
Miss Susan Robinson	56 Nant Drive, Oban, PA34 4LA	15/03/23
Mrs Elizabeth MacLeod	59 Nant Drive, Oban, PA34 4LA	15/03/23
Mr Keith Miller	Tigh a Ghlinne, Glenshellach Road, Oban, PA34 4PP	15/03/23
Mr A. MacKenzie	53 Nant Drive, Oban, PA34 4LA	16/03/23
Morvan Rokitta	By e-mail only	16/03/23
Mr Alister Jackson	11 Lonan Drive, Oban, PA34 4NN	16/03/23
Ms Francesca Bichard	40 Nant Drive, Oban, PA34 4LA	17/03/23
Sarah Kerr	6 Etive Gardens, Oban, PA34 4JP	17/03/23
Mr C.E. Morrison	3 Creran Gardens, Oban, PA34 4JU	17/03/23
Julie Didcock	By e-mail only	17/03/23
Mrs Patricia Mottrison	3 Creran Gardens, Oban, PA34 4JU	19/03/23
Mr Robert MacCallum	4 Etive Gardens, Oban, PA34 4JP	19/03/23
Mrs E. MacKenzie	By e-mail only	18/03/23
Mrs Kirsteen Gillespie	31 Nant Drive, Oban, PA34 4LA	20/03/23
Mr F. MacKenzie	29 Nant Drive, Oban, PA34 4LA	20/03/23
Mrs M. MacKenzie	29 Nant Drive, Oban, PA34 4LA	20/03/23
Mrs E. MacKinnon	11 Coe Gardens, Oban, PA34 4JT	21/03/23
Mr Robert MacKinnon	11 Coe Gardens, Oban, PA34 4JT	21/03/23
Mrs Lesley McKerracher	75 Nant Drive, Oban, PA34 4NL	21/03/23
Mrs Sandra Payne-Russell	3 Feochan Gardens, Oban, PA34 4NJ	21/03/23 & 16/08/23
Mrs V. Mair	21 Nant Drive, Oban, PA34 4LA	21/03/23
Mr Iain Grant	27 Nant Drive, Oban, PA34 4LA	21/03/23
Mrs Chrissie Grant	27 Nant Drive, Oban, PA34 4LA	21/03/23
Mr Eric Smith	70 Nant Drive, Oban, PA34 4NL	21/03/23
Mrs Helen Smith	5 Etive Gardens, Oban, PA34 4JP	22/03/23
Miss Heather Whittaker	12 Lawe Road, Oban, PA34 4NW	22/03/23
Mr Iain MacFarlane Brown	25 Nant Drive, Oban, PA34 4LA	23/03/23
Margaret Melville	2 Etive Gardens, Oban, PA34 4JP	23/03/23
Ann Buchanan	Strathaird, Connel, PA37 1PH	24/03/23
David MacMillan	49 Nant Drive, Oban, PA34 4NL	24/03/23

Jean Sutherland	9 Creran Gardens, Oban, PA34 4JU	27/03/23
Elsbeth Norris	Feochan Gardens, Oban	27/03/23
Robert McDonald	By e-mail only	27/03/23
Mr J. Cook	17 Creran Gardens, Oban, PA34 4JU	27/03/23
Kenneth Moncrieff	108 Nant Drive, Oban, PA34 4NL	28/03/23 & 17/08/23
Alice Johnston	By e-mail only	28/03/23
Mr Colin Cooper	1 Lonan Drive, Oban, PA34 4NN	29/03/23 & 23/08/23
Mrs Mundi Cooper	1 Lonan Drive, Oban, PA34 4NN	29/03/23 & 23/08/23
Mr Andrew MacDougall	14 Etive Gardens, Oban, PA34 4JP	29/03/23
Mr James Muir	1 Creran Gardens, Oban, PA34 4JU	29/03/23
Mrs Jennifer Miller	Tigh a Ghlinne, Glenshellach Road, Oban, PA34 4PP	29/03/23
Mrs R. Russell	23 Lonan Drive, Oban, PA34 4NN	29/03/23
Dr M.S. Kelly	Soroba Farm Cottage, Oban, PA3 4SB	29/03/23
Tommy Johnson	6 Creran Gardens, Oban	29/03/23
Eamonn Arthur	19 Lonan Drive, Oban, PA34 4NN	29/03/23
Maureen Arthur	19 Lonan Drive, Oban, PA34 4NN	29/03/23
Mrs Catriona Reid	17 Coe Gardens, Oban, PA34 4JT	30/03/23
Miss Katherine Reid	17 Coe Gardens, Oban, PA34 4JT	30/03/23
Mr Ian MacKechnie	17 Orchy Gardens, Oban, PA34 4JR	30/03/23
Mr William McKillop	13 Creran Gardens, Oban, PA34 4JU	30/03/23, 15/08/23
Mrs A. Owens	5 Feochan Gardens, Oban, PA34 4NJ	30/03/23
Marri Malloy	7 Orchy Gardens, Oban	30/03/23
Mrs Nina Graham	10 Lawe Road, Oban, PA34 4NW	31/03/23
Ms Fiona MacDougall	Tigh na Drochaid, Soroba Road, Oban, PA34 4JJ	31/03/23
Ms Claire Smalley	Whinhurst, Glenshellach Road, Oban, PA34 4PP	31/03/23
Derek Pretswell	7 Etive Gardens, Oban, PA34 4JP	31/03/23
Laura May	By e-mail only	31/03/23
Mr Craig MacMillan	25 Lonan Drive, Oban, PA34 4NN	31/03/23
Mrs Leah MacMillan	25 Lonan Drive, Oban, PA34 4NN	31/03/23
Lindsay Nicholson	By e-mail only	03/04/23
Mrs Patricia Galbraith	37 Nant Drive, Oban, PA34 4NL	03/04/23
Freddy Morrison	19 Creran Gardens, Oban, PA34 4JU	03/04/23
Brenda Morrison	19 Creran Gardens, Oban, PA34 4JU	03/04/23
Aileen Cameron	By e-mail only	03/04/23
Brian MacKechnie	1 Coe Gardens, Oban, PA34 4JT	03/04/23
Mrs Carol Burnside	45 Nant Drive, Oban, PA34 4NL	03/04/23
Dr Robert Batty	6 Coe Gardens, Oban, PA34 4JT	04/04/23
Mrs Margaret Batty	6 Coe Gardens, Oban, PA34 4JT	04/04/23
A. Cooper	9 Feochan Gardens, Oban, PA34 4NJ	16/08/23
REPRESENTATION		
Contributor Name	Contributor Address	Date Received

Oban District Access Panel	By e-mail only	13/03/23
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Location Plan Relative to Planning Application: 23/00376/PPP



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

This report is a recommended response to the Scottish Government's Energy Consents and Deployment Unit (ECDU) consultation on the Section 36C Variation Application to the Section 36 consent granted on 29th October 2021 to construct and operate Blarghour Wind Farm, on land approximately 7km north west of Inveraray and 4.5km south of Portsonachan.

Reference No:	23/00537/S36/ECU00004754
Applicant:	The Scottish Government on behalf of Blarghour Wind Farm Limited
Proposal:	Electricity Act Section 36C and Electricity Generating Stations (Applications for Variation of Consent)(Scotland) Regulations consultation from the Energy Consents Unit for Proposed Variation to Blarghour wind farm (consented 29 th October 2021). The S36C variation proposes to vary the S36 consent from 17 wind turbines, 136.5m in height to blade tip to 14 wind turbines, 180m in height to blade tip.
Site Address:	Land approximately 7km north west of Inveraray and 4.5km south of Portsonachan.

(A) THE APPLICATION

Section 36C Variation Application made up of the following key elements:

- Up to 14 turbines of a maximum ground to tip height of 180m
- a crane hardstanding area at each turbine base
- external turbine transformers adjacent to each turbine
- up to three meteorological masts or hardstanding areas for the placement of remote sensing equipment for collecting meteorological data
- a network of access tracks, turning areas and passing bays linking the turbines and the substations/ control building
- substations and compound
- control building
- three temporary construction compounds
- underground electrical, telecommunication and control cabling linking the turbines with the substation
- up to three on site borrow pits
- a scheme of aviation lighting, including medium intensity red lights fitted to the nacelle of turbines T2, T3, T5, T11, T12, T16 and T17
- an access track linking the A819 and
- associated ancillary works and engineering operations.

Connection to Electricity Grid - The grid connection does not form part of the section 36C application for the Proposed Varied Development. Any required consent for the grid connection would typically be sought by the relevant owner of

the local distribution or transmission network. The Network Operator would be responsible for the consenting, construction and operation and maintenance of the grid connection.

(B) RECOMMENDATION:

That the ECU be notified accordingly that:

- **That Argyll & Bute Council DOES NOT OBJECT to this application, subject to the inclusion of the conditions recommended by consultees in any consent granted by the ECU. These should also include the condition proposed by the Applicant to allow the lighting scheme to be revisited in the future to take account of emerging technological solutions which would reduce the impacts of visible lighting, such as transponder radar activated lighting.**
 - **Notwithstanding the above, it has not been possible for Argyll & Bute Council to reach a conclusion on the acceptability of this proposal in respect to Ornithological matters. This is due to the fact that these matters have not been resolved.**
 - **In respect to the outstanding Ornithological matters, Argyll & Bute Council would defer to the expert advice of NatureScot and the RSPB.**
-

(C) CONSULTATIONS:

ENERGY CONSENT UNIT RESPONSES:

NatureScot (18th July 2023) – advice to the ECU is summarised as follows:

Ornithology

- **NatureScot advise there is a high risk the G/LAE1B golden eagle territory could be abandoned.**
- NatureScot request clarification regarding the flight data used in the CRM calculations and
- NatureScot recommend post-construction monitoring.

Landscape

- The Landscape and Visual Impact Assessment (LVIA) and night-time assessment do not allow a clear understanding as to how conclusions have been reached by the Applicant and do not highlight/ identify new significant effects or intensification of existing significant effects as a result of the Proposal. NatureScot therefore consider that further work is required to understand effects from the Proposal.

- There would be intensified significant cumulative landscape and visual effects when the Proposal is considered in-addition to and sequentially with the nearby operational An Suidhe wind farm and new significant combined and sequential cumulative effects with neighbouring proposals.
- The Proposal would introduce turbine lighting into an area of dark skies around Loch Awe and would result in extensive new significant night-time landscape and visual effects which would be compounded by new cumulative night-time effects with the neighbouring proposals and
- Significant intensified visual effects would extend up to around 13km and would be mainly concentrated on settlements, roads and recreational receptors on the west side of Loch Awe with new significant day-time visual effects identified for six representative viewpoints.

Applicant (21st August 2023) – submitted a rebuttal to NatureScot’s advice to the ECU. This concluded that, they remain confident that the submitted LVIA and associated Technical Appendices are robust and provide a transparent and fair assessment of the likely significant residual landscape and effects of the Proposed Varied Development for both daytime and night time periods and are based on contemporaneous guidance. The Proposed Varied Development would not result in significant additional visibility, and whilst undoubtedly being more prominent in views from a number of receptor locations, would mainly result in levels of effect that are consistent with that of the Consented Development. Whilst the reduced lighting scheme for the Proposed Varied Development would give rise to some significant effects on the character and visual amenity of the area, the principal affected locations would be confined to localised viewpoints around Loch Awe and a small number of summits adjoining the site, which are not known for frequent visitation after dark.

NatureScot (12th October 2023) – advised the ECU that the Applicant’s rebuttal doesn’t raise any new issues that require them to reconsider their advice issued on the 18th July 2023. In line with their Service Statement they do not intend to provide any more comment or advice, in relation to landscape and visual consideration, prior to the case being determined.

Historic Environment Scotland (HES) (6th June 2023) – advised the ECU they do not object to the proposed variation. While they accept aspects of the proposals will have an impact on the settings of a number of scheduled monuments in the vicinity they do not consider those impacts merit objection for their statutory interests. Although they consider the proposed development would not raise issues of concern for their interests sufficient to object to the scheme, the turbines would still have significant impacts on the settings of: Ardchnonnel Castle & Island of Innis Chonnel, Loch Awe (SM291); Caisteal Suidhe Cheannaidh, dun 470m NW of Achnacraobh (SM 4120); Tom nan Clach, cup and ring marked rock 560m ENE of Hazelbank (SM3246); and Ardchnonnel, Long Cairn (SM4173). This could be mitigated further by deleting, relocating or lowering the height of turbines T9, T10, T11, T12 and T17.

Transport Scotland (2nd May 2023) - advised the ECU they have no objection, subject to conditions being attached to any consent to secure the

submission and approval of an updated Abnormal Loads Assessment; approval of the proposed route for any abnormal loads; approval of any accommodation measures (removal of street furniture, junction widening, traffic management); any additional signing or temporary traffic control measures must be undertaken by a recognised Quality Assured traffic management consultant; submission and approval of proposals for an abnormal load delivery trial run to be undertaken with the involvement of Police Scotland; submission and approval of a Construction Traffic Management Plan (CTMP); all vehicles transporting construction material to be sheeted; installation of vehicle wheel cleansing facilities; and prior to any decommissioning, a Decommissioning Plan shall be prepared and submitted for approval.

Scottish Environment Protection Agency (4th May 2022) – advised the ECU they have no objection subject to a condition to secure the submission of a detailed site-specific Peat Management Plan (PMP) for approval to the determining authority, in consultation with SEPA, at least two months prior to commencement of development. This should demonstrate how micro-siting and other measures have been used to further minimise peat disturbance following ground investigations and detailed design work. Additionally, SEPA recommend that Condition 7 (Micro-siting) be amended to state that ‘no micro-siting shall take place within areas of peat of greater depth than the original location’.

Scottish Forestry (3rd May 2023) – advised the ECU they note from the variation information that the wind farm open ground will be reducing from 18.2ha to 15.2ha. Scottish Forestry recommend that the new area of 15.2ha replace the 18.2ha in condition 10. Replanting of Forestry ANNEX 2 – Part Two – Conditions attached to Deemed Planning Permission, of the Consent. Scottish Forestry have nothing more to add in relation to this variation to the consented development.

Royal Society for the Protection of Birds (RSPB) (2nd May 2023) – provide advice to the ECU on: net biodiversity gain (NPF4); data used is nearly 10 years old – an update would be prudent; directional lighting for divers; cumulative impact – an area landscape scale management plan should be established; breeding seasons monitoring for key species (to inform HMP); location – turbines located outwith commercial forestry will reduce open ground habitat for key bird species, as well as impacts on peatland; and Grid connection and OHL - RSPB are aware that the Creag Dhubh to Inveraray 275kV OHL is proposed to transect some of the Blarghour Wind Farm HMP area. Discussions have taken place between applicants, SSE and landowners regarding mitigating this loss. However, the new area being allocated for the HMP is less than the area impacted.

Scottish Water (13th March 2023) - advised the ECU they have no objection. This does not confirm the proposal can be serviced. Advice is provided on: water assessment; foul assessment; drinking water protected areas and surface water.

Defence Infrastructure Organisation (25th April 2023) – advised the ECU they have no objection, provided the extant conditional requirements that the development is fitted with aviation safety lighting (Condition 23) and

that sufficient data is submitted to ensure that structures can be accurately charted to allow deconfliction are included in any new consent that may be issued (Condition 22).

National Air Traffic Services Safeguarding (NATS) (13th March 2023) – advised the ECU the proposal has been examined by their technical safeguarding teams and does not conflict with their safeguarding criteria. Accordingly, NATS has no safeguarding objection to the proposal.

Highlands & Islands Airport Limited (HIAL) (3rd May 2023) – advised the ECU that the proposal is located outwith their consultation zone, as such they have no comment and need not be consulted further.

Aberdeen International Airport response (13th March 2023) – advised the ECU the proposal is located out with their consultation zone. As such they have no comment.

Glasgow Airport (30th March 2023) – advised the ECU the proposal has been examined from an aerodrome safeguarding perspective and does not conflict with safeguarding criteria and they have no objection.

Glasgow Prestwick Airport (9th March 2023) – advised the ECU the proposed development lies outside the GPA safeguarding area and consequently they would have no comment or valid objection to make.

Edinburgh Airport (14th March 2023) – advised the ECU the proposal lies out with the Aerodrome Safeguarding zone for Edinburgh Airport and they have no objection.

Joint Radio Company (10th March 2023) – advised the ECU they have previously cleared this development and have nothing to add. Clearance still stands.

Office for Nuclear Regulation (13th March 2023) – have advised the ECU that they have no comment on the proposed development as it does not lie within a consultation zone around a GB nuclear site.

Met Office (10th March 2023) – have advised the ECU that the proposal is not in any Met Office safeguarded areas. Therefore they would not expect any significant impact on their radar operation, and would not normally expect to be consulted.

Strachur Community Council (26th April 2023) – have advised the ECU that they have no comments to make on this variation proposal.

ARGYLL & BUTE COUNCIL RESPONSES

ABC Consultant Landscape Architect Review (May 2023) – concludes that the proposal would be much more prominent than operational wind farms and would be visible in every open view from the southern half of Loch Awe and across Loch Avich. However, the degree of change incurred by the variation would not alter the already significant adverse effects associated with the consented scheme in the context of the broad

parameters considered in LVIA. Although there would be an exacerbation of significant adverse landscape and visual effects, these effects would be relatively limited in extent principally affecting the middle part of Loch Awe. No designated or other formally valued landscapes would be significantly affected by the proposal. In view of the policies set out in NPF4, it is recommended that no objection should be raised in terms of landscape and visual effects.

This proposal would introduce lighting to the dark skies of Loch Awe and while the number of visual receptors is likely to be low during hours of darkness, it is considered that it is imperative that radar activated lighting should be installed at the earliest opportunity as this would substantially reduce the duration and impact of night-time lighting.

Significant adverse combined cumulative landscape and visual effects would be likely to occur where this proposal was seen together and sequentially with the An Carr Dubh, Eredine, Ladyfield and Beinn Ghlas Repowering wind farm proposals.

ABC Roads & Amenity Services (26th May 2023) – no objection subject to the following conditions: connection of the site access to the public road to be, 160 x 2.4 x 1.05 metres; connection the site access to the public road, access to be constructed as per the Council's standard detail drawing ref: SD 08/001 Rev a, or otherwise agreed in writing by Roads & Infrastructure Services; a positive surface water drainage system to be installed to prevent the discharge of surface water onto the public road, details to be agreed with Roads & Infrastructure Services, prior to any works starting on site; Junction geometry, surfacing and drainage to be fully completed, prior to any work starting on site; Advanced warning signs for the site access to be erected on either approach, prior to any works starting on site; Strictly no vehicular access from the B840 East Lochaweside Road. All vehicles must enter and exit the site from the A819 Inveraray - Dalmally Road; Traffic Management Plan to be submitted for approval by Roads & Infrastructure Services, prior to any work starting on site. The Traffic Management plan should include details of all materials, plant, equipment, components and labour required during the construction works; A detailed Method Statement in relation to access and transport of materials, plant and equipment. Method statement to be submitted for approval by Roads & Infrastructure Services, prior to any work starting on site; and a detailed condition survey to be carried out between the A83 Tarbet - Campbeltown Trunk Road / A819 Inveraray - Dalmally Road junction and the application site, prior to any work starting on site. The condition survey to be recorded by means of video and photographs. A copy of the video and photographs to be submitted to Roads & Infrastructure Services for approval, prior to any work starting on site. The Area Roads Engineer also advises that a Road Opening Permit will be required and there should be no surface water discharge.

ABC Local Biodiversity Officer (LBO) (15th June 2023) – notes the contents of the supporting documents for the ecological interest, these outcomes are consistent with the original application as the Proposed Varied Development would not have a significant effect on ecology or bird interest; with regards to Peat interest, the predicted land take is to be less than the original consent, the supporting documentation such as Peat Management Plan, Peat Landslide Hazzard Risk Assessment along with

the Outline Construction and Decommissioning Environmental Management Plan are relevant even though there is a reduction in turbines and land take. The LBO notes that the cumulative impacts have also been considered and the reassessment has resulted in no likely significant ecological residual effects associated with the Proposed Varied Development. Mitigation, including avoidance and minimisation of impacts on sensitive ecological receptors and enhancement opportunities have been identified. In summary, with the reduction in the number of turbines from 17 to 14 with the addition of an increase in height, the ecological and peat interests have been reviewed with the conclusion that there will be no significant effect due to the reduction in land take and the management details in specific management plans.

ABC Flood Prevention Officer (30th May 2023) – no objections subject to conditions. It is recommended that planning conditions to the effect of the following be attached to any consent granted for this application: any proposed watercourse crossings should maintain and not to reduce the existing capacity of the channel; and surface water drainage should be designed in accordance with CIRIA C753 and Sewers For Scotland 4th edition and ensure that post development surface water runoff does not exceed the pre-development surface water runoff. The surface water drainage should be in operation prior to the start of construction.

ABC Environmental Health (10th May 2023) - advise that the current arrangement is that Environmental Health are unable to review the application and they suggest that Planning consider employing a noise assessment contractor to assess this wind farm application.

ABC Noise Consultant (31st October 2023) – concludes that in general, good practice has been adopted by the Applicant with a few issues identified. The most significant of these issues are the omission of a key receptor Blarghour House; and the omissions of two operational turbines at Blarghour Farm nearby within the assessment of cumulative impacts. The two turbines were in operation at the time of the baseline noise survey in 2017 and within around 550m of a baseline monitoring position. The influence of turbine noise on the results is not discussed or accounted for. However, it should be noted that the derived noise limits are not applied within the assessment presented in the 2023 Variation Application. Further information on these aspects should be sought from the Applicant. Following a satisfactory response to the above issued from the applicant, it is considered that there would be no reasons to object to the scheme on noise grounds. A suitably worded condition such as that included in Section 4 of the Noise Consultant's report to limit the noise levels, tonality and amplitude modulation should be applied to control noise levels from the proposed scheme.

Applicant's response to ABC Noise Consultant's advice (4th December 2023) – The Applicant provided a note responding to the request for clarifications set out in the ABC Noise Consultants review in respect of predicted noise impacts on Blarghour House, and the consideration of cumulative noise impacts including the two Blarghour Farm 20 kW wind turbines.

The results presented by the Council's Noise Consultant in their review show that predicted operational noise levels from the Proposed Varied Development are below the noise limit applied to the Consented Development and the ETSU-R-97 simplified noise limit of 35 dB LA90 by a minimum margin of 7.7 dB. Predicted operational noise levels are therefore considered to be not significant as they comply with the limits already imposed on the Consented Development

In respect of the two small turbines at Blarghour Farm, notwithstanding that these could be scoped out of the cumulative assessment due to their size (the generating capacity of the two turbines is less than 50 kW), the turbines are owned and operated by the residents of the properties at Blarghour Farm who are directly financially involved with the Proposed Varied (and Consented) Development. The relevant noise limit at financially involved properties is 45 dB LA90, and predicted operational noise levels from the Proposed Varied Development are negligible in relation to the financially involved limit (i.e. they are 17.3 dB below the financially involved noise limit), as well as contributing only an additional 0.4 dB to the cumulative operational noise levels of the two Blarghour Farm turbines and An Càrr Dubh Wind Farm. No significant cumulative effects are therefore predicted at Blarghour Farm and surrounding properties

ABC Noise Consultant (8th December 2023) - has responded to the Applicant's note as follows:

Missing Receptor – Blarghour House - The Council's Noise Consultant would agree that Blarghour House, and the associated properties should be included in the assessment, and subsequent condition, noting that they are 'financially involved' for which a 'lower fixed' noise limit of up to 45dB LA90 can be applied. The applicant should clarify exactly which properties are included in this for the avoidance of doubt, and whether a limit relative to background, or just a fixed limit should be applied. The proposed planning condition would need to be modified to include these limits for the affected financially involved properties.

Missing Consideration of the two turbines at Blarghour Farm - The Council's Noise Consultant considers that these two turbines should be included in the cumulative assessment of noise, especially as they have no noise limit attached to them. Whilst they agree that the planning assessment of a new 50kW turbine falls outside the scope of the IOAGPG, they would point out that ETSU-R-97 states the following in respect of a cumulative assessment at paragraph 58 "...absolute noise limits and margins above background should relate to the cumulative effect of all wind turbines in the area which contribute to the noise received at the properties in question..." There are no exclusions for small turbines in the IOAGPG from the cumulative assessment, and as noted in the Mott MacDonald report, there are properties who would exceed the current proposed 35dB LA90 condition for all properties when all turbine noise is taken into account. The Council considers that it is important to set the appropriate limit in the event of a tonal and / or AM penalty for enforcement purposes. The Council would agree that the inclusion of the Blarghour Farm turbines in the cumulative noise assessment would not change the conclusions reached in terms in terms of noise impact of the scheme.

Amplitude Modulation Condition - The Council's Noise Consultant confirms that they consider an amplitude modulation condition to be necessary for this wind farm as set out in their report.

West of Scotland Archaeology Service (2nd August 2023) – have confirmed that the proposed changes raise no archaeological issues.

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

(D) REPRESENTATIONS:

As the Council is not the determining Authority all letters of representation are considered by the Energy Consents Unit. At time of writing, public representation figures stand at 4 objections, which are published on the ECU website. The main issues raised are summarised below:

- Adverse landscape and visual impact – unacceptable height, increased damage to land due to requirement for larger foundations.
- Adverse impact on wildlife.
- Adverse impact on ornithology
- Adverse impact on tourism
- Adverse impact on human & animal health
- Poor community benefit
- Lack of Community Consultation
- Adverse impact on property values
- Adverse Tourism impact
- Wind Farms are not environmentally effective as claimed – renewable & environmentally friendly are not the same thing.
- Potential for future applications to increase number of turbines
- Query whether this variation (height of turbine) would have been granted originally or whether developer has used staged approach to secure consent for larger turbines.
- Whilst number of turbines has been reduced, profitability and output will be greater due to height increase.
- Existing wind farms are often stationary due to lack of grid demand (including those existing at Loch Awe)
- Loch Awe is a place of great scenic beauty and worthy of National Scenic Area status. Scottish Government declined status and declared the entire area of Loch Awe “identified as a wind development area”.
- Rapid deforestation combined with extensive peat bed drilling will cause landslides
- Ongoing United Nations body investigation (Aarhus Convention Compliance Committee ACCC) into whether the Scottish and UK governments have broken international law through failure to allow the public the right to challenge planning decisions that would damage the nations precious environment, landscape and wildlife. Complaint has found complaints admissible and a five month time limit has been given for the governments to provide written explanations. Decision on this application should therefore be delayed until the committee’s judgement is published.

Public Consultation – Whilst not a statutory requirement for Section 36 applications, the applicant has undertaken Public Consultation. Further information on this is contained in the Blarghour Statement of Community Consultation (October 2022) which is available on the ECU website (reference: ECU00004754).

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

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

(E) SUPPORTING INFORMATION

Has the application been the subject of:

(i) Environmental Impact Assessment Report (EIAR): Yes

EIAR (February 2023) presented in 4 volumes:

- Volume 1: Non-Technical Summary (NTS)
- Volume 2: Main Report
- Volume 3a: Figures
- Volume 3b: Visualisations
- Volume 4: Technical Appendices

Key topics covered in the EIAR include: Introduction; Description Proposed Development; Comparative Environmental Assessment; Landscape and Visual Amenity; Cultural Heritage; Ecology; Ornithology; Noise; Aviation and Telecommunications; and Traffic and Transport.

The EIAR should be read with the following supplementary documents:

- Blarghour Planning Statement (February 2023)
- Blarghour Statement of Community Consultation

(ii) An Appropriate Assessment under the Conservation (Natural Habitats) Regulations 1994: NatureScot will advise

(iii) A Design or Design/Access statement: No

(iv) A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc.: All relevant reports are encompassed within the EIAR

(F) Statutory Development Plan (NPF4 and LDP) 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

Policy 1 – Tackling the Climate and Nature Crises

Policy 2 – Climate Mitigation and Adaption

Policy 3 – Biodiversity

Policy 4 – Natural Places

Policy 5 – Soils

Policy 6 – Forestry, Woodland and Trees

Policy 7 – Historic Assets and Places

Policy 11 – Energy

Policy 12 – Zero Waste

Policy 23 – Health and Safety

Policy 33 – Minerals

Annex B – National Statements of Need

3. Strategic Renewable Electricity Generation and Transmission Infrastructure

'Argyll and Bute Local Development Plan' Adopted March 2015

Policy LDP STRAT 1 – Sustainable Development

Policy LDP DM 1 – Development within the Development Management Zones

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

Policy LDP 5 – Supporting the Sustainable Growth of our Economy

Policy LDP 6 – Supporting the Sustainable Growth of Renewables

Policy LDP 8 – Supporting the Strength of our Communities

Policy LDP 10 – Maximising our Resources and Reducing our Consumption

Policy LDP 11 – Improving our Connectivity and Infrastructure

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

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

SG LDP ENV 2 – Impact on European Sites

SG LDP ENV 4 – Impact on SSSIs and National Nature Reserves

SG LDP ENV 5 – Impact on Local Nature Conservation Sites (LNCS)

SG LDP ENV 6 – Impact on Trees / Woodland

SG LDP ENV 7 – Water Quality and the Environment

SG LDP ENV 11 – Protection of Soil and Peat Resources

SG LDP ENV 12 – Impact on National Scenic Areas (NSAs)

SG LDP ENV 13 – Impact on Areas of Panoramic Quality (APQs)

SG LDP ENV 14 – Landscape

SG LDP ENV 15 – Impact on Historic Gardens and Designed Landscapes

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

SG LDP ENV 19 – Impact on Scheduled Ancient Monuments (SAMs)

SG LDP ENV 20 – Impact on Sites of Archaeological Importance

SG LDP PG 1 – Planning Gain

SG LDP BAD 1 – Bad Neighbour Development
 SG LDP Sustainable – Sustainable Siting and Design Principles
 SG LDP SERV 1 – Private Sewage Treatment Plants & Wastewater Systems
 SG LDP SERV 2 – Incorporation of Natural Features / SuDS
 SG LDP SERV 3 – Drainage Impact Assessment
 SG LDP SERV 4 – Contaminated Land
 SG LDP SERV 5 – Waste Related Development and Waste Management
 SG LDP SERV 5(b) – Provision of Waste Storage & Collection Facilities within New Development
 SG LDP SERV 6 – Private Water Supplies and Water Conservation
 SG LDP SERV 7 – Flooding and Land Erosion – Risk Framework
 SG LDP MIN 2 – Mineral Extraction
 SG LDP TRAN 1 – Access to the Outdoors
 SG LDP TRAN 2 – Development and Public Transport Accessibility
 SG LDP TRAN 4 – New & Existing, Public Roads & Private Access Regimes
 SG LDP TRAN 6 – Vehicle Parking Provision
 SG LDP TRAN 7 – Safeguarding of Airports

Supplementary Guidance 2- Renewable Energy (December 2016) (December 2016)

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

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

- Draft Energy Strategy and Just Transition Plan (January 2023)
- Onshore Wind Policy Statement (OWPS) (December 2022)
- Historic Environment Policy for Scotland (HEPS, 2019)
- Climate Change (Emissions Reduction Targets) (Scotland) Act 2019
- Scottish Government Good Practice Principles for Shared Ownership and Community Benefit of Onshore Renewable Energy Developments (May 2019)
- Argyll & Bute Landscape Wind Energy Capacity Study (2017)
- Siting and Designing Wind Farms in the Landscape, SNH (August 2017)
- ABC Technical Note – Biodiversity (Feb 2017)
- Onshore Wind Turbines: Planning Advice, Scottish Government (May 2014)
- Guidance for Landscape and Visual Impact Assessment, 3rd Edition, Landscape Institute, and Institute of Environmental Management & Assessment, (2013)
- PAN 1/2011: 'Planning and Noise' (March 2011)
- The Scottish Government's Policy on 'Control of Woodland Removal' (Forestry Commission Scotland 2009)
- PAN 60 – Planning for Natural Heritage (Jan 2008)
- Views of statutory and other consultees;
- Planning history of the site
- Legitimate public concern or support expressed on relevant planning matters

Argyll & Bute proposed Local Development Plan 2 (November 2019) – The Proposed Local Development Plan 2 (as modified following Examination) was submitted to the Scottish Government on the 23rd October. The Scottish Government notified the Council on the 16th of November that the period for

consideration of the plan would be extended to 56 days. The Council therefore may not adopt the Plan until after this 56 day period.

Until LDP2 is adopted the Development Plan for Argyll & Bute consists of [National Planning Framework 4](#), the Adopted Local Development Plan and any associated Supplementary Guidance.

(G) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: No an Environmental Impact Assessment was required.

(H) Has the application been the subject of statutory pre-application consultation (PAC): No PAC is not required for S36 applications.

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

(J) Requirement for a pre-determination hearing: No

(K) Is the proposal consistent with the Development Plan: Not possible to conclude at this time due to unresolved concerns raised by NatureScot.

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

Author of Report: Arlene Knox **Date:** 7th December 2023

Reviewing Officer: Sandra Davies **Date:** 8th December 2023

Fergus Murray
Head of Development & Economic Growth

COMMITTEE REPORT**APPENDIX A – RELATIVE TO APPLICATION NUMBER: 23/00537/S36****PLANNING LAND USE AND POLICY ASSESSMENT****1. THE SECTION 36C CONSENTING REGIME**

- 1.1 Section 36 of the Electricity Act 1989 (“the 1989 Act”) applies to proposals for the construction, extension or operation of an onshore electricity generating station whose capacity exceeds (or, when extended, will exceed) 50 megawatts. Applications to construct or operate electricity generating stations below this threshold which do not require section 36 consent are made to the local planning authority under the Town and Country Planning (Scotland) Act 1997. On granting consent under section 36, Scottish Ministers may also direct under section 57 of the Town and Country Planning (Scotland) Act 1997 that planning permission is deemed to be granted for the development necessary to construct the generating station and any ancillary development.
- 1.2 Section 20 of the Growth and Infrastructure Act 2013 inserted a new section 36C into the 1989 Act to provide for the making of variations to section 36 consents. Prior to 2013, the 1989 Act did not provide for section 36 consents to be varied.
- 1.3 Section 21 of the Growth and Infrastructure Act 2013 amended section 57 of the Town and Country Planning (Scotland) Act 1997 to provide that Scottish Ministers, on varying a section 36 consent, may give either a direction for planning permission to be deemed to be granted, or a direction for an existing planning permission (or the conditions to which that planning permission was made subject) to be varied as specified in the direction.
- 1.4 The Electricity Generating Stations (Applications for Variation of Consent) (Scotland) Regulations 2013 (“the 2013 Regulations”) came into force on 1 December 2013. The regulations make provision for the content of a variation application and the consultation process to be followed with respect to section 36C applications. The regulations also provide that the Scottish Ministers may cause a public local inquiry to be held if they consider it appropriate to do so.
- 1.5 The 2013 Regulations provided for a procedure which ensured that the relevant provisions of Directive 2011/92/EU (now as amended by Directive 2014/52/EU) on the assessment of the potential effects of certain public and private projects on the environment (commonly known as the “Environmental Impact Assessment” or “EIA” Directive) would be implemented as necessary in relation to applications to vary a section 36 consent.
- 1.6 The 2013 Regulations were amended by regulation 42 of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended) (‘the EIA Regulations’). The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 were amended in December 2017 (by The Electricity Works (Environmental Impact Assessment) (Scotland) Amendment Regulations 2017). Note that at present there is no consolidated version of the EIA Regulations available and the documents therefore need to be read together to comprehend the EIA Regulations. The EIA Regulations essentially apply to variation applications under section 36C as they apply to applications for section 36 consent.

- 1.7 The Council's role in this process is one of a consultee along with various other consultation bodies.
- 1.8 The Development Plan is not the starting point for consideration of S36C applications. This is because Sections 25 and 37 of the Town & Country Planning (Scotland) Act 1997 which establish the primacy of LDP policy in decision-making, are not engaged in the deemed consent process. NPF4 and the Local Development Plan now form the Statutory Development Plan. Whilst the Statutory Development Plan does not have primacy in S36C decision-making it still remains an important material consideration informing the Council's response to the proposal.
- 1.9 Schedule 9 of the Electricity Act does require both the applicant and the decision-maker to have regard to the preservation of amenity. It requires that in the formulation of proposals the prospective developer shall have regard to:
- (a) the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiological features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and
 - (b) shall do what he reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.
- Similarly, it obliges the Scottish Ministers in their capacity as decision maker to have regard to the desirability of the matters at a) and the extent to which the Applicant has complied with the duty at b).
- 1.10 Consideration of the proposal against both NPF4 (2023) and the adopted Argyll & Bute LDP 2015 will ensure that proper consideration is given by the Council to the extent to which the proposal satisfies these Schedule 9 duties.
- 1.11 It is open to the Council to either support or object to the proposal, and to recommend conditions it would wish to see imposed in the event that authorisation is given by Scottish Ministers. In the event of an objection being raised by the Council, the Scottish Ministers are obliged to convene a Public Local Inquiry (PLI) if they are minded to approve the proposal. They can also choose to hold a PLI in other circumstances at their own discretion. Such an Inquiry would be conducted by a Reporter(s) appointed by the Directorate for Planning and Environmental Appeals. In the event that consent is given, either where there has been no objection from the Council, or where objections have been overruled following PLI, the Council as Planning Authority would become responsible for the agreement of matters pursuant to conditions, and for the ongoing monitoring and enforcement.
- 1.12 This report reviews the policy considerations which are relevant to this proposal and the planning merits of the development, the views of bodies consulted by the Scottish Government along with other consultations undertaken by the Council, and 3rd party opinion expressed to the Scottish Government following publicity of the application by them. It recommends views to be conveyed to the Scottish Government on behalf of the Council before a final decision is taken on the matter. The conclusion of this report is to recommend that the Council does not object to this Section 36C consultation for the reasons detailed in this report.

2. SETTLEMENT STRATEGY

- 2.1 Policy LDP DM1 establishes acceptable scales of development in three different 'zones' or the 'Settlement Strategy'. In terms of the local development plan proposals map, the access route traverses through Rural Opportunity Area and Countryside Zone, and the main wind farm site is located within 'Very Sensitive Countryside'. In the Very Sensitive Countryside, only specific categories of development are supported. This however includes renewable energy related development. In principle, policy LDP DM 1 supports renewable energy and ancillary developments in these areas, providing they are consistent with all other Local Development Plan Policies.
- 2.2 Policy 11 – Energy and Policy LDP 6: Renewable Energy provide the primary policy framework for assessing wind farms. In this case, it is considered that it has been demonstrated that the scale and location of the proposal, will integrate sympathetically without giving rise to adverse consequences in terms of: landscape & visual impact (including cumulative). However, due to the outstanding matters raised by NatureScot it is not possible to reach a conclusion on whether the proposal is consistent with Development Plan Policy in this regard. For the reasons detailed below in this report, it is considered that this proposal satisfies Development Plan Policy and associated guidance in respect of renewable energy development in some respects. Areas where it has not been possible to reach a conclusion are also explained.
- 2.3 **Having due regard to the above it is not possible at this time to conclude whether this proposal can be considered 'sustainable' or whether it is consistent with the provisions of LDP DM1 – Development within the Development Management Zones.**

3. ENERGY & SUPPORTING THE SUSTAINABLE GROWTH OF RENEWABLES

- 3.1 Argyll & Bute Council is keen to ensure that Argyll & Bute continues to make a positive contribution to meeting the Scottish Government's targets for renewable energy generation. These targets are important given the compelling need to reduce our carbon footprint and reduce our reliance on fossil fuels, reinforced by the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019. The Council will support renewable energy developments where these are consistent with the principles of sustainable development and it can be adequately demonstrated that there would be no unacceptable significant adverse effects.
- 3.2 This proposal has been assessed primarily against the criterion in the two lead Statutory Development Plan policies relating to renewable energy. These are: Policy 11 – Energy of National Planning Framework 4 and Policy LDP 6 – Supporting the Sustainable Growth of Renewables of the Argyll & Bute Local Development Plan. Other policies are referred to where relevant. It should be noted that in accordance with the advice of the Chief Planner, where there are discrepancies between these policies or the LDP policy is out-of-date, the default position is to defer to Policy 11 of NPF4. An example of this is the reference to SPP and the Spatial Framework in Policy 6. SPP is no longer extant and the requirement for a Spatial Framework has not been carried forward to NPF4. Consequently, it has not been considered in this report.

4. LOCATION, NATURE AND DESIGN OF PROPOSED DEVELOPMENT

- 4.1 The site for the proposed development is located within Mid Argyll, between Loch Awe and Loch Fyne, and lies approximately 7 km to the north west of Inveraray and approximately 4.5 km to the south of Portsonachan. The site is located on land within

Blarghour and Balliemeanoch farms and includes areas of plantation forestry at Three Bridges and Ardchnonell Forestry block. The site comprises an upland plateau moorland with craggy outcrops, used mainly for sheep farming and commercial forestry.

- 4.2 The Site comprises an upland plateau moorland with craggy outcrops, used mainly for sheep farming. The highest point on the site is located on its eastern edge, at 482 m Above Ordnance Datum (AOD), where the ground slopes up towards Cruach Mhor further to the east. The ground descends to approximately 230 m AOD at the western boundary, and to approximately 60 m AOD where the proposed access route meets the A819 at Three Bridges.
- 4.3 Two areas of commercial forestry lie within the site. Access to the site would be from the southeast, leaving the A819 and travelling through the Three Bridges forestry plantation. To the northwest of the Site is the Ardchnonell forestry plantation.
- 4.4 The site lies within four surface water catchments and is drained by a number of small burns, including the Allt Mor and Allt na h-Airigh. These form tributaries to the larger Allt Beochlich and Allt Blarghour, which flow into Loch Awe, and the River Aray, which flows into Loch Fyne. The site is also characterised by a number of small lochans, including the Lochan Cruaiche Bige.
- 4.5 The wider area is characterised by the Cruach Mhor/Beinn Bhreac ridge line which rises in between Loch Fyne and Loch Awe. The wider area is sparsely populated and the lower ground on Loch Awe side is characterised by farms and holiday cottages, with the closest located at Upper Barr Beithe, approximately 2.2 km to the northwest of the nearest turbine. The nearest settlement is Portsonachan, situated approximately 4.5 km northwest of the site boundary. The nearest road is the A819 (Inveraray to Dalmally) located adjacent to the site boundary.
- 4.6 There are a number of proposed, consented and operational wind farm developments located in the vicinity of the Proposed Varied Development. The existing An Suidhe wind farm is located approximately 4.5 km south of the Proposed Varied Development and comprises 23 turbines with 100 m tip height.
- 4.7 Consented development - The main components of the consented development are:
- 17 turbines, of a maximum ground to tip height of 136.5 metres;
 - a crane hardstanding area at each turbine base;
 - external turbine transformers adjacent to each turbine;
 - up to three permanent anemometer masts;
 - a network of access tracks, turning areas and passing bays linking the turbines and the substation/control building;
 - substation and compound;
 - control building;
 - three temporary construction compounds;
 - underground electrical, telecommunication and control cabling linking the turbines with the substation;
 - up to three on site borrow pits;
 - an access track linking the site with the A819; and
 - associated ancillary works and engineering operations.
- 4.8 Proposed Varied Development – the main components of the Proposed Varied Development are:

- Up to 14 turbines of a maximum ground to tip height of 180 m;
- a crane hardstanding area at each turbine base;
- external turbine transformers adjacent to each turbine;
- up to three meteorological masts or hardstanding areas for the placement of remote sensing equipment for collecting meteorological data;
- a network of access tracks, turning areas and passing bays linking the turbines and the substations/ control building;
- substations and compound;
- control building;
- three temporary construction compounds;
- underground electrical, telecommunication and control cabling linking the turbines with the substation
- up to three on Site borrow pits;
- a scheme of aviation lighting, including medium intensity red lights fitted to the nacelle of turbines T2, T3, T5, T11, T12, T16 and T17;
- an access track linking the A819; and
- associated ancillary works and engineering operations.

4.9 Key Changes – the key changes may be summarised as follows:

- Reduction in number of turbines from 17 to 14 (removal of T1, T4 and T7)
- Increase in tip height from 136.5m to 180m (43.5m increase)
- Access track length - removal of 2.14 km of track
- Turbine Foundations & Hardstanding's, temporary infrastructure land take (per turbine): 0.28 hectares (ha). Permanent land take (per turbine): 0.28 (ha) – no change in per turbine land take
- Meteorological Mast - Increase of up to 33 m. Potential to install remote sensing equipment instead of meteorological masts.
- Substation - Additional buildings for network operator. The area of the substation compound will not change in size.
- Lighting - As the proposed turbine tip height exceeds the 150 m threshold, a scheme of aviation lighting will be required. The Applicant would seek to agree a suitable lighting scheme with the planning authority in consultation the Civil Aviation Authority (CAA). The Proposed Varied Development assessed includes lighting on the nacelle of turbine T2, T3, T5, T11, T12, T16 and T17. The Applicant proposes a condition of consent which would allow the lighting scheme to be revisited in the future to take account of emerging technological solutions which would reduce the impacts of visible lighting, such as transponder radar activated lighting.

4.10 Connection to Electricity Grid - The grid connection does not form part of the section 36C application for the Proposed Varied Development. Any required consent for the grid connection would typically be sought by the relevant owner of the local distribution or transmission network. The Network Operator would be responsible for the consenting, construction and operation and maintenance of the grid connection.

Infrastructure

4.11 Scottish Water have advised the ECU that they have no objection to this proposal. This does not confirm the proposal can be serviced. Advice is also provided on: water assessment; foul assessment; drinking water protected areas and surface water.

4.12 Water Assessment – they have advised that there is no public Scottish Water, Water infrastructure within the vicinity of this proposed development therefore they would

advise applicant to investigate private options.

- 4.13 Foul Assessment – they have advised that there is no public Scottish Water, Waste Water infrastructure within the vicinity of this proposed development therefore they would advise applicant to investigate private treatment options.
- 4.14 Drinking Water Protected Areas – they have confirmed that there are no Scottish Water drinking water catchments or water abstraction sources, which are designated as Drinking Water Protected Areas under the Water Framework Directive, in the area that may be affected by the proposal.
- 4.15 Surface Water - For reasons of sustainability and to protect customers from potential future sewer flooding, Scottish Water have advised that they will not accept any surface water connections into their combined sewer system.

5. NET ECONOMIC IMPACT, INCLUDING LOCAL AND COMMUNITY SOCIO-ECONOMIC BENEFITS

- 5.1 Policy 11 – Energy of NPF4 states that proposals will only be supported where they maximise net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities. Policy LDP 6 – Supporting the Sustainable Growth of Renewables of the Argyll & Bute Local Development Plan require all applications for wind turbine developments to be assessed in terms of net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities.
- 5.2 The project would bring a socio-economic benefits to the local community, including the creation of jobs and opportunities for local businesses and suppliers during the construction phase and for the lifetime of the project. The Applicant is also committed to paying a community benefit package of £5,000 per MW of installed capacity for every year of operation. There are several options for distributing these funds for the benefit of the local community. In addition, the Applicant will be offering the community a shared ownership opportunity with this wind farm. Community Benefit is not however, considered to be a ‘material planning consideration’ in the determination of planning applications. If consent were to be granted, the negotiation of any community benefit, either directly with the local community or under the auspices of the Council, would take place outside the application process.
- 5.3 **Having due regard to the above it is considered a degree of net economic impact, including local and community socio-economic benefits, typical of such developments will be provided. It is therefore concluded that the proposal is consistent with the provisions of Policy 11 – Energy of NPF4, Policies LDP DM1 – Development within the Development Management Zones; LDP 6 – Supporting the Sustainable Growth of Renewables and Supplementary Guidance 2 of the Argyll & Bute Local Development Plan.**

6. IMPACTS ON COMMUNITIES AND INDIVIDUAL DWELLINGS, INCLUDING RESIDENTIAL AMENITY, VISUAL IMPACT, NOISE AND SHADOW FLICKER

- 6.1 Policy 11 – Energy of NPF4 requires that project design and mitigation will demonstrate how impacts on communities and individual dwellings, including, residential amenity, visual impact, noise and shadow flicker have been addressed. Policy LDP 6 – Supporting the Sustainable Growth of Renewables of the Argyll & Bute Local

Development Plan require all applications for wind turbine developments to be assessed in terms of impacts on communities and individual dwellings, including visual impact, residential amenity, noise and shadow flicker (including cumulative).

- 6.2 Noise - Mott MacDonald Ltd (MM) and Alistair Somerville Associates were commissioned by Argyll & Bute Council to undertake a peer review of the noise assessment for the proposed amendment to Blarghour wind farm. This review included a desktop assessment against current good practice, a check of the predicted noise levels from the wind farm, and a site survey of the area surrounding the wind farm site including the nearest residential receptors. A report was produced which summarises the findings of the review.
- 6.3 The desktop review and site survey conclude that, in general, good practice has been adopted by the Applicant, with a few issues identified. The most significant of these issues are:
- The omission of a key receptor Blarghour House
 - The omission of two operational turbines at Blarghour Farm nearby within the assessment of cumulative impacts.
- 6.4 The two turbines were in operation at the time of the baseline noise survey in 2017 and within around 550m of a baseline monitoring position. The influence of turbine noise on the results is not discussed or accounted for. However, it should be noted that the derived noise limits are not applied within the assessment presented in the 2023 Variation Application.
- 6.5 Further information on these aspect should be sought from the Applicant. Following a satisfactory response to the above issued from the applicant, it is considered that there would be no reasons to object to the scheme on noise grounds. A suitably worded condition such as that included in Section 4 of the Noise Consultant's report to limit the noise levels, tonality and amplitude modulation should be applied to control noise levels from the proposed scheme.
- 6.6 A note was received from the Applicant in response to the matters raised by the Council's Noise Consultant on the 4th December 2023. This note responds to the request for clarifications set out in the MM review in respect of predicted noise impacts on Blarghour House, and the consideration of cumulative noise impacts including the two Blarghour Farm 20 kW wind turbines. The results presented by MM in their review show that predicted operational noise levels from the Proposed Varied Development are below the noise limit applied to the Consented Development and the ETSU-R-97 simplified noise limit of 35 dB LA90 by a minimum margin of 7.7 dB. Predicted operational noise levels are therefore considered to be not significant as they comply with the limits already imposed on the Consented Development.
- 6.7 The Applicant goes on to explain that, in respect of the two small turbines at Blarghour Farm, notwithstanding that these could be scoped out of the cumulative assessment due to their size (the generating capacity of the two turbines is less than 50 kW), the turbines are owned and operated by the residents of the properties at Blarghour Farm who are directly financially involved with the Proposed Varied (and Consented) Development. The relevant noise limit at financially involved properties is 45 dB LA90, and predicted operational noise levels from the Proposed Varied Development are negligible in relation to the financially involved limit (i.e. they are 17.3 dB below the financially involved noise limit), as well as contributing only an additional 0.4 dB to the

cumulative operational noise levels of the two Blarghour Farm turbines and An Càrr Dubh Wind Farm. No significant cumulative effects are therefore predicted at Blarghour Farm and surrounding properties.

6.8 **ABC Noise Consultant** has responded to the Applicant's note as follows:

- Missing Receptor – Blarghour House - The Council's Noise Consultant would agree that Blarghour House, and the associated properties should be included in the assessment, and subsequent condition, noting that they are 'financially involved' for which a 'lower fixed' noise limit of up to 45dB L_{A90} can be applied. The applicant should clarify exactly which properties are included in this for the avoidance of doubt, and whether a limit relative to background, or just a fixed limit should be applied. The proposed planning condition would need to be modified to include these limits for the affected financially involved properties.
- Missing Consideration of the two turbines at Blarghour Farm - The Council's Noise Consultant considers that these two turbines should be included in the cumulative assessment of noise, especially as they have no noise limit attached to them. Whilst they agree that the planning assessment of a new 50kW turbine falls outside the scope of the IOAGPG, they would point out that ETSU-R-97 states the following in respect of a cumulative assessment at paragraph 58 "...absolute noise limits and margins above background should relate to the cumulative effect of all wind turbines in the area which contribute to the noise received at the properties in question..." There are no exclusions for small turbines in the IOAGPG from the cumulative assessment, and as noted in the Mott MacDonald report, there are properties who would exceed the current proposed 35dB L_{A90} condition for all properties when all turbine noise is taken into account. The Council considers that it is important to set the appropriate limit in the event of a tonal and / or AM penalty for enforcement purposes. The Council would agree that the inclusion of the Blarghour Farm turbines in the cumulative noise assessment would not change the conclusions reached in terms of noise impact of the scheme.
- Amplitude Modulation Condition - The Council's Noise Consultant confirms that they consider an amplitude modulation condition to be necessary for this wind farm as set out in the Mott MacDonald Report.

6.9 Shadow Flicker – was considered at Scoping Stage and analysis of the site context demonstrated that there are no properties within the potential zone of shadow flicker effects it was concluded that no further assessment was required, and that shadow flicker could be scoped out of the EIAR for the Proposed Varied Development.

6.10 Any Residential Amenity and Visual Impact matters are considered below in the section on Significant Landscape & Visual Impact.

6.11 **Having due regard to the above it is concluded that the proposal is acceptable in terms of any potential shadow flicker impact and Noise subject to the conditions recommended by the Council's Noise Consultant and is therefore consistent with the provisions of Policy 11- Energy, and Policies LDP STRAT 1 – Sustainable Development; LDP DM1 – Development within the Development Management Zones; LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment; LDP 6 – Supporting the Sustainable Growth of Renewables and Supplementary Guidance 2 of the Argyll & Bute Local Development Plan.**

7. SIGNIFICANT LANDSCAPE AND VISUAL IMPACTS

- 7.1 Policy 11 – Energy of NPF 4 requires that project design and mitigation demonstrates how significant landscape and visual impacts have been addressed, recognising that such impacts are to be expected for some forms of renewable energy. Where impacts are localised and/or appropriate design mitigation has been applied, they will generally be considered to be acceptable. Policy 4 a) – Natural Places of NPF4 states that proposals which by virtue of type, location or scale will have an unacceptable impact on the natural environment, will not be supported. Policy LDP 6 – Supporting the Sustainable Growth of Renewables of the Argyll & Bute Local Development Plan requires all applications for wind turbine developments to be assessed against landscape and visual impacts.
- 7.2 The Council’s Consultant Landscape Architect, Carol Anderson has undertaken a Landscape & Visual Review of this proposal, which is based on examination of the Environmental Impact Assessment Report (EIAR).
- 7.3 The proposal - The consented Blarghour wind farm comprised 17 turbines, 136.5m high to blade tip. The revised proposal is for 14 turbines, 180m to blade tip. Visible aviation lighting would be required on 7 turbines and the lighting strategy set out in the EIAR proposes a condition whereby lighting would be reviewed in future to take account of technological advances which may allow installation of a transponder radar activated lighting system. The adoption of such a system would significantly reduce the duration of lighting coming on during hours of darkness.
- 7.4 Landscape effects - The proposed development lies within the Craggy Upland Landscape Character Type (LCT) and would have direct significant adverse effects on its character. The increased height of the turbines would extend the influence of the proposal on this LCT to some degree when compared with the consented scheme. Significant adverse effects would be more severe on the smaller scale fringes of Loch Awe (part of the shore is defined as the Rocky Mosaic LCT) and on the narrow waters of the loch itself. The larger turbines proposed would increase the magnitude of effect on Loch Awe and its shores. Visible aviation lighting would also introduce lighting to the dark skies of the sparsely settled Loch Awe area further diminishing its remote and little developed character.
- 7.5 Visual effects - The comparative Zone of Theoretical Visibility map (Figure 4.6c) shows that there would be no difference in the extent of visibility between the consented scheme and the current proposal which comprises larger turbines. However, while increasing the height of the consented turbines by 43.5m would not extend the area of visibility, it would result in some changes to views. These changes do not generally result in an increase magnitude of effect on views within the broad parameters used in the Landscape and Visual Impact Assessment (LVIA). For example, the LVIA for the consented scheme concluded that a major significant adverse effect would occur on views from Inverinan (Viewpoint 4) and while the proposed increase of turbines to 180 would exacerbate effects on this view, as this is the most severe measure of significance defined, no further increase is possible within the scope of the LVIA.
- 7.6 The increase in height of the turbines results in some hubs being visible from viewpoints where only the tips of turbines within the consented scheme would be seen. This occurs in Viewpoints 5 from the B840 on the west side of Loch Awe, Viewpoint 6 from Dun na Cuaiche Tower within the Inveraray Castle Inventory listed Garden and Designed Landscape and from Viewpoint 9 from the Loch Avich Road.

7.7 Principal effects on views would be from:

- The west side of Loch Awe, from the unclassified road/NCR 78, the road to Loch Avich and from promoted footpaths and viewpoints. The larger 180m high turbines would increase discordancy with the smaller operational An Suidhe wind turbines seen in views from this area and turbine lighting would also extend the duration of significant adverse effects. EIAR Viewpoints 3 and 14 illustrate these effects.
- From the settlements of Dalavich and Inverinan (Viewpoints 1, 2 and 4) where larger turbines would increase the magnitude of effect (but not above the major adverse effects already associated with the consented scheme for Viewpoints 2 and 4 as explained above). Turbine lighting would extend the duration of significant adverse effects.

7.8 Cumulative landscape and visual effects with other proposed wind farms - Significant combined cumulative landscape and visual effects would occur where this proposal was seen together with the An Carr Dubh wind farm which lies within 1.5km of the proposal. Both developments would be largely seen together and would substantially increase the extent of very large wind turbines seen on the skyline of uplands which enclose the eastern side of Loch Awe. The proposed Eredine, Ladyfield and Beinn Ghlas repowering wind farm developments would also contribute to significant adverse combined cumulative effects on landscape and views principally when seen together and sequentially in the Loch Awe area.

7.9 Conclusions - The proposal would be much more prominent than operational wind farms and would be visible in every open view from the southern half of Loch Awe and across Loch Avich. However, the degree of change incurred by the variation would not alter the already significant adverse effects associated with the consented scheme in the context of the broad parameters considered in LVIA. Although there would be an exacerbation of significant adverse landscape and visual effects, these effects would be relatively limited in extent principally affecting the middle part of Loch Awe. No designated or other formally valued landscapes would be significantly affected by the proposal. In view of the policies set out in NPF4, it is recommended that no objection should be raised in terms of landscape and visual effects.

7.10 This proposal would introduce lighting to the dark skies of Loch Awe and while the number of visual receptors is likely to be low during hours of darkness, it is considered that it is imperative that radar activated lighting should be installed at the earliest opportunity as this would substantially reduce the duration and impact of night-time lighting.

7.11 Significant adverse combined cumulative landscape and visual effects would be likely to occur where this proposal was seen together and sequentially with the An Carr Dubh, Eredine, Ladyfield and Beinn Ghlas Repowering wind farm proposals.

7.12 Key visualisations for the Committee to review include:

- Viewpoint 1: Dalavich
- Viewpoint 2: Dalavich Jetty
- Viewpoint 3: Loch Avich Road
- Viewpoint 4: Inverinan
- Viewpoint 10: Kilmaha
- Viewpoint 14: B840 East of Ford

The comparative wireline visualisations in Figures 4.28-46 (Viewpoints 1-4, 10 and 14) should also be reviewed as these show the differences between the consented scheme and the proposed variation. It should be noted that the cover pages of the Main EIAR Report and the Non-Technical Summary documents appear to use a visualisation of the consented scheme and not the proposed variation from Viewpoint 2 at Dalavich Jetty. Comparison of this cover visualisation with the same viewpoint from the February 2023 EIAR usefully shows the increased vertical extent of the larger turbines now proposed in relation to landform and other features (the photographic context missing from the comparative wirelines)

7.13 NatureScot have provided the ECU with the following landscape advice (summary) –

- The Landscape and Visual Impact Assessment (LVIA) and night-time assessment do not allow a clear understanding as to how conclusions have been reached by the Applicant and do not highlight/ identify new significant effects or intensification of existing significant effects as a result of the Proposal. NatureScot therefore consider that further work is required to understand effects from the Proposal;
- There would be intensified significant cumulative landscape and visual effects when the Proposal is considered in-addition to and sequentially with the nearby operational An Suidhe wind farm and new significant combined and sequential cumulative effects with neighbouring proposals;
- The Proposal would introduce turbine lighting into an area of dark skies around Loch Awe and would result in extensive new significant night-time landscape and visual effects which would be compounded by new cumulative night-time effects with the neighbouring proposals; and
- Significant intensified visual effects would extend up to around 13km and would be mainly concentrated on settlements, roads and recreational receptors on the west side of Loch Awe with new significant day-time visual effects identified for six representative viewpoints.

7.14 Officer's Conclusion - Whilst the Council objected to the previous scheme and caused a Public Inquiry to be held, Scottish Ministers did not concur with our objection and granted consent. It is noted from the advice of the Council's Landscape Consultant that the degree of change incurred by the variation would not alter the already significant adverse effects associated with the consented scheme In relation to landscape and visual impacts. Officers have taken this advice into account and agree that the Council should not object on the grounds of Landscape & Visual Impact.

7.15 Furthermore, the concerns raised by NatureScot are noted and will be a matter for the Energy Consents Unit to consider/resolve prior to reaching a decision on this application.

7.16 **Having due regard to the above it is concluded that the proposal complies with the provisions of Policies 11 – Energy and 4 – Natural Places of National Planning Framework 4, and Policies LDP STRAT 1 – Sustainable Development; LDP DM1 – Development within the Development Management Zone; LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment; Policy LDP 6 – Supporting the Sustainable Growth of Renewables; SG LDP ENV**

14 –Landscape and Supplementary Guidance 2 Renewable Energy of the Argyll & Bute Local Development Plan.

8. IMPACTS ON TOURISM AND RECREATION

- 8.1 Policy 11 – Energy of NPF4 does not require Impacts on tourism to be considered – this criterion is no longer included. Policy LDP 6 – Supporting the Sustainable Growth of Renewables of the Argyll & Bute Local Development Plan require all applications for wind turbine developments to be assessed against impacts on tourism and recreation.
- 8.2 Tourism – It is acknowledged that Policy 11 of NPF4 does not include a requirement for the impact of proposals on tourism to be assessed. However, Policy LDP 6 of the Local Development Plan does. In Argyll & Bute the landscape is regarded as being a particularly valued asset both in terms of its intrinsic qualities and in terms of its value to the tourism economy. For all types of development the maintenance of landscape character is an important facet of decision-making in the countryside in Argyll & Bute, regardless of the scale of development proposed.
- 8.3 The Council’s LDP Policy LDP 6 identifies impacts on tourism and recreation as a material consideration in the assessment of renewable energy developments on the basis that inappropriate developments with significant adverse effects which contribute to the degradation of landscape character are unlikely to be in the interests of the Argyll tourism economy.
- 8.4 As Tourism and Landscape & Visual matters are intrinsically linked, and there is little evidence to demonstrate whether or not wind farms adversely affect tourism, it is considered that such impacts are covered in the landscape and visual impact assessment of the proposal.
- 8.5 **Having due regard to the above it is considered that the proposals is consistent with the provisions of Policy 11 - Energy, and Policies LDP STRAT 1 – Sustainable Development; LDP DM1 – Development within the Development Management Zones; LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment; LDP 6 – Supporting the Sustainable Growth of Renewables; SG LDP TRAN 1 – Access to the Outdoors; and Supplementary Guidance 2 of the Argyll & Bute Local Development Plan.**

9. PUBLIC ACCESS

- 9.1 Policy 11 – Energy of NPF4 requires that project design and mitigation demonstrates how impacts on public access are addressed, including impact on long distance walking and cycling routes and scenic routes. Policy LDP 6 – Supporting the Sustainable Growth of Renewables of the Argyll & Bute Local Development Plan requires all applications for wind turbine developments to be assessed against impacts on public access, including impact on long distance walking and cycling routes and those scenic routes identified in the NPF.
- 9.2 The proposal will be visible from some key routes, but will not have any adverse impact on public access.
- 9.3 **Having due regard to the above subject to a condition to secure an Access Management Plan in the event that consent is granted it is considered that the**

proposal is consistent with the provisions of Policy 11- Energy, and Policies LDP STRAT 1 – Sustainable Development; LDP DM1 – Development within the Development Management Zones; LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment; LDP 6 – Supporting the Sustainable Growth of Renewables; SG LDP TRAN 1 – Access to the Outdoors; and Supplementary Guidance 2 of the Argyll & Bute Local Development Plan.

10. AVIATION AND DEFENCE INTERESTS INCLUDING SEISMOLOGICAL RECORDING

- 10.1 Policy 11 – Energy of NPF4 requires that project design and mitigations demonstrates how impacts on aviation and defence interests including seismological recording have been addressed. Policy LDP 6 – Supporting the Sustainable Growth of Renewables and of the Argyll & Bute Local Development Plan requires impacts on aviation and defence interests and seismological recording to be addressed. Policy SG LDP TRAN 7 – Safeguarding of Airports of the Argyll & Bute Local Development Plan states that development will be refused where it would constrain the present and future operations of existing airports and airfields.
- 10.2 The Ministry of Defence (MOD) have advised the ECU they have no objection to this application, provided that the extant conditional requirements that the development is fitted with aviation safety lighting (Condition 23) and that sufficient data is submitted to ensure that structures can be accurately charted to allow deconfliction are included in any new consent that may be issued (Condition 22).
- 10.3 Edinburgh Airport have advised the ECU the proposal lies out with the Aerodrome Safeguarding zone for Edinburgh Airport and they have no objection.
- 10.4 Aberdeen International Airport have advised the ECU that the proposal is located out with their consultation zone. As such they have no comment to make and need not be consulted further.
- 10.5 Highlands and Islands Airports Limited (HIAL) have advised the ECU that the proposal is located outwith their consultation zone, as such they have no comment and need not be consulted further.
- 10.6 National Air Traffic Services Safeguarding (NATS) – have advised the ECU that the proposal has been examined by their technical safeguarding teams and does not conflict with their safeguarding criteria. Accordingly, NATS has no safeguarding objection to the proposal.
- 10.7 Glasgow Prestwick Airport have advised the ECU the proposed development lies outside the GPA safeguarding area and consequently they would have no comment or valid objection to make.
- 10.8 Glasgow Airport have advised the ECU the proposal has been examined from an aerodrome safeguarding perspective and does not conflict with safeguarding criteria and they have no objection.
- 10.9 **Having due regard to the above, subject to the conditions recommended by the Ministry of Defence, it is concluded the proposal is consistent with the provisions of Policy 11 – Energy of National Planning Framework 4, Policy LDP 6 – Supporting the Sustainable Growth of Renewables, Policy SG LDP TRAN 7 –**

Safeguarding of Airports, Supplementary Guidance 2 – Renewable Energy of the Argyll & Bute Local Development Plan in this respect.

11. TELECOMMUNICATIONS AND BROADCASTING INSTALLATIONS

- 11.1 Policy 11 – Energy of NPF4 requires that project design and mitigation demonstrates how impacts on telecommunications and broadcasting installations, have been addressed particularly, ensuring that transmission links are not compromised. Policy LDP 6 – Supporting the Sustainable Growth of Renewables and Supplementary Guidance 2 of the Argyll & Bute Local Development Plan requires all applications for wind turbine developments to be assessed against impacts on telecommunications and broadcasting installations particularly ensuring that transmission links are not compromised.
- 11.2 The Joint Radio Company have advised the ECU that they have previously cleared this development and do not have anything to add. Clearance still stands. The Met Office have advised the ECU that the proposal is not in any Met Office safeguarded areas. Therefore they would not expect any significant impact on their radar operation, and would not normally expect to be consulted. The Office for Nuclear Regulation have advised the ECU that they have no comment on the proposed development as it does not lie within a consultation zone around a GB nuclear site. It is therefore concluded that impacts on telecommunications and broadcasting links have been satisfactorily addressed.
- 11.3 **Having due regard to the above it is concluded that the proposal will not have any adverse impacts on telecommunications, broadcasting installations and transmission links (including cumulative impacts) and is consistent with the provisions of Policy 11- Energy of National Planning Framework 4, Policy LDP 6 – Supporting the Sustainable Growth of Renewables and Supplementary Guidance 2 of the Argyll & Bute Local Development Plan in this respect.**

12. ROAD TRAFFIC AND ADJACENT TRUNK ROADS

- 12.1 Policy 11 – Energy of NPF4 requires that project design and mitigation demonstrates how impacts on road traffic and on adjacent trunk roads have been addressed, including during construction. Policy LDP 6 – Supporting the Sustainable Growth of Renewables of the Argyll & Bute Local Development Plan requires all applications for wind turbine developments to be assessed against impacts on road traffic and impacts on adjacent trunk roads. Policy SG LDP TRAN 4 – New and Existing, Public Roads and Private Access Regimes of the Argyll & Bute Local Development Plan requires that accesses which connect to or impact significantly on a Trunk Road require consultation with Transport Scotland.
- 12.2 Transport Scotland (TS) – advised the ECU that based on the information provided they have no objection to the application subject to conditions being attached to any consent that may be awarded to secure the submission and approval of an updated Abnormal Loads Assessment; approval of the proposed route for any abnormal loads; approval of any accommodation measures (removal of street furniture, junction widening, traffic management); any additional signing or temporary traffic control measures must be undertaken by a recognised Quality Assured traffic management consultant; submission and approval of proposals for an abnormal load delivery trial run to be undertaken with the involvement of Police Scotland; submission and approval of a Construction Traffic Management Plan (CTMP); all vehicles transporting

construction material to be sheeted; installation of vehicle wheel cleansing facilities; and prior to any decommissioning, a Decommissioning Plan shall be prepared and submitted for approval.

- 12.3 The Council's Roads & Amenity Services have advised that they have no objection subject to the following conditions: connection of the site access to the public road to be, 160 x 2.4 x 1.05 metres; connection the site access to the public road, access to be constructed as per the Council's standard detail drawing ref: SD 08/001 Rev a, or otherwise agreed in writing by Roads & Infrastructure Services; a positive surface water drainage system to be installed to prevent the discharge of surface water onto the public road, details to be agreed with Roads & Infrastructure Services, prior to any works starting on site; Junction geometry, surfacing and drainage to be fully completed, prior to any work starting on site; Advanced warning signs for the site access to be erected on either approach, prior to any works starting on site; Strictly no vehicular access from the B840 East Lochaweside Road. All vehicles must enter and exit the site from the A819 Inveraray - Dalmally Road; Traffic Management Plan to be submitted for approval by Roads & Infrastructure Services, prior to any work starting on site. The Traffic Management plan should include details of all materials, plant, equipment, components and labour required during the construction works; A detailed Method Statement in relation to access and transport of materials, plant and equipment. Method statement to be submitted for approval by Roads & Infrastructure Services, prior to any work starting on site; and a detailed condition survey to be carried out between the A83 Tarbet - Campbeltown Trunk Road / A819 Inveraray - Dalmally Road junction and the application site, prior to any work starting on site. The condition survey to be recorded by means of video and photographs. A copy of the video and photographs to be submitted to Roads & Infrastructure Services for approval, prior to any work starting on site. The Area Roads Engineer also advises that a Road Opening Permit will be required and there should be no surface water discharge.
- 12.4 **Having due regard to the above, subject to the relevant conditions being attached in the event that consent is granted it is concluded that the proposal is consistent with the provisions of Policy 11 – Energy of National Planning Framework 4, Policy LDP 6 – Supporting the Sustainable Growth of Renewables, SG LDP TRAN 4 – New and Existing, Public Roads and Private Access Regimes, and Supplementary Guidance 2 – Renewable Energy of the Argyll & Bute Local Development Plan.**

13. HISTORIC ENVIRONMENT

- 13.1 Policy 11 – Energy of NPF4 requires that project design and mitigation demonstrates how impacts on the historic environment have been addressed. Policy 7 – Historic Assets and Places of NPF4 intent is to protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places. Policy LDP 6 – Supporting the Sustainable Growth of Renewables of the Argyll & Bute Local Development Plan requires all applications for wind turbine developments to be assessed against impacts on the historic environment, including scheduled monuments, listed buildings and their settings.
- 13.2 Historic Environment Scotland (HES) – have advised the ECU they do not object to the proposed variation to the existing Section 36 consent for Blarghour Wind Farm. While they accept aspects of the proposals will have an impact on the settings of a number of scheduled monuments in the vicinity they do not consider those impacts merit objection for their statutory interests. Although they consider the proposed

development would not raise issues of concern for their interests sufficient to object to the scheme, the turbines would still have significant impacts on the settings of: Ardchnonell Castle & Island of Innis Chonnel, Loch Awe (SM291); Caisteal Suidhe Cheannaidh, dun 470m NW of Achnacraobh (SM 4120); Tom nan Clach, cup and ring marked rock 560m ENE of Hazelbank (SM3246); and Ardchnonell, Long Cairn (SM4173). This could be mitigated further by deleting, relocating or lowering the height of turbines T9, T10, T11, T12 and T17.

- 13.3 The West of Scotland Archaeology Service (WOSAS) – have confirmed that the proposed changes raise no archaeological issues.
- 13.4 **Having due regard to the above it is considered that the proposal is consistent with the provisions of Policy 11 – Energy and Policy 7 – Historic Assets and Places of National Planning Framework 4, Policy LDP 6 – Supporting the Sustainable Growth of Renewables, SG and Supplementary Guidance 2 – Renewable Energy of the Argyll & Bute Local Development Plan.**

14. HYDROLOGY, THE WATER ENVIRONMENT AND FLOOD RISK

- 14.1 Policy 11 – Energy of NPF4 requires that project design and mitigation demonstrates how effects on hydrology, the water environment and flood risk have been addressed. Policy LDP 6 – Supporting the Sustainable Growth of Renewables of the Argyll & Bute Local Development Plan requires all applications for wind turbine developments to be assessed against impacts arising from effects on hydrology, the water environment and flood risk (including cumulative). Policy SG LDP SERV 7 – Flooding and Land Erosion - The Risk Framework for Development of the Argyll & Bute Local Development Plan provides guidance on the type of development that will be generally permissible within specific flood risk areas. It requires flood risk assessments, drainage impact assessments, or land erosion risk appraisals to accompany application where required.
- 14.2 The Council's Flood Prevention Officer – has advised that they have no objections subject to conditions. It is recommended that planning conditions to the effect of the following be attached to any consent granted for this application: any proposed watercourse crossings should maintain and not to reduce the existing capacity of the channel; and surface water drainage should be designed in accordance with CIRIA C753 and Sewers For Scotland 4th edition and ensure that post development surface water runoff does not exceed the pre-development surface water runoff. The surface water drainage should be in operation prior to the start of construction.
- 14.3 **Having due regard to the above, subject to the relevant conditions being attached in the event that consent is granted it is concluded that the proposal is consistent with the provisions of Policy 11 – Energy of National Planning Framework 4, Policy LDP 6 – Supporting the Sustainable Growth of Renewable, Policy SG LDP SERV 7 – Flooding and Land Erosion - The Risk Framework for Development and Supplementary Guidance 2 – Renewable Energy of the Argyll & Bute Local Development Plan.**

15. BIODIVERSITY

- 15.1 Policy 11 – Energy of NPF4 requires that project design and mitigation demonstrate how impacts on biodiversity, including birds have been addressed. Policy 3 – Biodiversity of NPF4 requires development proposals to protect biodiversity, reverse

biodiversity loss, deliver positive effects from development and strengthen nature networks. Policy 5 – Soils of NPF4 supports the generation of energy from renewable sources that optimises the contribution of the area to GHG emissions reduction targets on peatland, carbon-rich soils and priority peatland. A detailed site specific assessment will be required for development on peatland which will include the likely net effects of the development on climate emissions and loss of carbon. **(Impacts on carbon rich soils and reference to the carbon calculator have not been carried forward from SPP).** Policy LDP 6 – Supporting the Sustainable Growth of Renewables of the Argyll & Bute Local Development Plan requires all applications for wind turbine developments to be assessed against impacts arising from effects on the natural heritage, including birds and to be assessed against impacts on carbon rich soils, using the carbon calculator (including cumulative)

Ornithology

- 15.2 NatureScot have provided the ECU with the following Ornithology advice (summary). **They advise there is a high risk the G/LAE1B golden eagle territory could be abandoned;** request clarification regarding the flight data used in the CRM calculations; and recommend post-construction monitoring.
- 15.3 The Royal Society for the Protection of Birds Scotland (RSPB) – provides the following advice to the ECU:
- Ideally such a variation should consider the more positive requirements of net biodiversity gain as set out in NPF4.
 - Volume 5 – Confidential annexe contains an updated CRM for key species however the data this uses is approaching 10 years old. An update on key species and their usage of the area i.e. nest site usage would be prudent ideally including some reassessment of site use through VP observations. However, RSPB note that recent GET modelling has been used for Golden Eagle which allays some of these concerns.
 - RSPB note that no directional lighting is proposed for divers based on experience of birds habituated to oil/gas industry in Shetland – RSPB recommend following best practice to reduce potential impacts here.
 - This area is under consideration for multiple wind farm applications and OHL upgrades; as such the RSPB advise that an area landscape scale management plan should be established between different wind farms; this should include consideration of grid connections and OHL upgrades. Such an approach would show a willingness between developers within the onshore renewables sector to fully commit to meet requirements for positive effects for biodiversity as set out in NPF4.
- 15.4 EIA Considerations and variation – RSPB advise that breeding seasons monitoring for key species should ideally be continued up to and through the scoping, application, and construction process; and indeed, post construction to inform HMP.
- 15.5 It is disappointing that the scheme is not located more within the commercial forestry and indeed this change results in fewer turbines (loss of T4 and T7) within what is a low value man-made habitat. Turbines located out with commercial forestry will reduce open ground habitat for key bird species, as well as impacts on peatland.

- 15.6 Grid connection and OHL - RSPB are aware that the Creag Dhubh to Inveraray 275kV OHL (ECU00003442) is proposed to transect some of the Blarghour Wind Farm HMP area. Discussions have taken place between applicants, SSE and landowners regarding mitigating this loss. However, the new area being allocated for the HMP is less than the area impacted. It is disappointing given the scale of these proposals and financing behind them that this issue is proving difficult to rectify.
- 15.7 RSPB Scotland remains concerned that there lacks a joined-up approach to planning renewable energy and transmission infrastructure, which causes impacts to the detriment of nature in Argyll. RSPB Scotland is supportive of the use of renewable energy due to the urgent need to tackle the climate crisis. However, we are also facing a biodiversity crisis, with significant declines in the abundance and numbers of species in Scotland (NatureScot, 2019).
- 15.8 Given the high degree of renewable energy developments and associated OHL upgrades/substation infrastructure across Argyll, RSPB Scotland strongly advise that a holistic landscape scale approach is established between developers and landowners. In order to enable the efficient and impactful use of available land/resources for both the siting of proposal and to support coordinated Habitat Management Plans – increasing habitat availability and landscape permeability for protected species and so support the priority that planning policy (NPF4) places on the nature and the climate crisis.

Peat

- 15.9 SEPA have reviewed the EIAR and understand the application proposed the following changes to the development consented on the 29th October 2021 under EC00005267:
- Reduce the total number of turbines to 14 (removal of T1, T4 and T7 and associated tracks).
 - Increase the maximum tip height of the turbines from 136.5m to a maximum of 180m.
 - Change the layout of the consented substation within the consented footprint.
- These alterations do not raise any issues in SEPA's remit. SEPA therefore have no objection subject to the following condition, as per their response to the original application (dated 05 April 2019), being applied to this permission:
- 15.10 To ensure that any changes to the peat reuse proposals because of further post consent investigation are appropriate and in line with current guidance, SEPA request a condition is imposed requiring the developer to prepare and submit a detailed site-specific Peat Management Plan (PMP) for approval to the determining authority, in consultation with SEPA, at least two months prior to commencement of development. This should demonstrate how micro-siting and other measures have been used to further minimise peat disturbance following ground investigations and detailed design work.
- 15.11 Additionally, SEPA recommend that Condition 7 (Micro-siting) be amended to state that 'no micro-siting shall take place within areas of peat of greater depth than the original location'.
- 15.12 The Council's Local Biodiversity Officer – notes the contents of the supporting documents for the ecological interest, these outcomes are consistent with the original

application as the Proposed Varied Development would not have a significant effect on ecology or bird interest; with regards to Peat interest, the predicted land take is to be less than the original consent, the supporting documentation such as Peat Management Plan, Peat Landslide Hazard Risk Assessment along with the Outline Construction and Decommissioning Environmental Management Plan are relevant even though there is a reduction in turbines and land take. The LBO notes that the cumulative impacts have also been considered and the reassessment has resulted in no likely significant ecological residual effects associated with the Proposed Varied Development. Mitigation, including avoidance and minimisation of impacts on sensitive ecological receptors and enhancement opportunities have been identified. In summary, with the reduction in the number of turbines from 17 to 14 with the addition of an increase in height, the ecological and peat interests have been reviewed with the conclusion that there will be no significant effect due to the reduction in land take and the management details in specific management plans.

- 15.13 In light of the above advice provided by NatureScot and the RSPB to the ECU and the fact that ornithological matters remain to be addressed, it is not possible for Officers to reach a conclusion on the proposals acceptability in this regard. It is recommended that this matter is deferred to the expert advice of NatureScot and RSPB Scotland. In terms of Peat, Officers are satisfied to support the recommendation of SEPA, including suggested conditions.
- 15.14 **Having due regard to the above, due to the unresolved ornithological matters it is not possible at this time for a conclusion to be reached on whether or not the proposal is consistent with the provisions of Policies 11 – Energy and 3 – Biodiversity of NPF4, and Policies LDP STRAT 1 – Sustainable Development; LDP DM1 – Development within the Development Management Zone; LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment; Policy LDP 6 – Supporting the Sustainable Growth of Renewables; SG LDP ENV 1 – Development Impact on Habitats, Species and Our Biodiversity (i.e. biological diversity) and Supplementary Guidance 2 of the Argyll & Bute Local Development Plan.**
- 15.15 In respect to peat, it is considered that the proposal is consistent with the provisions of Policies 11 – Energy, 3 – Biodiversity, and 5 – Soils of NPF4, and Policies LDP STRAT 1 – Sustainable Development; LDP DM1 – Development within the Development Management Zone; LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment; Policy LDP 6 – Supporting the Sustainable Growth of Renewables; SG LDP ENV 1 – Development Impact on Habitats, Species and Our Biodiversity (i.e. biological diversity); SG LDP ENV 7 – Water Quality and the Environment; SG LDP ENV 11 – Protection of Soil and Peat Resources and Supplementary Guidance 2 of the Argyll & Bute Local Development Plan.

16. TREES, WOODS AND FORESTS

- 16.1 Policy 11 – Energy of NPF4 requires that project design and mitigation will demonstrate how impacts on trees, woods and forests have been addressed. Policy 6 – Forestry, woodland and Trees of NPF4 intent is to protect and expand forests, woodland and trees. Policy SG LDP ENV 6 - Development Impact on Trees / Woodland of the Argyll & Bute Local Development Plan states that Argyll & Bute Council will resist development likely to have an adverse impact on trees by ensuring that adequate

provision is made for the preservation of and where appropriate the planting of new woodland/trees, including compensatory planting and management agreements.

- 16.2 Scottish Forestry – advised the ECU they note from the variation information that the wind farm open ground will be reducing from 18.2ha to 15.2ha. Scottish Forestry recommend that the new area of 15.2ha replace the 18.2ha in condition 10. Replanting of Forestry ANNEX 2 – Part Two – Conditions attached to Deemed Planning Permission, of the Consent. Scottish Forestry have nothing more to add in relation to this variation to the consented development.
- 16.3 **Having due regard to the above it is concluded that subject to the conditions recommended by Scottish Forestry being attached in the event that the proposal receives consent it is consistent with the provisions of Policies 11 – Energy and 6 – Forestry, woodland and Trees of NPF4 and Policies LDP STRAT 1 – Sustainable Development; LDP DM1 – Development within the Development Management Zone; LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment; LDP 6 – Supporting the Sustainable Growth of Renewables; SG LDP ENV 6 - Development Impact on Trees / Woodland; SG LDP ENV 1 – Development Impact on Habitats, Species and Our Biodiversity (i.e. biological diversity); SG LDP ENV 7 – Water Quality and the Environment; Supplementary Guidance 2 Renewable Energy; of the Argyll & Bute Local Development Plan.**

17. DECOMMISSIONING, SITE RESTORATION AND QUALITY OF SITE RESTORATION PLANS

- 17.1 Policy 11 – Energy of NPF4 requires that project design and mitigation demonstrates how proposals for the decommissioning of developments, including ancillary infrastructure, and site restoration have been addressed. It also requires that project design and mitigation demonstrates how the quality of site restoration plans have been addressed including the measures in place to safeguard or guarantee availability of finances to effectively implement those plans. Policy LDP 6 – Supporting the Sustainable Growth of Renewable and of the Argyll & Bute Local Development Plan requires all applications for wind turbine developments to be assessed against impacts arising from the need for conditions relating to the decommissioning of developments, including ancillary infrastructure, and site restoration and the need for a robust planning obligation to ensure that operators achieve site restoration.
- 17.2 At the end of the project's operational life (approximately 30 years), a decision would be made as to whether to refurbish, remove, or replace the turbines. If refurbishment or replacement were to be chosen, relevant planning applications would be made. If a decision were to be taken to decommission the Proposed Varied Development, this would entail the removal of all the turbine components, transformers, the substation and associated buildings. Access tracks and underground cables would be left in place and foundations removed to a depth of 0.5 m below ground level to avoid environmental impacts from removal. A Decommissioning Plan would set out environmental protection measures and restoration principles which would be implemented. This Plan would be agreed with ABC. It is recommended that this matter is covered by planning conditions consistent with other projects across Argyll & Bute in the event that the proposal obtains consent from the ECU.
- 17.3 **Having due regard to the above it is concluded that subject to an appropriate condition being attached in the event that the proposal receives consent the proposal is consistent with the provisions of Policy 11 – Energy of NPF4 and**

Policy LDP 6 – Supporting the Sustainable Growth of Renewables and Supplementary Guidance 2 of the Argyll & Bute Local Development Plan

18. CUMULATIVE IMPACTS

- 18.1 Policy 11 – Energy of NPF4 requires that project design and mitigation will demonstrate how cumulative impacts have been addressed. Policy LDP 6 – Supporting the Sustainable Growth of Renewables of the Argyll & Bute Local Development Plan also requires cumulative impacts to be addressed. Any cumulative impacts which have been identified are covered in the preceding sections of this report.

19. RENEWABLE ENERGY GENERATION TARGETS AND GREENHOUSE GAS EMISSIONS REDUCTION TARGETS.

- 19.1 Policy 11 – Energy of NPF4 requires that, in considering the impacts of the proposal, significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions reduction targets. Policy 1 – Tackling the climate and nature crises of NPF4 requires that when considering all development proposals significant weight will be given to the global climate and nature crises. Policy LDP 6 – Supporting the Sustainable Growth of Renewables of the Argyll & Bute Local Development Plan require all applications for wind turbine developments to be assessed against the scale of contribution to renewable energy generation targets and greenhouse gas emissions.
- 19.2 The Proposed Varied Development would consist of 14 three bladed horizontal axis turbines with a maximum tip height of 180 m. The proposed turbines would each have individual generating capacity of around 6 MW, resulting in an anticipated projected output of 84 MW for the Proposed Varied Development.
- 19.3 The Proposed Varied Development would generate renewable electricity and would therefore displace carbon dioxide (CO₂) emissions associated with electricity generation, which would otherwise be supplied via other forms of power generation requiring the combustion of fossil fuels. The Scottish Government Carbon Calculator for Wind Farm on Peatlands has been used to calculate a payback period for the Proposed Varied Development based on the full development lifecycle. The results of this assessment indicate that the Proposed Varied Development would have an expected payback period of 2.8 years compared to grid mix of electricity generation. The Proposed Varied Development would save approximately 54,624 tonnes of carbon dioxide per year (compared to a typical grid mix of electricity supply). This equates to supplying 72,451 homes with renewable electricity.
- 19.4 When decision makers are considering the impacts detailed in Policy 11 they need to give significant weight to the contribution of the proposed development to renewable energy generation targets and on GHG emissions reduction targets. The recently published OWPS sets a minimum target of 20GW of deployed onshore wind by 2030 which is an additional 12GW. In addition, Policy 1 – Tackling the climate and nature crises of NPF4 states that significant weight is to be given to the global climate and nature crises when considering all development proposals.
- 19.5 **Having due regard to the above it is considered that the proposal by its very nature is consistent with the provisions of Policies 1 – Tackling the climate and nature crisis and 11 – Energy of National Planning Framework 4, Policies LDP 3 – Supporting the Protection, Conservation and Enhancement of our**

Environment, LDP 6 – Supporting the Sustainable Growth of Renewables, LDP STRAT 1 – Sustainable Development, LDP DM1 – Development within the Development Management Zones, and Supplementary Guidance 2 – Renewable Energy of the Argyll & Bute Local Development Plan.

20. GRID CAPACITY & ENERGY STORAGE

- 20.1 Policy 11 – Energy of NPF4 requires that grid capacity should not constrain renewable energy development. It is for developers to agree connections to the grid with the relevant network operator. Policy LDP 6 – Supporting the Sustainable Growth of Renewables of the Argyll & Bute Local Development Plan require all applications for wind turbine developments to be assessed against impacts arising from opportunities for energy storage.
- 20.2 Opportunities for energy storage - This proposal does not include a battery energy storage system (BESS). The benefit of such a system would be to store energy from the proposal or excess electricity from the national grid, providing stability to the electricity supply network, meeting energy demands and providing improved energy security. Guidance from the Chief Planner where there are discrepancies between Local Development Plan Policies and the Policies of NPF4 is that NPF4 should prevail. There is no requirement in NPF4 for BESS to be provided.
- 20.3 **Having due regard to the above it is considered that the proposal is consistent with the provisions of Policy 11 – Energy of National Planning Framework 4, Policy 6 – Supporting the Sustainable Growth of Renewables and Supplementary Guidance 2 – Renewable Energy of the Argyll & Bute Local Development Plan in this respect.**

21. PERPETUITY

- 21.1 Policy 11 – Energy of NPF4 requires that consents for development proposals may be time limited. Areas identified for wind farms are, however, expected to be suitable for use in perpetuity. It is acknowledged that areas identified for wind farms are expected to be suitable for use in perpetuity. **However, as the operational life of the Proposed Varied Development would be 30 years, should consent be granted for this proposal Officers would expect it to be time limited to 30 years to reflect the life of the wind farm as detailed in the EIAR.**

22. CONCLUSION

- 22.1 This proposal is classed as “Strategic Renewable Electricity Generation” - a National Development, in terms of the Spatial Strategy given its capacity to generate and store more than 50MW. In principle, there is support for this scale of development given its importance in the delivery of Scotland’s Spatial Strategy. However, such projects are still required to be assessed against the provisions of the Development Plan, which now consists of National Planning Framework 4 and the Argyll & Bute Local Development Plan.
- 22.2 The lead Development Plan policies support renewable energy development in principle, but requires that proposals are assessed against the criterion detailed in this report. While the weight to be given to each of the considerations is a matter for the decision maker, NPF4 is clear that significant weight will require to be placed on the contribution of the proposal to renewable energy generation targets and on

greenhouse gas emission reduction targets. However, a balance still requires to be reached in terms of the impact of the development.

- 22.3 In relation to landscape and visual impacts NPF4 advises that where impacts are localised and / or appropriate design mitigation has been applied such effects will generally be considered acceptable. However NPF4 must be read as a whole and detailed consideration given to linked policies. Policy 4 (Natural Places) – sets out that development proposals which by virtue of type, location or scale will have an unacceptable impact on the natural environment will not be supported. It is considered that this proposal will have a significant adverse landscape and visual impact which is not outweighed by social, environmental or economic benefits and is therefore consistent with the provisions of the Development Plan in this regard.
- 22.4 Development Plan Policy also requires Biodiversity impacts to be resolved – there are outstanding Ornithological matters that still require to be addressed. It has therefore not been possible for officers to reach a conclusion on the acceptability of this proposal in terms of policy in this regard. In terms of Ornithology, the Council would defer to the expert advice of NatureScot and the RSPB.
- 22.5 The Scottish Government gives considerable commitment to renewable energy and encourages Planning Authorities to support the development of wind farms where they can operate successfully in appropriate locations. This is not however blanket support without qualification. In considering the appropriateness of the development, significant weight has been given to these matters. In addition, the fact that there is an existing consent for this site and the advice of the Council's Landscape Consultant is not to object on Landscape & Visual Grounds.
- 22.6 In conclusion, firstly, it is recommended by Officers that the Council does not object to this application subject to the inclusion of any conditions recommended by consultees in any consent granted by the ECU. These should also include the condition proposed by the Applicant to allow the lighting scheme to be revisited in the future to take account of emerging technological solutions which would reduce the impacts of visible lighting, such as transponder radar activated lighting. Secondly, that it is brought to the attention of the ECU that it has not been possible to draw a conclusion on Biodiversity due to the fact that these matters have not been resolved. Thirdly, to highlight to the ECU that the Council would defer to the expert advice of NatureScot and the RSPB on the outstanding ornithological matters.

23. RECOMMENDATION

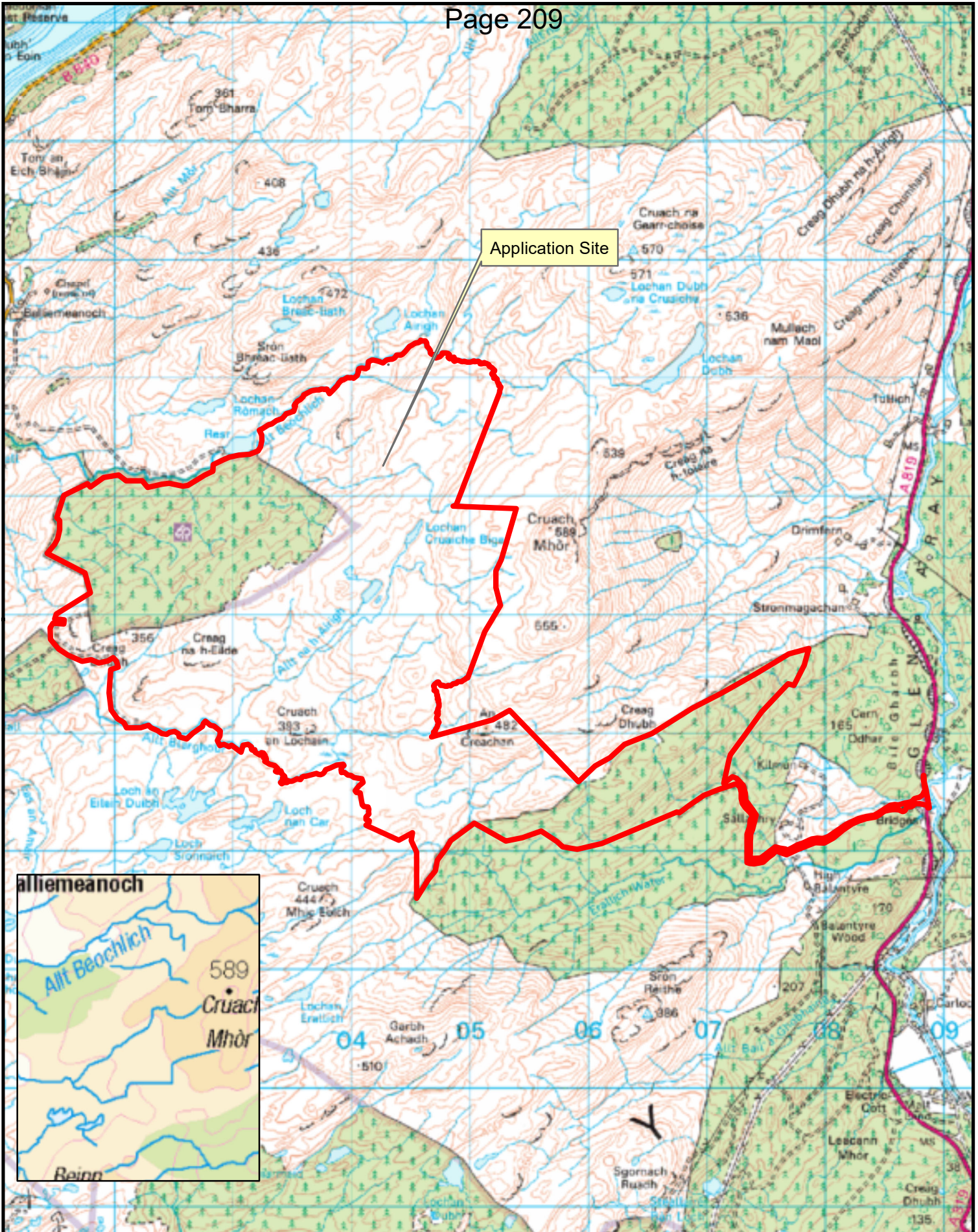
23.1 That the ECU be notified accordingly that:

- **That Argyll & Bute Council DOES NOT OBJECT to this application, subject to the inclusion of any conditions recommended by consultees in any consent granted by the ECU. These should also include the condition proposed by the Applicant to allow the lighting scheme to be revisited in the future to take account of emerging technological solutions which would reduce the impacts of visible lighting, such as transponder radar activated lighting.**
- **Notwithstanding the above, it has not been possible for Argyll & Bute Council to reach a conclusion on the acceptability of this proposal in respect to**

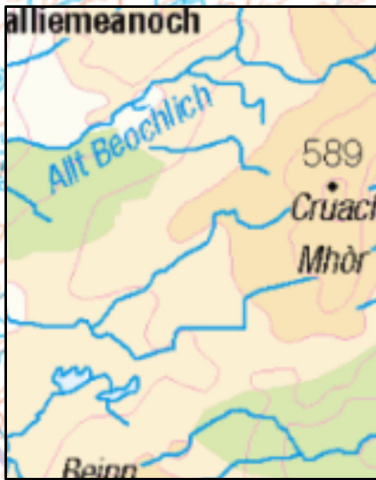
Ornithological matters. This is due to the fact that these matters have not been resolved.

- **In respect to the outstanding Ornithological matters, Argyll & Bute Council would defer to the expert advice of NatureScot and the RSPB.**

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Application Site



Location Plan Relative to Planning Application:23/00537/S36



1:41,450

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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:	23/01018/PP
Planning Hierarchy:	Local Development
Applicant:	Mr Thomas Irwin
Proposal:	Formation of earth bank slurry lagoon and associated works
Site Address:	Land at West Drumlemble Farm West of Rowan Tree Cottage Drumlemble Campbeltown Argyll and Bute

SUPPLEMENTARY REPORT NO. 1

1.0 INTRODUCTION

This report provides Members with an update following their decision at the 22nd November PPSL meeting to continue the application in order to allow submission of further information from the applicant in relation to:

1. Details on the nature of the proposed fence in terms of size and design and signage displayed in order to secure the site of the slurry lagoon;
2. Clarification on the type of cover that will go over the slurry lagoon in terms of the safety aspects of it; and
3. Details of protocols that will be put in place in respect of the Health and Safety aspects of the site, to ensure it was a safe place to work

2.0 FURTHER SUPPORTING INFORMATION

The applicant submitted the requested further information on 6th December 2023. The additional information submitted includes;

- A health and safety management plan for the site
- Revised site plan with tyre ladder details
- Revised cross-section plan
- Revised security steel mesh fence details to include 2 strands of barbed wires at the top and bottom.
- Health and Safety Executive (HSE) information sheet on managing slurry on farms

Note: Full details of the revised plans, health and safety management plan and HSE's information sheet on managing slurry on farms can be view on the Council's website at www.argyll-bute.gov.uk

3.0 SUMMARY OF MEMBERS REQUESTS AND RESPONSE:

3.1 Details on the nature of the proposed fence in terms of size and design and signage displayed in order to secure the site of the slurry lagoon.

Response: The applicant has submitted a revised plan as noted under section 2.0 above for the proposed fence and signage details. The design of the fence to be installed at the top of the earth bank now includes two stands of barbed wires at the top and bottom of the proposed gated security fence. The proposed fence would be made of steel mesh instead of timber as proposed initially and would measure a total of about 34.5 m and 2 meters high. A secondary 1m high fence has also been proposed to be installed at the lower ground of the lagoon to be made of post and wire tock. With regards to the proposed signage to be installed on site, it would have warning details which include the following;

- *Slurry Lagoon*
- *Danger*
- *Toxic Gases*
- *No Smoking and No Naked Flames*
- *Danger of Drowning*
- *Children must not play on this site*
- *Postcode, What3words and OS Grid Ref of site*
- *Emergency contact numbers 999 and site owner*

Officers note that the proposed fence specification is in line with guidance provided by the Health and Safety Executive for securing such sites. It is however recommended that an additional condition be attached to any permission granted requiring signage to be installed on all elevations of the fence and on all access gates to the site including on the two security fence gates as recommended on the revised site layout plan with drawing no. PL-002 Rev D.

3.2 Clarification on the type of cover that will go over the slurry lagoon in terms of the safety aspects of it.

Response: Members are reminded that SEPA's requirement for meeting the updated legislation for which this application has been submitted does not required to have a cover. Notwithstanding, the proposed floating cover will be produced from from Genatex 920 Reinforced PVC with 2 vented floaters and a de-gassing pipe with four chimney outlets. These outlets are to control the buildup of gas pressure under the cover. The floating cover is estimated to reduce emissions, and therefore odour, by approx. 85%.

The applicant has confirmed there is no other cover available to the industry for slurry lagoons other than the proposed floating cover. In their response the applicant notes that while this type of cover will not prevent anyone from falling into the lagoon; it would prevent anyone and/or animals from submerging in the slurry/gasses – increasing the chances of survival if anyone was to accidentally fall in. Submitted revised plans (site layout plan and site section plan) indicates additional installation of four tyre ladders to be anchored to the security fence and positioned internally at each corner of the lagoon. This is intended to assist anyone or animal who may have accidentally fallen into the lagoon to climb out.

3.3 Details of protocols that will be put in place in respect of the Health and Safety aspects of the site, to ensure it was a safe place to work.

Response: Members are advised that while additional information was requested relative to the health and safety aspect of the slurry lagoon, officers are minded that this aspect of the slurry management and operational activities are governed and monitored under a separate legislation by HSE. Similarly, SEPA would be responsible for ensuring the proposed lagoon has been constructed to satisfy SEPA's regulations and therefore has requested for a follow up site visit/investigation post construction and prior to the slurry lagoon being brought into use. Notwithstanding, the applicant has submitted additional document – HSE's information sheet on managing slurry on farm and has noted the proposed development would be managed in accordance with the HSE guidance document submitted. Furthermore, the applicant has submitted a health and safety management plan for the site. An additional condition requiring that the site be managed in accordance with this additional supporting documentation is proposed.

4.0 UPDATED RECOMMENDATION

It is recommended that planning permission be granted subject to the revised list of conditions and reasons appended to this report.

Author of Report: Tiwaah Antwi

Date: 7th December 2023

Reviewing Officer: Peter Bain

Date: 8th December 2023

Fergus Murray
Head of Development and Economic Growth

REVISED CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 23/01018/PP**Standard Time Limit Condition** (as defined by Regulation)**Standard Condition on Soil Management During Construction****Additional Conditions****1. PP - Approved Details & Standard Notes – Non EIA Development**

The development shall be implemented in accordance with the details specified on the application form dated 19.05.2023 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
Location Plans/Site Layout Plans	PL-001	A	30.05.2023
Proposed Site Layout Plan	PL-002	D	06.12.2023
Security Fence Details	PL-004	A	06.12.2023
Cross Sections through proposed slurry lagoon	PL-003	C	06.12.2023
Topographic Survey	01		22.09.2023
Odour Management Plan			22.09.2023
Health and Safety Management Plan			06.12.2023

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, the developer shall secure the implementation of an archaeological watching brief, to be carried out by an archaeological organisation acceptable to the Planning Authority, during all ground disturbance. The retained archaeological organisation shall be afforded access at all reasonable times and allowed to record, recover and report items of interest and finds. A method statement for the watching brief will be submitted by the applicant, agreed by the West of Scotland Archaeology Service, and approved by the Planning Authority prior to commencement of the watching brief. The name of the archaeological organisation retained by the developer shall be given to the Planning Authority and to the West of Scotland Archaeology Service in writing not less than 14 days before development commences.

Reason: In order to protect archaeological resources.

3. Notwithstanding the effect of Condition 1, upon completion of works the development hereby approved shall not be brought into use until the applicant has submitted to the planning authority written confirmation from SEPA to confirm that the proposed development complies with the relevant provisions of The Water Environment (Controlled Activities)(Scotland) Regulations 2011 (as amended).

Reason: In order to safeguard amenity and the environment.

4. 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 include details of:
 - i) Any proposed re-contouring of the site by means of existing and proposed ground levels;
 - ii) Proposed hard and soft landscape works;
 - iii) 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.

The development shall not be operated until such time as the surface treatment and any re-contouring works have been completed in accordance with the duly approved scheme.

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme during the first planting season following the commencement of the development, unless otherwise agreed 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.

5. The proposed development hereby approved shall be operated in accordance with the submitted Odour Management Plan dated September 2023, unless otherwise agreed in writing by the planning authority.

Reason: In the interests of amenity and safety.

6. Notwithstanding the effect of Condition 1, the proposed safety signage shall be installed on all elevations of the fences and on all access gates to the site including on the two security fence gates as recommended on the revised site layout plan with drawing no. PL-002 Rev D. Thereafter the signage shall be maintained to ensure that it remains legible.

Reason: In the interests of safety.

7. The development hereby approved shall be operated in accordance with the submitted Health and Safety Management Plan submitted to the Planning Authority on 06 December 2023, unless otherwise agreed in writing by the planning authority; or as may otherwise be alternatively instructed by any other Agency with a statutory remit limiting the operation or maintenance of the site, including the Health and Safety Executive and/or SEPA.

Reason: In the interests of amenity and safety.

NOTE TO APPLICANT

- The applicant's attention is drawn to SEPA's note regarding the proposed slurry liner which states that it must have a geotextile installed between the liner and the ground. Also, a fixed mixing, filling and emptying points with concrete protection shall be provided.
- Regard should be had to the West of Scotland Archaeology Service's consultation comments in respect of the proposed development.
- **Development Low Risk Area - Standing Advice**

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority

Argyll and Bute Council
Development & Economic Growth

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

Reference No: 23/01018/PP
Planning Hierarchy: Local Development
Applicant: Mr Thomas Irwin
Proposal: Formation of earth bank slurry lagoon and associated works
Site Address: Land at West Drumlemble Farm West of Rowan Tree Cottage
Drumlemble Campbeltown Argyll and Bute

DECISION ROUTE

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

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Formation of earth bank slurry lagoon and associated works
- Erection of 2 metre high boundary fencing

(ii) Other specified operations

- Ground works to remove soil and base materials from the site
-

(B) RECOMMENDATION:

That planning permission is granted, subject to conditions.

(C) CONSULTATIONS:

Environmental Health

Initial response requested additional information (Odour Impact Assessment) – 30.08.2023

Following submission of an Odour Management Plan, no objection was raised to the proposal – 20.09.2023

Flood Risk

Initial response recommended deferral of decision – 21/09/2023

Following submission of additional information, no objection was raised to the proposal – 29/09/2023

Laggan Community Council

With more consideration, thought and engagement the development could have been better planned with a less negative outcome. Consider that the project at the current proposed site is hugely detrimental to a significant proportion of residents in the Community Council Area, with very few obtaining any form of benefit. Object to the proposal in the strongest possible terms.

Raise specific concerns in relation to safety, including regarding access to the slurry lagoon, fumes, and subsistence/structural failure associated with historic mine works, noting a large part of the village had to be evacuated in the past, noting the Coal Board's Report is not available. Question the location of the proposed development, suggest it should be located closer to the farm steading, and query the proposed siting in terms of aesthetics. Consider the proposal could affect property values and the desirability to live/relocate to the village.

West of Scotland Archaeology Services

Note that the application lies within an area of archaeological sensitivity and potential based on the presence of recorded sites of prehistoric, medieval and later date in the surrounding landscape. However, no objection is raised subject to a condition to secure an archaeological watching brief.

(D) HISTORY:

No relevant site-specific planning history

(E) PUBLICITY:

Regulation 20 Advert (expiry date: 07.07.2023)

Neighbour notification (expiry date: 12.06.2023)

(F) REPRESENTATIONS:

(i) Representations received from:

A total of 29 representations were received for the application – 28 of which were in objection and a neutral comment. Details of the contributors and contents of representations are summarised below.

Neutral comment received from:

- Donald Kelly

Objection comments received from:

- Susan Jones – 30 Rhudal Cottages, Drumlemble, Campbeltown, PA28 6PR

- Sheila Ross – 21 Rhudal Cottages Drumlemble, Campbeltown, PA28 6 PR
- Michelle Ross – 2 Rhudal Cottages Drumlemble, Campbeltown, PA28 6 PR
- Christina Mauchline – 29 Rhudal Cottages Drumlemble, Campbeltown
- Debbie Morrison – 5 Burn bank cottages, Drumlemble, PA28 6 PP
- Chris Annetts – 28 Rhudal Cottages Drumlemble, Campbeltown
- Tiffany Lang – 7 Rhudal Cottages Drumlemble, Campbeltown, PA28 6 PR
- Elizabeth McTaggart – 16 Rhudal Cottages Drumlemble, PA28 6 PR
- Leslie MCGeachy - 2 Burnbank Cottages Drumlemble PA28 6PP
- Norman Munro - 15 Rhudal Cottages Drumlemble Campbeltown PA28 6PR
- Moyra Patterson - Dalbuie Southend Campbeltown PA28 6PJ
- Isobel & William Mathieson - 22 Rhudal Cottages Drumlemble PA28 6PR
- Marie & Stewart McSporran - 24 Rhudal Cottages Drumlemble PA28 6PR
- Allan Russell - Flat 2/1 27 Longrow Campbeltown PA28 6ER
- Kate Omary - 25 Rhudal Cottages Drumlemble, Campbeltown, PA28 6 PR
- Christopher Lang - 3 Main Row Cottages Drumlemble PA28 6PS
- Jeananne Mathieson - Torchoillean Farm Drumlemble PA28 6PW
- Andrew Nelson - 1 Rhudal Cottages Drumlemble, PA28 6 PR
- Michelle Crawford – 6 Burnbank Cottages Drumlemble PA28 6PP
- Diana & J H Manning – 1 Burnbank Cottages Drumlemble PA28 6PP
- Tommy Millar - Bal-Na-Hannan Drumlemble Campbeltown PA28 6PW
- William Mathieson - 1A Davaar Avenue Campbeltown PA28 6NF
- Sandra Mathieson & Les Van Acker - 8 Burnbank Cottages Drumlemble PA28 6PP

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.

(ii) Summary of issues raised:

Summary of neutral comment:

- Concerns regarding the positioning and potential impacts of the slurry on neighbouring residents raised by Donald Kelly who was at the time of submission an elected member for Ward 1. Cllr wishes to vote and speak should the application go to a discretionary hearing.
- *Comment: This point is noted and addressed in the main body of the report below. The application is scheduled for Planning Committee, and officers are of the view that a hearing would add little value to the decision-making process. Ultimately, it would be for members of PPSL to decide whether a discretionary hearing was necessary. It is noted that Donald Kelly has subsequently stepped down from his role as elected member for Ward 1*

Summary of objection comments:

- Safety concerns raised in relation to danger posed by the development to local children, elderly and animals should they gain access to the slurry regardless of the 2 metres high fence. A historic loss of a dog in slurry has been highlighted.
- *Comment: This point is noted. However, a 2-metre-high security fence would be erected around the site. In addition, the applicant has opted to install a covered slurry lagoon, with a small hole for the inlet/outlet being the only*

access to the slurry. As such, it is considered that withholding planning permission on safety grounds would not be justified.

- Concerns regarding the smell associated with the proposed slurry (even when covered), and the prevailing wind, which would pose health problem and restricted use of locals' outdoor spaces and garden areas. A previous similar slurry pit further from the village is noted to have caused odour nuisance in summer periods. The area already has existing odour related issues from farming. Concerns that the proposed site would be difficult to monitor away from the main farm.

Comment: The above points are noted, and an Odour Management Plan has subsequently been submitted to the Planning Authority. Environmental Health who raised no concerns following review of the document. Furthermore, the applicant has confirmed that the proposed slurry would serve as a surplus unit to an existing slurry tank within the current farm steading. The applicant also noted that the intent of this application is not to intensify the existing farm operations, and that the proposal would remain ancillary to an existing land use, where such odours would not be an unusual experience in a countryside location.

- The suitability and lifespan of the lagoon's lining and cover was queried.
- *Comment: In this regard, the proposed material for the lining has been deemed suitable by SEPA who will inspect the work upon completion to ensure the right materials have been used and installed appropriately. An appropriately worded condition could be imposed to ensure the proposed works have been reviewed by SEPA post completion of works.*
- The site is within close proximity to a natural watercourse, noted to be liable to surface water flooding within the village during heavy rain. Concerns have been raised regarding the slurry's potential to exacerbate this by overflowing/leaking to residents' garden areas as a result of structural/material malfunction and/or heavy rains filling the slurry.
- *Comment: This point is noted and addressed in detail in the main body of the report. However, as per SEPA flood maps, the proposed site and its immediate surrounding are out with any flood risk zones and is subject to no known record of flooding. SEPA have also confirmed acceptance of the lining materials and propose a post inspection of the lagoon prior to its use to ensure compliance. In addition, following the submission of requested additional information, the Council's Flood Advisor has raised no objections to the proposed development.*
- Query the slurry lagoons location as opposed to the immediate surrounding of the farm and the potential precedence this would set. A potential alternative site is also suggested.
- *Comment: These points are noted. However, each planning application must be assessed on its own merits and the supporting document sets out why the proposed location was selected. Further detail associated with the site selection and suitability is addressed in the main body of the report.*

- Concerns raised with regards to road/pedestrian safety as the proposal would intensify the volume of farm traffic and heavy vehicles/ machinery going through the village.
- *Comment: This point is noted. However, the applicant has confirmed that due to the proposed site location, journeys through the village would be reduced as once slurry is due to be spread, there will be limited transportation through the village as the slurry will already be on site and will be connected to an umbilical system for spreading up to three times annually. Further vehicular activities through the village are detailed in the main body of the report.*
- It is suggested that a completely sealed tank, high walled or metal structure or some other impermeable material would seem safer, and the tank could be located nearer the farm which is the source of the slurry.
- *Comment: This point is noted. However, SEPA has assessed the proposed materials and confirmed suitability. Given that the proposal is to meet legislative requirement and noting the characteristics of the identified suitable site, it is considered that a high walled/metallic structure would appear visually prominent. Further consideration of site suitability is contained in the main body of this Report. Moreover, the proposed development must be assessed on its own merits.*
- Comment was made regarding the earth bund containment of the development and as well as the carbon footprint of the slurry.
- *Comment: These points are noted. The earth bund is intended to be seeded to blend in with the surround fields. Given the proposal is in response to new legislative requirements rather than the intensification of the existing agricultural unit and based on the available evidence, withholding permission on the basis of climate change would be difficult to substantiate.*
- Local occupants have highlighted the effect of the proposal on house prices within the village and the likelihood to legally challenge the application's decision.
- *Comment: These points are noted. However, the effect of a proposed development on property prices or the likelihood of a legal challenge is not a consideration material to the determination of this planning application.*
- The possibility of an underground mine shaft being present on the site was highlighted due to record of previously collapsed mines within the village. The Coal Authority's mapping system was claimed to be inadequate, with no records of mines older than 1900. Hence, a bore test is proposed to test the area.
- *Comment: This point is noted. However, no substantive evidence has been submitted to support this point. The Coal Authority have raised no concerns in respect of the proposed development, with reference to the documentation submitted by the applicant. However, the redline site area the Coal Authority provided comments to the applicant for is slightly different to the red line site boundary associated with this planning application. Notwithstanding this, having been assessed by officers, the designation is a low risk area where*

Standing Advice is drawn to the attention to the applicant as standard practice. This will be appended to any approval by way of an informative to the applicant.

- Concerns are raised regarding the health and safety of the village residents (including their physical, social and psychological effect) and potential of gas poisoning from the slurry.
- *Comment: This point is noted and is addressed in the main body of the report.*
- Concern raised by the immediate neighbouring residents stating that farm operations have ceased and the premises now remains a family home. The comment highlights an enclosed slurry would not be such as issue and proposes alternative site further from their home.
- *Comment: This comment is noted and addressed in the main body of the report.*
- Comment made highlighting discrepancies in the application and information circulated locally by the applicant which made no mention of the proposed cover for the slurry, did not plan for an umbilical/pipeline system, and did not include both the Coal Board's report and that of SEPA.
- *Comment: The application has been assessed based on the submitted information from both the Coal Authority and SEPA which have raised no concerns in response to the planning application, with reference to the documentation submitted by the applicant. However, the redline site area the Coal Authority provided comments to the applicant for is slightly different to the red line site boundary associated with this planning application. Notwithstanding this, having been assessed by officers, the designation is a low risk area where Standing Advice is drawn to the attention to the applicant as standard practice. This will be appended to any approval by way of an informative to the applicant. The applicant has confirmed a temporary umbilical system will be through the fields for filling the lagoon and intends to install a permanent piping system under the public road which will be dealt with in a separate planning application.*
- Concerns regarding the ground suitability to hold the amount of slurry and the potential of slurry leaking into underground mines that were not filled.
- *Comment: The applicant has submitted a topographical survey in support of the proposal. Furthermore, comments have been submitted from the Coal Authority by the applicant, which albeit relate to a slightly different red line to that associated with this planning application. Notwithstanding this, having been assessed by officers, the designation is a low risk area where Standing Advice is drawn to the attention to the applicant as standard practice. This will be appended to any approval by way of an informative to the applicant.*

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) **Environmental Impact Assessment Report:** Yes No (if Yes insert EIAR topics below)
- (ii) **An Appropriate Assessment under the Conservation (Natural Habitats) Regulations 1994:** Yes No (if Yes attach as an appendix)
- (iii) **A Design or Design/Access statement:** Yes No (if Yes insert summary of key issues below)

'This proposal has come about after the government made changes to its general binding rules stating that all cattle farms within Scotland must have at least 22 weeks slurry storage capacity by the 1st of January 2026. We endeavour to do our best to be compliant.'

As a farm we want to be proactive in getting the measures in place in good time to be compliant with the legislation rather than leaving it to last minute when it will be a logistical nightmare to have measures in place when every other farmer is trying to get the same supplier/builder/contractor to complete their works at the same time.

Much planning, consulting and research has gone into suitable siting, equipment and material as well the logistics of operating such a storage facility in conjunction with the farms current storage system. The proposed location has been selected to benefit the environment, community and the farms soil health.

No additional slurry will be produced on farm other than what is produced at present. This proposal is simply to store slurry for when there is a more suitable time to spread to benefit the environment.'

The supporting statement sets out that the site in question has been chosen as it is situated away from the main track leading to the Piggery and High Tirfergus farm. Although along this track may have been more practical and convenient for the site, it is kept back from where people regularly and rightly enjoy walking to keep people out harm's way when equipment may be working around the lagoon.

'In terms of lagoon safety, a tall security fence would be installed as per plans (refer to operation statement). This would be a chain lock fence which meets legislation and can't be climbed or scaled with ease. Relevant warning signage would be installed as per legislation.

A suitable stock proof fence will also be built around the perimeter of the bund to protect the banks and security fence from damage from livestock or equipment.

With one small child of our own and another on the way, safety is of utmost importance right across the whole farm, this wouldn't have been considered if it was thought to be unsafe. This is a busy working farm with dangers at every corner be it from livestock/machinery/topography or electric stock fences and such like. Children should be supervised, and the Scottish outdoor access code followed at all times when out enjoying the countryside.

Protecting our environment/climate

- a) *The material used for the liner are compliant with SEPA*
- b) *The lagoon will enable slurry to be spread when the crop has a nutrient requirement (i.e. February to October) and not when we are at the mercy of stores being full. This means cleaner watercourses.*
- c) *The lagoon would be fully enclosed with a floating cover, this will help our climate/environment by reducing emissions and eliminating rainwater entering the slurry system (refer to operation statement)*
- d) *Leak detection system. This will be in place to mitigate any issues of leakage into watercourse if a minor leak were to occur when the liner is reaching its operational lifespan at which point the liner can be replaced rather than constructing a whole new facility at a cost to the environment/climate.*

Smell/odour and overflow from Livestock slurry

As previously mentioned, the lagoon would be enclosed with a floating cover. This is not mandatory or a cheap option by any means, but we wanted to ensure the best measures are taken to mitigate smell/odour. This would be sealed around all 4 sides and there would be no means of gaining access to the slurry other than that of the 6 inch inlet/outlet valves used to fill/empty the store. This mitigates any risk of smell or odour that may occur around mixing or storage.

No complaints have ever been received for smell from mixing/storage of slurry at the steading with the tanks being situated from only 120 meters from the village. This proposal is around 400 meters from the village and 180 meters from the nearest dwelling not associated with the farm. We don't foresee any issues with smell.

This same cover would also collect any rain water that may fall upon the lagoon's freeboard capacity. The water would be pumped off onto surrounding grassland and prevent any rainwater producing any slurry in excess of what is produced on farm at present. This would mean that there will be no means for the lagoon to overflow at any time. Whatever volume of slurry put in the lagoon will be the same as that to come back out at application.'

The planning application is also accompanied by documentation from SEPA and the Coal Authority, the contents of which are summarised below:

SEPA (letter dated 03.07.23)

Confirms that the proposed lagoon, in combination with existing slurry storage facilities, will provide the business with greater than the required 22 week slurry storage. Confirms the liner is complaint for slurry storage use in Scotland, and advises the liner must have a geotextile installed between the liner and the ground, and fixed

missing, filling and emptying points with concrete protection should be provided.

Provided the works are carried out in the submitted drawings and attached Annex, states the development should meet regulatory requirements. Requests that SEPA are contacted post completion of works to allow final inspection.

The Coal Authority (Coal Mining Report dated 16.06.23):

In summary notes ‘ According to the official mining information records held by the Coal Authority at the time of this search, evidence of, or the potential for, coal mining related features have been identified. It is unlikely that these features will impact on the stability of the enquiry boundary.’

However, the redline site area the Coal Authority provided comments to the applicant for is slightly different to the red line site boundary associated with this planning application. Notwithstanding this, having been assessed by officers, the designation is a low risk area where Standing Advice is drawn to the attention to the applicant as standard practice. This will be appended to any approval by way of an informative to the applicant.

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

(H) PLANNING OBLIGATIONS

- Is a Section 75 agreement required:** Yes No (if Yes insert details of the terms and heads of agreement and, grounds for refusal if not completed within 4 months below)

- (I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** Yes No (if Yes insert details of direction below)

- (J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application**

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

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

Part 2 – National Planning Policy

Sustainable Places

NPF4 Policy 1 – Tackling the Climate and Nature Crises
NPF4 Policy 2 – Climate Mitigation and Adaption
NPF4 Policy 3 – Biodiversity
NPF4 Policy 4 – Natural Places
NPF4 Policy 5 – Soils
NPF4 Policy 7 – Historic Assets and Places
NPF4 Policy 9 – Brownfield, Vacant and Derelict Land and Empty Buildings (*includes provisions relevant to Greenfield Sites*)
NPF4 Policy 13 – Sustainable Transport

Liveable Places

NPF4 Policy 14 – Design, Quality and Place
NPF4 Policy 22 – Flood Risk and Water Management
NPF4 Policy 23 – Health and Safety

Productive Places

NPF4 Policy 29 – Rural Development

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

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

Local Development Plan Schedules

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

Natural Environment

SG LDP ENV 1 – Impact on Habitats, Species and our Biodiversity
SG LDP ENV 11 – Protection of Soil and Peat Resources

Landscape and Design

SG LDP ENV 14 – Landscape
SG LDP ACE 1 – Area Capacity Evaluation (ACE)

Historic Environment and Archaeology

SG LDP ENV 19 – Impact on Scheduled Ancient Monuments (SAMs)
SG LDP ENV 20 – Development Impact on Sites of Archaeological Importance

Sustainable Siting and Design

SG LDP Sustainable – Sustainable Siting and Design Principles

Bad Neighbour Development

SG LDP BAD 1 – Bad Neighbour Development

Resources and Consumption

SG LDP SERV 2 – Incorporation of Natural Features / SuDS

SG LDP SERV 3 – Drainage Impact Assessment

SG LDP SERV 5 – Waste Related Development and Waste Management

Transport (Including Core Paths)

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

SG LDP TRAN 7 – Safeguarding of Airports

(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

[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 02 – Outwith Settlement Areas

Policy 04 – Sustainable Development

High Quality Places

Policy 05 – Design and Placemaking

Policy 08 – Sustainable Siting

Policy 09 – Sustainable Design

Policy 10 – Design – All Development

Policy 14 – Bad Neighbour Development

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

Policy 19 – Scheduled Monuments

Policy 21 – Sites of Archaeological Importance

Connected Places

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

Policy 37 – Development Utilising an Existing Private Access or Existing Private Road

Policy 43 – Safeguarding of Aerodromes

Sustainable Communities

Policy 55 – Flooding

Policy 61 – Sustainable Urban Drainage Systems (SUDS)

Policy 63 – Waste Related Development and Waste Management

High Quality Environment

Policy 73 – Development Impact on Habitats, Species and Biodiversity

Policy 79 – Protection of Soil and Peat Resources

Local Development Plan 2 Schedules

(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: Yes No (if Yes confirm date of screening opinion and reference below)

(L) Has the application been the subject of statutory pre-application consultation (PAC): Yes No (if Yes provide summary detail of PAC below)

(M) Has a Sustainability Checklist been submitted: Yes No (if Yes provide detail below)

(N) Does the Council have an interest in the site: Yes No (if Yes provide detail below)

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

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

- Coal Bearing Land.

(P)(ii) Soils

[Agricultural Land Classification:](#)

Class: 4.20

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

- Class 1
Class 2
Class 3
N/A

[Peat Depth Classification:](#)

N/A

Does the development relate to croft land?

Yes No

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

Yes No N/A

Would the development result in fragmentation of croft / better quality agricultural land? Yes No N/A

(P)(iii) Woodland

Will the proposal result in loss of trees/woodland? Yes
(If yes, detail in summary assessment) No

Does the proposal include any replacement or compensatory planting? Yes
No details to be secured by condition
N/A

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

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

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

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

ABC LDP 2015 Allocations/PDAs/AFAs etc:

N/A

ABC pLDP2 Settlement Strategy
(tick all relevant boxes)

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

ABC pLDP2 Allocations/PDAs/AFAs etc:

N/A

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

This application seeks for planning permission to establish an earth bank slurry lagoon and associated works, including erection of a 2m high security fence.

The application site is accessible via a farm track off a private access to the U031 public road. The proposal development is in response to the updated Scottish government legislation on the Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021, which requires all cattle and pig farmers to have a minimum slurry storage capacity for a period of 22 and 26 weeks by 1 January 2026; and slurry storage to be built in line with the Silage, Slurry and Agricultural Fuel Oil (SSAFO) requirements.

In terms of the provisions of NPF4 policies and those of the adopted Argyll and Bute Local Development Plan (LDP) and the proposed LDP2, the application site comprises a greenfield site located within the Countryside Zone. Of relevance, NPF4 Policy 9 sets out that proposals on greenfield sites will not be supported unless the site is explicitly supported by policies in the LDP. Policy LDP DM 1 gives

encouragement to small scale developments on appropriate infill, rounding off and redevelopment sites and change of use of existing building. Policy 02 of the proposed LDP2 further sets out a presumption in favour of sustainable development within the Countryside Areas where this is of an appropriate scale, design, siting and use for its countryside location, as detailed in the relevant subject policies.

Other forms of development in the open countryside might be supported if an exceptional case is demonstrated and the works meet the terms of an Area Capacity Evaluation (ACE). However, table 1, which accompanies Policy SG LDP ACE 1, sets out the definition of scale of development by type, none of which the proposed use would fall into. Additionally, the proposal is not considered to have adverse impact that would require the submission of additional assessments with respect to policy 02 of pLDP2.

In this instance, the proposed erection of a slurry lagoon, whilst on a greenfield site, represents an exceptional case (to comply with new regulatory requirements) requiring this specific location (located within a reasonable distance from the existing functioning agricultural buildings) to function as an integral part of the agricultural operations at West Drumlemble Farm.

While the proposed building is not located immediately beside the existing farm, the applicant has set out that the water table around the existing farm steading would be breached should the lagoon be sited within the area. Also, the soil type within the area means it is not possible to accommodate the type of development proposed nearer the farm steading. In addition, it is considered that the submission of a topographical study has helped demonstrate that the proposed site would be a reasonable location for the development. The application has therefore been deemed an acceptable extension to the existing West Drumlemble farm as an ancillary unit. Though Policy LDP DM 1 sets out categorical development allowed within the Countryside Zone, it allows for exceptional cases for developments such as this to be considered favourable where appropriate.

The determining factors in the assessment of this application were to establish the appropriateness of the proposed site is for the development. Further considerations, including the scale, design and effect of the development on local residents and the wider landscape and visual effect of the proposed development, are assessed in Appendix A.

In this case, it is accepted that the site forms part of the farmland. The setback position of the proposal with a backdrop of a built presence coupled with its scale, design and impacts, as assessed in Appendix A of this report, are acceptable in that it would not result in a materially detrimental effect in terms of local landscape and character. Furthermore, consultee responses have raised no objection to the development and its potential effect in terms of flood risk, and on the living conditions and amenity of neighbouring occupants. It is officer's view that there is no justifiable basis to withhold planning permission.

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

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

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

The proposal, subject to conditions, is considered to be consistent with the relevant provisions of the Development Plan, and there are no other material considerations of sufficient significance to indicate that it would be appropriate to withhold planning permission having regard to s25 of the Act.

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

N/A

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

Author of Report: Tiwaah Antwi **Date:** 06.11.2023

Reviewing Officer: Bryn Bowker **Date:** 10.11.2023

Fergus Murray
Head of Development & Economic Growth

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 23/01018/PP**Standard Time Limit Condition** (as defined by Regulation)**Standard Condition on Soil Management During Construction****Additional Conditions****1. PP - Approved Details & Standard Notes – Non EIA Development**

The development shall be implemented in accordance with the details specified on the application form dated 19.05.2023 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
Location Plans/Site Layout Plans	PL-001	A	30.05.2023
Proposed Site Plan - 1:250	PL-002	B	30.05.2023
Proposed Site Plan with Topography	PL-002	C	22.09.2023
Security Fence Details	PL-004		30.05.2023
Cross Sections through proposed slurry lagoon	PL-003	B	30.05.2023
Topographic Survey	01		22.09.2023
Odour Management Plan			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, the developer shall secure the implementation of an archaeological watching brief, to be carried out by an archaeological organisation acceptable to the Planning Authority, during all ground disturbance. The retained archaeological organisation shall be afforded access at all reasonable times and allowed to record, recover and report items of interest and finds. A method statement for the watching brief will be submitted by the applicant, agreed by the West of Scotland Archaeology Service, and approved by the Planning Authority prior to commencement of the watching brief. The name of the archaeological organisation retained by the developer shall be given to the Planning Authority and to the West of Scotland Archaeology Service in writing not less than 14 days before development commences.

Reason: In order to protect archaeological resources.

3. Notwithstanding the effect of Condition 1, upon completion of works the development hereby approved shall not be brought into use until the applicant has submitted to the planning authority written confirmation from SEPA to confirm that the proposed development complies with the relevant provisions of The Water Environment (Controlled Activities)(Scotland) Regulations 2011 (as amended).

Reason: In order to safeguard amenity and the environment.

4. 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 include details of:

- i) Any proposed re-contouring of the site by means of existing and proposed ground levels;
- ii) Proposed hard and soft landscape works;
- iii) 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.

The development shall not be operated until such time as the surface treatment and any re-contouring works have been completed in accordance with the duly approved scheme.

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme during the first planting season following the commencement of the development, unless otherwise agreed 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

5. The proposed development hereby approved shall be operated in accordance with the submitted Odour Management Plan dated September 2023, unless otherwise agreed in writing by the planning authority.

Reason: In the interests of amenity and safety.

NOTE TO APPLICANT

- The applicant's attention is drawn to SEPA's note regarding the proposed slurry liner which states that it must have a geotextile installed between the liner and the ground. Also, a fixed mixing, filling and emptying points with concrete protection shall be provided.
- Regard should be had to the West of Scotland Archaeology Service's consultation comments in respect of the proposed development.
- **Development Low Risk Area - Standing Advice**

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority

COMMITTEE REPORT	
APPENDIX A – RELATIVE TO APPLICATION NUMBER:	23/01018/PP
PLANNING LAND USE AND POLICY ASSESSMENT	

1. Settlement Strategy

1.1. *Background*

Planning permission is sought for the formation of an earth bunk slurry lagoon and associated works, including the erection of a 2m high gated fence.

The proposal has been made in response to the updated Scottish government legislation on the Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 commonly referred to as the ‘*Diffuse Pollution General Binding Rules*’. The legislation requires all cattle and pig farmers to have a minimum slurry storage capacity for a period of 22 and 26 weeks respectively by 1 January 2026; and the slurry to be built in line with the Silage, Slurry and Agricultural Fuel Oil (SSAFO) requirements. As noted in the supporting statement accompanying the proposal, the applicant seeks to meet this requirement in time and to comply with the necessary guidelines issued relative to operating the farm.

1.2. *Principle of development*

Of relevance, NPF4 Policies 1, 2, 3 and 4 are collectively set out to safeguard against developments likely to have detrimental impact including cumulative effect on climate change, biodiversity and natural environment.

NPF4 Policy 9b) sets out that proposals on greenfield sites will not be supported unless the site has been allocated for development or explicitly supported by policies in the Local Development Plan (LDP). In this regard, reference is made to ABC LDP Policies LDP DM 1, SG LDP ACE 1 and Policy 02 of pLDP2.

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

The site is located approximately 400m south west of Drumlemble and for planning purposes would be sited within a Countryside Zone wherein the provision of Policy LDP DM 1 of the adopted Argyll and Bute LDP apply. This policy encourages sustainable forms of small-scale developments on appropriate infill, rounding off and redevelopment sites and change of use of existing building. In exceptional cases, up to and including large scale may be supported, if this accords with an Area Capacity Evaluation (ACE), wherein Policy SG LDP ACE 1 applies. However, table 1 which accompanies Policy SG LDP ACE 1, sets out the definition of the scale of development by type, none of which the proposed use would fall into.

Policy 02 of the proposed LDP2 further sets out a presumption in favour of sustainable development within the Countryside Areas where this is of an appropriate scale, design, siting and use for its countryside location, as detailed in the relevant subject policies. For the reasons that follow below, the proposal is not considered to have adverse impact that

would require the submission of additional assessments with respect to policy 02 of pLDP2.

Notwithstanding the above, whilst the proposed slurry lagoon would be on a greenfield site, it is considered that the proposal represents an exceptional case in that it relates to an established farm that is required to comply with new regulatory requirements. The location of the proposed lagoon has been given consideration by the applicant and it would be sited within a reasonable distance to existing functioning agricultural buildings.

With reference to the submitted supporting statement, a site selection process was undertaken by the applicant to find the best suited site for the development. The process involved several test holes being dug to a considerable depth to establish the site's suitability. Based on the engineer's findings, the proposed site and material were deemed suitable for construction of the lagoon. A topographical survey was conducted and used to inform the lagoon's design. The applicant has also stated that a suitable site could not be found around the current farm steading owing to the water table and soil type unsuitability. Details from the submitted supporting statement confirms that part of site has been cleared of any potential mine shafts by the Coal Board compared to other areas of the farmland. However, the redline site area the Coal Authority provided comments to the applicant for is slightly different to the red line site boundary associated with this planning application. Notwithstanding this, having been assessed by officers, the designation is a low risk area where Standing Advice is drawn to the attention to the applicant as standard practice. This will be appended to any approval by way of an informative to the applicant. Based on the available evidence, it is considered that a sufficient case has been put forward by the applicant to justify the site's location.

Drawing the above together, the principle of slurry development at the site is considered acceptable and would not materially compromise the provisions of NPF4 Policies 1, 2, 9 and 29; ABC LDP 2015 Policies LDP DM1, LDP 10, SG LDP ACE 1, and SERV 5; and Policy 02 of pLDP2, subject to the acceptability of the detailed matters set out below.

2. Local Character and Appearance

The proposed site boundary area is 2978m² and is surrounded by open fields/farmlands to the west and north, with Drumlemble village located some 400m to the north east. To the south is an existing drain which runs downhill towards the village. The closest residential property is known as 'Rowan Tree', approximately 180m from the site. Torchoillean is located to the south east, which is understood to now be operated solely for residential purposes with farming operations having ceased. Though located some 150m west of Torchoillean's former farm buildings, the slurry would be viewed as a new addition associated with this cluster of development.

The slurry would measure approximately 27.5m in width and length, with a depth of 4.25m. This is estimated to provide a 2036m³ slurry capacity and is proposed to be fitted with a floating cover. This is intended to reduce emissions to the atmosphere and keep nutrients within the slurry, while preventing any clean rainwater entering. The cover would help mitigate odour nuisance during mixing/storage. An earth bunk surround would be formed and a 2 metre security fence installed at its top.

The application site is located outwith any local or national landscape designation but does comprises a greenfield site in the open countryside. Despite this, the proposal does not give rise to any immediate effect in local character and appearance terms, given that the presence of a slurry store in a rural context near to an existing farm and close to clusters of nearby development would not be unusual sight. The earth bund will be reseeded to

blend in with the surrounding landscape, which would help mitigate the visual effect of the development. To provide additional reassurances in this respect, including in relation to land contouring works associated with the proposal, a landscape condition is necessary to help ensure that the development blends into its surroundings. Due to the proposed fence in the context of the built presence in the backdrop, the proposed slurry would not be a prominent feature from the public viewpoints along the B843 located some 570m to the south immediately adjacent to the village.

Overall, it is considered that the proposal would not have a harmful effect on local character and appearance and as such would comply with NPF4 Policies 4, 9 and 14; ABC LDP 2015 Policies LDP 3, LDP 9, SG LDP ENV 14 and SG LDP Sustainable; and Policies 05, 08, 09 and 10 of pLDP2 insofar as they relate to this matter.

3. Neighbouring living Conditions/Flood Risk

The proposal is located within close proximity to Drumlemble located some 400m north where a number of occupants have raised concerns, particularly in relation to odour nuisance, intensification of agricultural traffic, the safety of children and animals (via climbing over the fence and falling into the slurry) and regarding the proposal exacerbating ongoing surface water flooding (from a drain located south of the application site), and the potential of the slurry overflowing during heavy rain. Environmental Health have been consulted on the application in response to the odour concerns submitted and have raised no objection following review of an Odour Management Plan submitted by the applicant. No other concern/comment has been raised by Environmental Health with regard to the development. In addition, a 2m high security chain locked fencing is proposed, and it is noted that the applicant's intends to install relevant warning signage. Furthermore, the applicant proposed to cover the slurry which would also help to address safety concerns. Based on the available evidence, it is considered there is no justifiable basis to withhold planning permission on the grounds of odour nuisance nor on safety grounds.

Highway Safety concerns raised regarding intensification of agricultural traffic has been addressed below under the *'road network, parking and associated transport matters'* subheading. In terms of the effect that vehicular movements associated with the proposed development would have on local occupants; the applicant has set out that there would be a reduction in overall vehicular movement through the village (see assessment under section 6 regarding Road and Transport matters for further detail), and that when slurry is being transported it would be via a sealed, enclosed tank towed by a tractor. The proposed lagoon would be utilised for spreading on the surrounding field up to three times a year. On this basis, it is not considered vehicular movements associated with the proposal would have a materially harmful effect on the living conditions of surrounding occupants.

Turning to matters of flood risk, the site is outside the indicative flood limits from all flood sources as per the SEPA Flood Maps. However, it is within close proximity to a small watercourse located south of the site which runs east and downhill towards the village. Representations have raised concerns relative to the severity of the surface water flooding from the watercourse during downpour and the potential exacerbation the proposed development may have on this. This concern is linked with the likelihood of the slurry itself overflowing and running along with surface water to flood the village during heavy rains.

In light of this, the Council's Flood Risk Advisor was consulted and following submission of additional information by the applicant. This additional information included a topography survey, confirmation that no drainage is proposed (noting that rainwater collecting on the lagoon cover would be periodically pumped off and spread to surrounding agricultural land as per standard practice with lagoons), noted details of a minimum

750mm freeboard, and photographs of the watercourse. In response to the additional information, the Council's Flood Advisor has raised no objection to the proposal. Additionally, while pLDP2 encourages incorporating existing ponds, watercourses or wetlands as positive environmental features in development schemes, in this case, due to the nature of the development it is considered to not conflict with the relevant provisions of Policy 61 of pLDP2.

On the basis of the above, the proposal has given thorough consideration to risks that the development may pose and has put forward satisfactory measures to reduce risks in terms of neighbouring living conditions and flood risk. It is therefore considered that the proposal would not have a materially harmful effect on neighbouring living conditions (including safety), and in terms of flood risk. Consequently, the proposal would meet the relevant requirements of NPF4 Policy 22 and 23; ABC LDP Policies LDP 10, SG LDP SERV 2 and SG LDP SERV 3; and Policies 55 and 61 of pLDP2 as it relates to the proposed development.

4. Historic Environment

The application site lies within close proximity to a number of Scheduled Ancient Monuments (SAM) with the closest SM206 Torchoillean, standing stone located about 600m north west of the site, and SM3652 Cnocan a'Chluig, cairn & barrow 180m north of the site. It is considered that due to the location, scale, massing and design proposed, the development is highly unlikely to be visible from key outward views associated with the setting of the SAMs. As such, the proposal would not affect the setting of both Scheduled Ancient Monuments, with Historic Environment Scotland consequently having not been consulted.

The constraints data for the application site has not triggered the need to formally consult West of Scotland Archaeology Service (WoSAS) on the application. Nonetheless, WoSAS has confirmed the application site lies within an area of archaeological sensitivity and potential. The site holds record of having produced prehistoric stone tools in the past with recorded sites of prehistoric, mediaeval and later date in the surrounding landscape. WoSAS have therefore requested imposing a condition which, with no substantive evidence to the contrary, is considered necessary to include as part of any permission

Drawing the above together, subject to the noted planning condition, the proposal does not raise any concerns in relation to the historic environment, and as such the proposal would meet the relevant requirements of NPF4 Policy 7; ABC LDP 2015 Policies LDP 3, SG LDP ENV 19 and SG LDP ENV 20; and Policies 15, 19 and 20 of pLDP2.

5. Biodiversity/Soil

The proposal does not relate to, nor is it within immediate proximity of any nature conservation designation. The site has no readily apparent biodiversity value and is classed as 4.20 in agricultural land classification terms, which is not defined as prime agricultural land by NPF4. The application does not include any detail of proposed biodiversity enhancements that would be delivered by the development other than reseeded the earth bank which would be formed using excavated soil from the site. However, it is considered that biodiversity enhancement measures could be secured by way of suspensive planning condition. In addition, a condition requiring good soil management practices would be necessary to meet the terms of NPF4 Policy 5a). Consequently, subject to the above noted conditions, the proposal would not materially conflict with the relevant requirements of NPF4 Policies 3 and 5; ABC LDP Policies LDP 3, SG LDP ENV 1 and SG LDP ENV 11; and Policies 73 and 79 of pLDP2.

6. Road Network, And Associated Transport Matters.

The development would be accessible via the existing farm track with no proposed alteration. Given the positioning of the slurry tank on the farm and the proposed method of operation, the development upon completion is expected to materially decrease the farm traffic through Drumlemble village. The applicant has confirmed the proposed slurry lagoon would remain as surplus to the existing store within the steading and estimates that farm traffic through the village would drop from around 700 trips per annum to approximately 100 trips.

The proposed lagoon will be filled through an umbilical system across the field by a tanker. Therefore, while other farm related transport will continue to travel through the village, any trips as it relates to this development would be associated with maintenance, to tank thin watery slurry to aid mixing (approximately 5 loads, once or twice a year), and slurry spreading. A specialist agricultural contractor will be contracted for the main spreading which will be carried out a maximum of three times annually using an umbilical tanker system to spray the slurry across surrounding fields. It is expected that outwith this requirement, where excess slurry is available after using the umbilical system, and is required to be spread on other parts of the nearby fields, an empty tanker would be used on an ad hoc basis approximately 20 days annually with a maximum of 2 trips daily. This in essence would reduce current travelling through the village with slurry and partly address the concerns surrounding increase in farm traffic and the safety of local residents. The proposal would therefore comply with the relevant requirements of NPF4 Policy 13; ABC LDP Policy LDP 11 and SG LDP TRAN 4; and Policies 35 and 37 of pLDP2.

7. Other Key Policy Matters

The accompanying documentation submitted with the planning application indicates that the applicants have engaged with both the Coal Authority and SEPA at early stages of the proposal. The Coal Authority's comments are covered in the above assessment. SEPA's comments submitted by applicant raised no significant concerns, and requested that the applicant consult them to allow for a post construction for a final inspection to be conducted.

Matters Raised by Proposed Local Development Plan 2 (as modified by Examination)

Proposed Local Development Plan 2 as recommended to be modified by the Examination Report is now a significant material consideration. In this instance it is considered that this application does not give rise to any fundamental conflict with the relevant policies of PLDP2.

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Location Plan Relative to Planning Application:23/01018/PP



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Argyll and Bute Council
Development and Economic Growth

PROPOSAL OF APPLICATION NOTICE (PAN)

Reference: 23/01984/PAN

Applicant: Beam Suntory Ltd

Proposal: Proposal of Application Notice for: Harvesting of peat moss for use in malt whisky production and restoration of previously drained sites

Site Address: Glenmachrie Peat Moss, Port Ellen, Isle of Islay

1.0 INTRODUCTION

Proposal of Application Notices only relate to National and Major Applications as defined by the Government's planning hierarchy and are a statutory requirement prior to the submission of the planning application in line with the provisions of the Planning etc (Scotland) Act 2006. The PAN marks the start of a minimum 12 week period to allow for community consultation before an application can be lodged and this PAN was made valid on 7.11.2023.

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

The submitted information includes:

- Proposal of Application Notice
- Location Plan
- Copy of newspaper adverts

The Proposal of Application Notice describes the proposed development as *"the harvesting of peat for use in the production of malt whisky in a manner that causes the least environmental impact, together with restoration of previously drained and worked areas within the site"*.

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

- a) Consultation letters to be sent to Islay Community Council, Islay Development Initiative, South Islay Development, West of Scotland Archaeology Service, The Laggan and Sorn Fishery Board, in addition to a number of other community stakeholders and community groups.

- b) Two sets of public meetings were held at The Ramsey Hall, Port Ellen on 11th October 2023 and 26th October 2023.
- c) A press notice was placed in The Illeach on 23rd September 2023 giving notice of a Pre-Application Consultation (PAC) event including a public exhibition and opportunity to discuss the proposals at two events. A second notice was placed in The Illeach on the 21st October to advertise the second public event.

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

2.0 DESCRIPTION OF PROPOSED DEVELOPMENT

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

- Full details of peatmoss extraction proposals including depths, area, volume and timescales;
- Details of net effects on carbon emissions and loss of carbon and proposed mitigation measures;
- Details of impacts on habitats and biodiversity and proposed measures to mitigate these;
- Comprehensive peat restoration proposals for previously drained and worked areas within the site (including details of any proposed off-set financial mechanisms for future restoration/mitigation); and
- Associated new access.

3.0 SITE DESCRIPTION

The proposed peat extraction area is located to the south of the settlements of Glenmachrie and Glenegedale on the western side of the Isle of Islay. The site area consists of open peat mossland and is partly dissected by the A846 which runs north to south. The site contains four bodies of water, three to the eastern side of the A846 and another on the western side.

In terms of the adopted Local Development Plan (2015), the site is located within a Countryside Zone and borders some areas of the Rural Opportunity Zone to the south. To the north of the site is Loch Eighinn which is a designated Local Nature Conservation Site. The Laggan Bay coastal areas some 0.5km to the west of the proposed site are also designated as Special Protection Areas (SPA) and SSSI. The site is also subject to the following constraints: Surface and Riparian Flooding (REF: SEPA Flood Maps) (Parts of the site appear to be within 1:200 riparian flooding zones), Deep Peat and Safeguarding Zone 15 - Islay Airport (HIAL).

4.0 DEVELOPMENT PLAN POLICY

This is not a planning application and therefore does not require evaluating and determining in accordance with Section 25 of the Planning Act against the Development Plan and its policies. However, in considering the merits of this PAN, a number of

Development Plan Policy considerations are relevant. The policies likely to be considered include:

National Planning Framework 4 (Adopted 13th February 2023)

Part 2 – National Planning Policy

NPF4 Policy 1 – Tackling the Climate and Nature Crises
NPF4 Policy 2 – Climate Mitigation and Adaption
NPF4 Policy 3 – Biodiversity
NPF4 Policy 4 – Natural Places
NPF4 Policy 5 – Soils
NPF4 Policy 6 – Forestry, Woodland and Trees
NPF4 Policy 7 – Historic Assets and Places
NPF4 Policy 13 – Sustainable Transport
NPF4 Policy 20 – Blue and Green Infrastructure
NPF4 Policy 22 – Flood Risk and Water Management
NPF4 Policy 25 – Community Wealth Building
NPF4 Policy 26 – Business and Industry
NPF4 Policy 29 – Rural Development
NPF4 Policy 33 – Minerals

Argyll and Bute Local Development Plan adopted March 2015

LDP STRAT 1 – Sustainable Development
LDP DM1 – Development within the Development Management Zones
LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment
LDP 4 – Supporting the Sustainable Development of our Coastal Zone
LDP 5 – Supporting the Sustainable Growth of Our Economy
LDP 8 – Supporting the Strength of Our Communities
LDP 10 – Maximising Our Resources and Reducing Consumption

Supplementary Guidance

SG LDP ENV 1 – Development Impact of Habitats, Species and Our Biodiversity (i.e. biological diversity)
SG LDP ENV 5 – Impact on Local Nature Conservation Sites (LNCS)
SG LDP ENV 7 – Water Quality and the Environment
SG LDP BUS 2 – Business and Industry Proposals in the Countryside Development Management Zones
SG LDP BUS 5 – Economically Fragile Areas
SG LDP BAD 1 – Bad Neighbour Development
SG LDP SERV 3 – Drainage Impact Assessment (DIA)
SG LDP Sust Check – Sustainability Checklist
SG LDP MIN 1 – Safeguarding of Mineral Resources
SG LDP MIN 2 – Mineral Extraction
SG LDP TRAN 4 – New and Existing, Public Roads and Private Access Regimes
SG LDP TRAN 5 – Off-Site Highway Improvements
SG LDP TRAN 6 – Vehicle Parking Provision

Emerging Local Development Plan (LDP2)

The emerging Local Development Plan (LDP2) will replace the current Local Development Plan 2015, once adopted. On 13th June 2023, the Scottish Government's Planning and

Environmental Appeals Divisions issued their Report of Examination on the Council's LDP2. At the time of writing this Pre-application report, the LDP 2015 remains the adopted Local Development Plan, however, the Examination Report of the Draft LDP2 is a material consideration of significant weight and may be used as such until the conclusion of the LDP2 adoption process.

Policy 02 – Outwith Settlement Areas
Policy 04 – Sustainable Development
Policy 06 – Green Infrastructure
Policy 14 – Bad Neighbour Development
Policy 21 – Sites of Archaeological Importance
Policy 22 – Economic Development
Policy 31 - Minerals
Policy 35 – Design of New and Existing, Public Roads and Private Access
Policy 36 – New Private Accesses
Policy 39 – Construction Standards for Private Access
Policy 40 – Vehicle Parking Provision
Policy 41 – Off Site Highway Improvements
Policy 55 – Flooding
Policy 58 – Private Water Supplies and Water Conservation
Policy 59 – Water Quality and the Environment
Policy 60 – Private Sewage Treatment Plants and Wastewater Drainage Systems
Policy 61 – Sustainable Drainage Systems (Suds)
Policy 62 – Drainage Impact Assessments
Policy 63 – Waste Related Development and Waste Management
Policy 73 – Development Impact on Habitats, Species and Biodiversity
Policy 77 – Forestry, Woodland and Trees
Policy 78 – Woodland Removal
Policy 79 – Protection of Soil and Peat Resources

Land Use Designations in LDP 2:

- Zoned as Countryside
- Within Economically Fragile Area (Diagram 5)

Other Relevant Policy Considerations:

- ABC Technical Note – Biodiversity (Feb 2017)

5.0 POTENTIAL MATERIAL CONSIDERATIONS

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

- Landscape and visual issues;
- Climate change mitigation and adaptation;
- Conservation, restoration and enhancement of biodiversity;
- Impacts on biodiversity inc. designated sites, habitats and species;
- Impacts on natural, built and / or historic or archaeological sites and their settings;
- Peat and Soils;
- Traffic and transport;
- Flood Risk, Water Quality and Drainage;

- Amenity impacts (waste, noise, vibration, light and odour);
- Impacts on commercial and recreational activity;
- Public access and recreation;
- Economic Impact.
- The views of statutory consultees in respect of any formal planning application (including the views of NatureScot and SEPA); and
- Any other material considerations raised within representations.

6.0 CONCLUSION

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

6.0 RECOMMENDATION

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

Author of Report: Shelley Gould

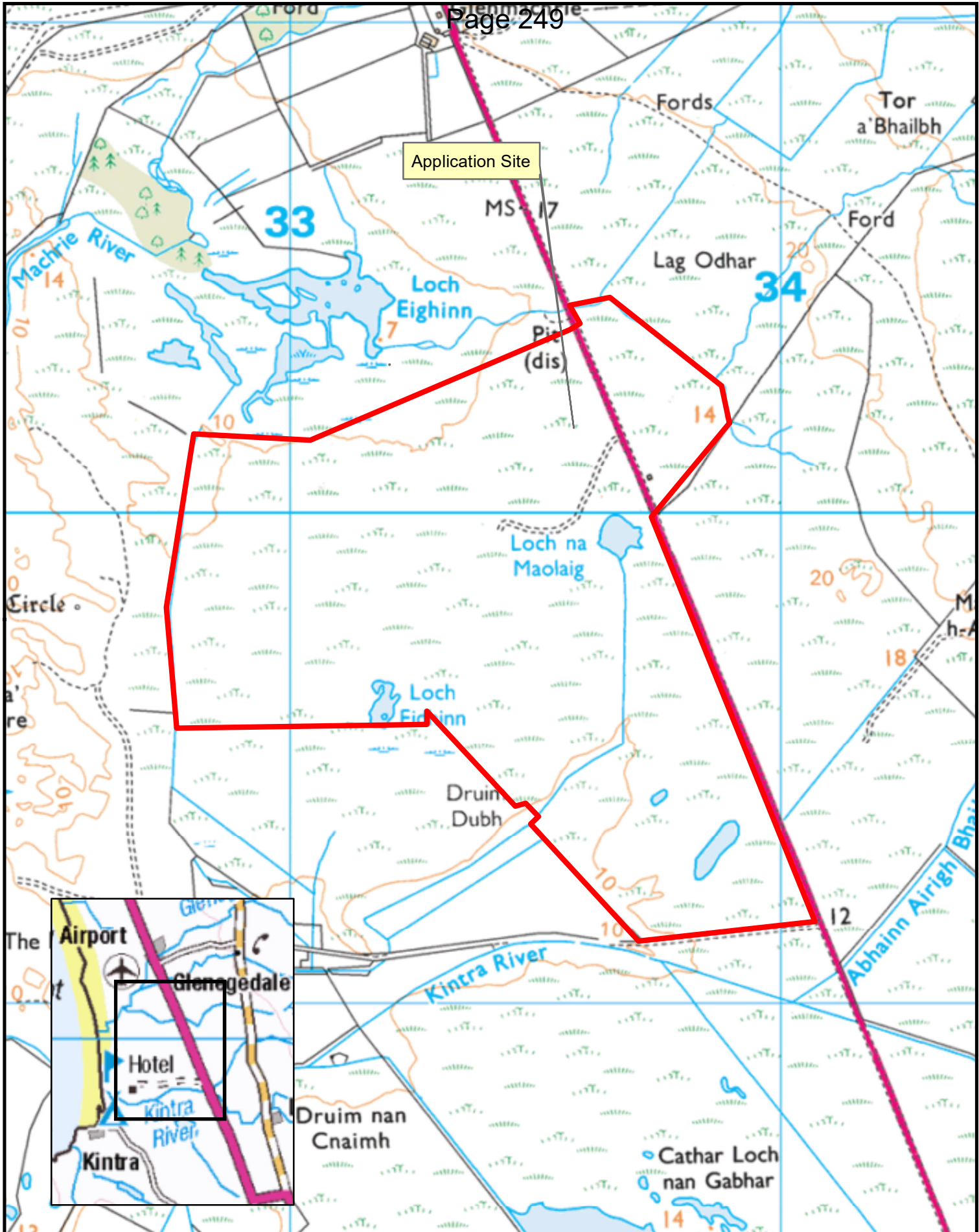
Date: 1st December 2023

Reviewing Officer: Sandra Davies

Date: 1st December 2023

Fergus Murray
Head of Development and Economic Growth

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Location Plan Relative to Planning Application: 23/01984/PAN



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Argyll and Bute Council
Development and Economic Growth

PROPOSAL OF APPLICATION NOTICE (PAN)

Reference: 23/01985/PAN

Applicant: Ardalla Estates Ltd

Proposal: Proposal of Application Notice for: Harvesting of peat moss for use in malt whisky production and restoration of previously drained sites

Site Address: Ballivicar Peat Moss, Port Ellen, Isle of Islay

1.0 INTRODUCTION

Proposal of Application Notices only relate to National and Major Applications as defined by the Government's planning hierarchy and are a statutory requirement prior to the submission of the planning application in line with the provisions of the Planning etc (Scotland) Act 2006. The PAN heralds the start of a minimum 12 week period to allow for community consultation before an application can be lodged and this PAN was made valid on 7.11.2023.

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

The submitted information includes:

- Proposal of Application Notice
- Location Plan
- Copy of newspaper adverts

The Proposal of Application Notice describes the proposed development as *"the harvesting of peat for use in the production of malt whisky in a manner that causes the least environmental impact, together with restoration of previously drained and worked areas within the site"*.

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

- a) Consultation letters to be sent to Islay Community Council, Islay Development Initiative, South Islay Development, West of Scotland Archeology Service, The Laggan and Sorn Fishery Boar, in addition to a number of other community stakeholders and community groups.

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

2.0 DESCRIPTION OF PROPOSED DEVELOPMENT

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

- Full details of peatmoss extraction proposals including depths, area, volume and timescales/phasing;
- Details of net effects of soil disturbance on carbon emissions and loss of carbon and proposed mitigation measures;
- Details of impacts on habitats and biodiversity and proposed measures to mitigate these;
- Comprehensive peat restoration proposals for previously drained and worked areas within the site (including details of any proposed off-set financial mechanisms for future restoration/mitigation); and
- Associated new access arrangements.

3.0 SITE DESCRIPTION

The proposed peat extraction area is located to the immediate north of Port Ellen and bound to the east by the A846. The irregular shaped site extends approximately 3 kilometres to the north before extending eastwards into the southeastern quarter of Loch Nan Gabhar and eastwards again to the track serving to Kintra Farm.

In term of the current adopted Local Development Plan (2015), the site is located within a designated Countryside Area, with some pockets of Rural Opportunity Area contained within it. The site is located approximately 1km to the west of the Laggan Bay Special Protection Area and SSSI. Port Ellen to the south of the site is designated as a main settlement area and contains the main town centre and Established Business and Industry Area. The site is also subject to the following known constraints: Surface and Riparian Flooding (REF: SEPA Flood Maps) (Parts of the site appear to be within 1:200 riparian flooding zones); Deep Peat (Dystrophic Blanket Peat Av depth 5.7m); and, Safeguarding Zone 15 - Islay Airport (HIAL).

4.0 DEVELOPMENT PLAN POLICY

This is not a planning application and therefore does not require evaluating and determining in accordance with Section 25 of the Planning Act against the Development Plan and its policies. However, in considering the merits of this PAN, a number of

Development Plan Policy considerations are relevant. The policies likely to be considered include:

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Argyll and Bute Local Development Plan adopted March 2015

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Other Relevant Policy Considerations:

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- Impacts on biodiversity inc. designated sites, habitats and species;
- Impacts on natural, built and / or historic or archaeological sites and their settings;
- Peat and Soils;
- Traffic and transport;
- Flood Risk, Water Quality and Drainage;
- Amenity impacts (waste, noise, vibration, light and odour);

- Impacts on commercial and recreational activity;
- Public access and recreation;
- Economic Impact;
- The views of statutory consultees in respect of any formal planning application (including the views of NatureScot and SEPA); and
- Any other material considerations raised within representations.

6.0 CONCLUSION

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

7.0 RECOMMENDATION

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

Author of Report: Shelley Gould

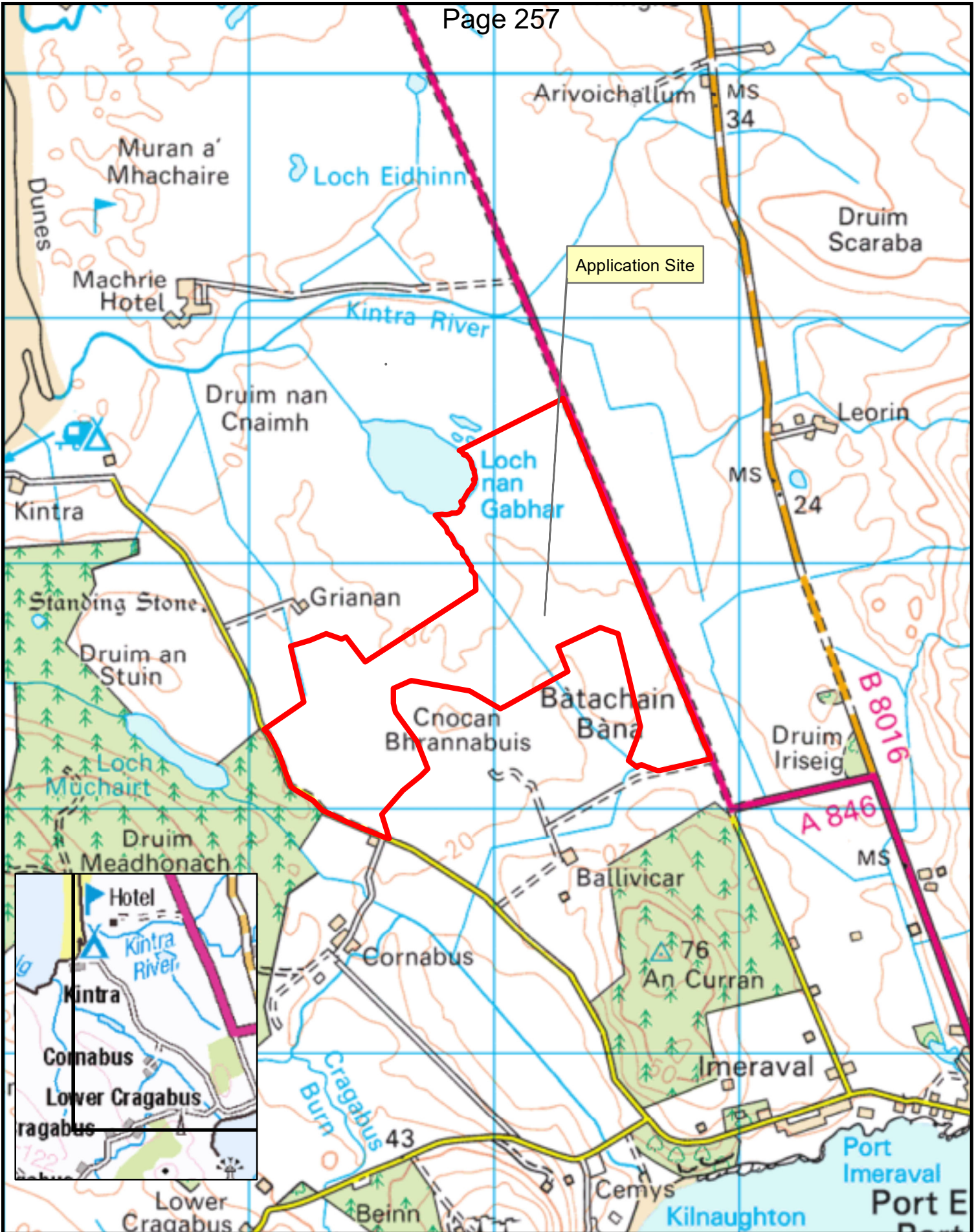
Date: 1st December 2023

Reviewing Officer: Sandra Davies

Date: 1st December 2023

Fergus Murray
Head of Development and Economic Growth

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Location Plan Relative to Planning Application:23/01985/PAN



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ARGYLL AND BUTE COUNCIL**PPSL COMMITTEE****DEVELOPMENT AND ECONOMIC
GROWTH****20 December 2023**

Development Management Performance Update – FQ2 2023/24

1.0 EXECUTIVE SUMMARY

- 1.1 This report provides an update on the performance of the Development Management Service for the reporting period FQ2 2023/24.
- 1.2 The attached document Appendix 1 provides an overview of the current demands upon the Development Management Service, its output during this period, the handling of the current backlog of casework, and the average time taken to determine planning applications.

2.0 RECOMMENDATIONS

- 2.1 It is recommended that PPSL consider and note the content of the report.

3.0 DETAIL & BACKGROUND

- 3.1 The performance of the Council's Development Management Service continues to be significantly impacted by the legacy effect of the Covid Pandemic upon interruption to workflow and a subsequent increase in demand for regulatory activity relating to new development. This situation has been exacerbated by the Service having previously been down-sized in response to the longer-term wider financial pressures facing the Council combined with a number of long-term vacancies that proved extremely difficult to fill as a result of a national shortage of planning professionals. The determination of planning applications has also been impacted by the uncertainty created by a changing planning policy backdrop with the Scottish Government's adoption of National Planning Framework 4 (NPF4) in February 2023 with minimal transition arrangements having had a noticeable adverse impact on FQ4 2022/23 output as a result of a significant volume of casework requiring to be reassessed prior to its determination. The cumulative effect of these extraordinary pressures has given rise to a significant backlog of planning casework that continues to impact upon the ability of the Council to deliver the Development Management Service in an efficient and effective manner at this time, and impacts upon customer service.
- 3.2 The Development Management Service receive approximately 2000 planning

and related application case work items on an annual basis. The Development Management Service is resourced with the expectation that demand will be relatively constant and steady throughout the year. Whilst the volume of new submissions decreased by approximately 10% during 2020/21 they had returned to and exceeded pre-pandemic levels during 2021/22. Submission rates have subsequently been maintained at a high level and during 2022/23 were 5% up on pre-pandemic levels. Appendix 1, Sheet 1 shows that whilst submission rates have reduced slightly in 2023/24 the volume of new applications received during FQ2 2023/24 has increased slightly from FQ1 and remains within the expected range.

- 3.3 The resource constraints and performance of the Development Management Service have been highlighted at a senior level within the Council and continue to be subject to regular reporting to Policy Leads/ELT. An improving financial position following the reform of statutory planning fees by the Scottish Government in April 2022 has supported the creation of 3 new professional officer posts that will provide additional capacity within the Service once these posts have been filled. During FQ2 2023-24 the DM Service has largely operated with a full staff compliment (with the exception of two new posts created within the Major Applications team) however the Summer holiday period and unplanned absence continued to impact on resource availability, particularly in MAKI and BCHL teams during this period.
- 3.4 The positive impact of the increased availability of professional officer resource within the DM Service remains evident with the continued delivery of above average output demonstrated in FQ2 2023/24 (Appendix 1, Sheet 2) and further, albeit modest, inroads being made in the casework backlog (Appendix 1, Sheet 3). The increasing proportion of older applications being determined from FQ3 2022/23 onwards is also demonstrated in the bar graphs that provide a breakdown of application age within the average time measures (Appendix 1, Sheet 5 and Sheet 6) and demonstrate that 'legacy' applications are being actively targeted for determination. An increasing volume of pre-application enquiry submissions has however resulted in an increase in the volume of enquiries which remain undetermined at the end of FQ2 (Appendix 1, Sheet 1 and Sheet 3).
- 3.5 The increasing focus on 'legacy' applications continues to have significant consequence for average time performance measures as the determination of a relatively small number of older applications significantly impacts upon these KPIs. This is particularly evident within the 'householder' average time measure (Appendix 1, Sheet 5) where despite 80% of all householder determinations being determined in an average time of 11.6 weeks this measure is significantly impacted by the determination of 16 older applications that have cumulatively added 6.5 weeks to the average time period for determination of this KPI.
- 3.6 The determination of 'legacy' applications had a similar impact upon the average time taken measure applied to all other 'local' planning applications (Appendix 1, Sheet 6) where the determination of 23 older 'legacy' applications cumulatively add 13.4 weeks to an average time measure that reports on the determination of 156 applications in total. During FQ2 2023/24 85% of all other 'local' applications

determined were less than 1 year old at the time of their determination and were determined within 18.7 weeks. (68% of the total were less than 6 months old and determined in 14.0 weeks on average).

3.7 The backlog of planning casework (Appendix 1, Sheet 3) at the end of FQ2 remained at just over 330 applications and 190 pre-application enquiries and this position will continue to impact upon performance over an extended period. The effect of the determination of 'legacy' applications will continue to skew average time measures for the remainder of 2023/24 although these should start to improve after the oldest cases are dealt with and the volume of legacy determinations starts to decline; it is currently expected that an improving trend is expected by the end of 2023/24 and a commitment to work toward that aim has been set out in the recent PPF 12 which was submitted to the Scottish Government in July 2023.

3.8 In addition to resolving capacity issues through the creation of new and filling vacant posts work is also ongoing to review current working practices and procedures with a view to maximising the use of professional officer time for determination of applications and improving output. This workstream will include a review and implementation of new workflow and performance reporting systems in the backoffice, and will seek to extend the use of existing technical staff resource within the validation team to assist in the assessment stage of less complex statutory notification processes. The use of additional short-term professional resource has been costed and authorised as means of resolving issues with individual caseloads that have been unsustainably high for an extended period of time with consequent impact on the health and wellbeing of the team and their output. Three additional Agency planning officers have subsequently been recruited and will provide additional capacity from late FQ3 through to the end of 2023/24 with the aim of making significant inroads in the casework backlog.

4.0 IMPLICATIONS

4.1 Policy None

4.2 Financial None

4.3 Legal None

4.4 HR None

4.5 Equalities / Fairer Scotland Duty None

4.6 Risk Failure to determine planning and related applications in efficient and effective manner would have potential to adversely impact upon the local economy, delivery of housing, and health and wellbeing of individuals.

4.7 Climate Change None

4.8 Customer Service Requirement to manage customer expectations in the determination planning and related applications

Executive Director with responsibility for Development and Economic Growth:

Kirsty Flanagan

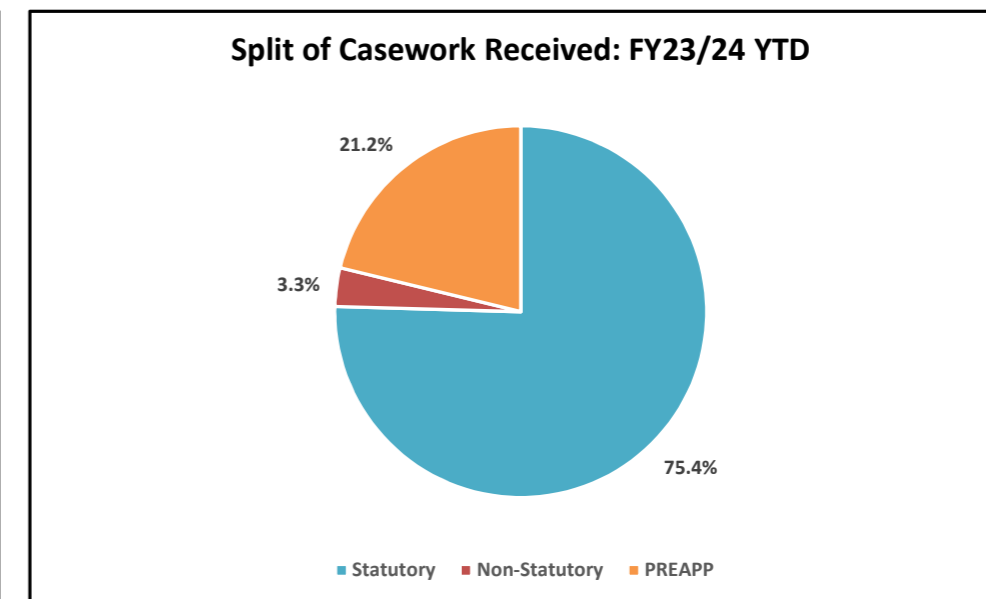
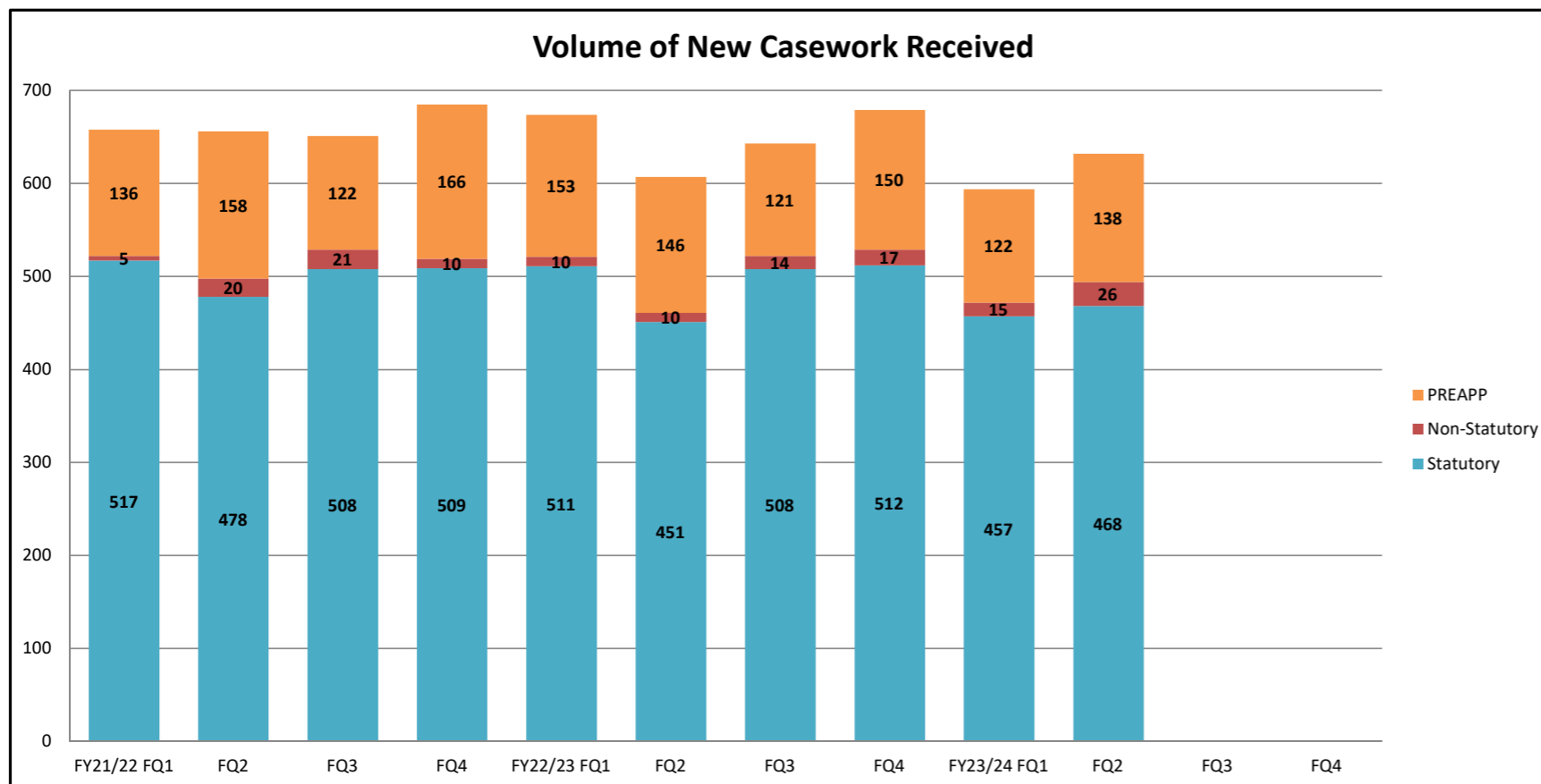
Policy Lead: Cllr Kieron Green

7th December 2023

For further information contact: Peter Bain – 01546 604204

APPENDICES

Appendix 1 – FQ2 2023/24 DM report to ELT



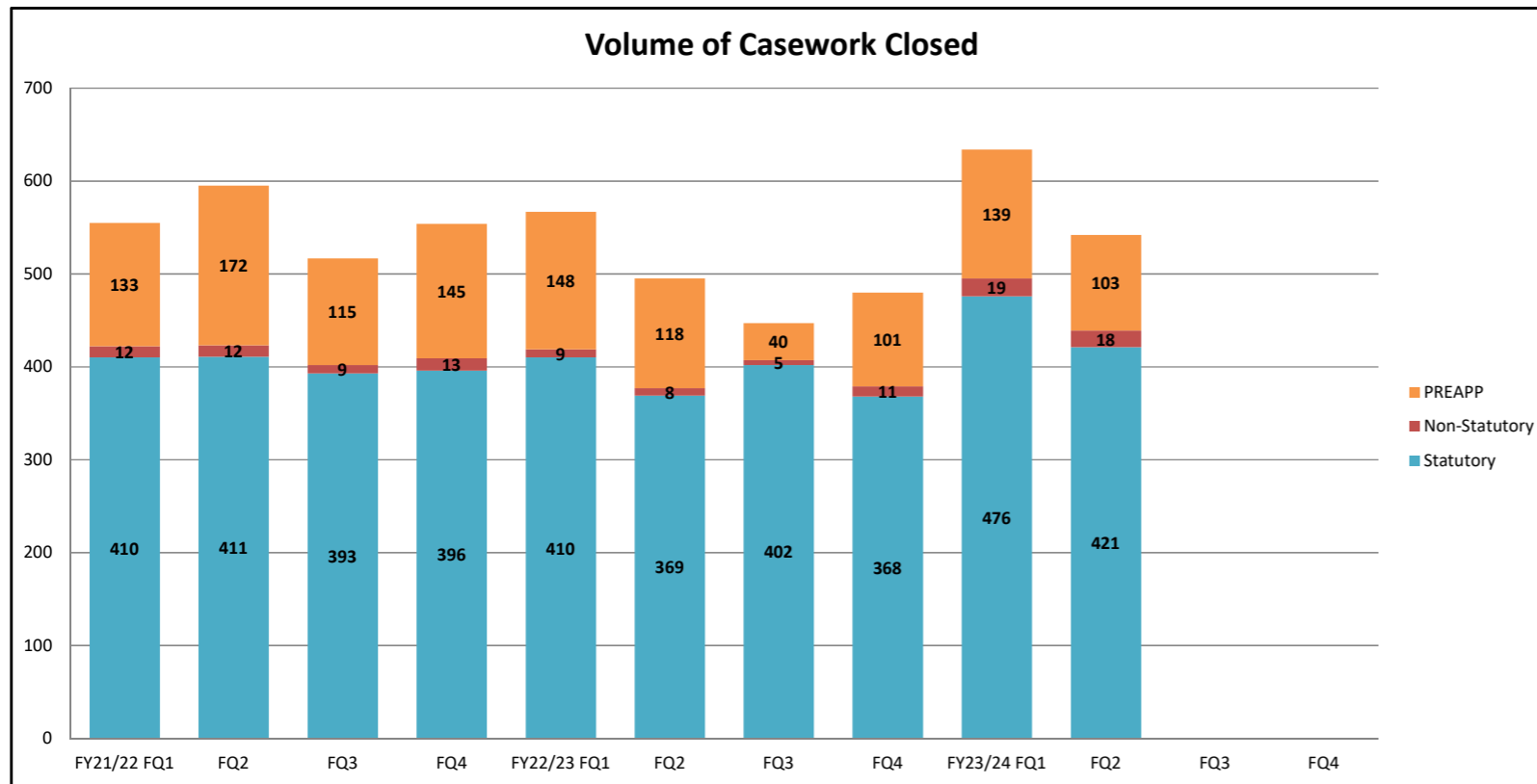
Commentary:
 The data set covers the last 9 financial quarters and confirms that demand for the determination of planning applications and other statutory activity of the Council as the Planning Authority remains high and relatively constant in its volume. The volume of new submissions for 2022/23 were up 5% on pre-pandemic levels and appear likely to be sustained moving forward. **End Sept 23:** receipts for FQ2 maintain the high demand upon the resource of the DM Service

This tab provides information on the volume of DM case work received by financial quarter and includes a breakdown between statutory items (planning and related applications), non-statutory items (consultations from other regulatory bodies), and pre-application enquiries.

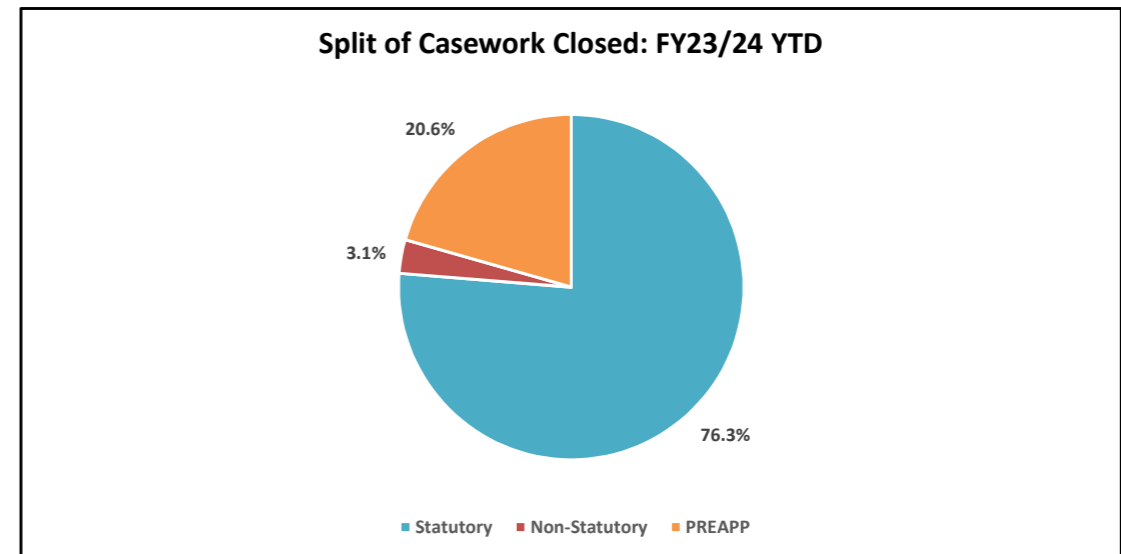
New Casework Received												
Volumes	FY21/22 FQ1	FQ2	FQ3	FQ4	FY22/23 FQ1	FQ2	FQ3	FQ4	FY23/24 FQ1	FQ2	FQ3	FQ4
Statutory	517	478	508	509	511	451	508	512	457	468		
Non-Statutory	5	20	21	10	10	10	14	17	15	26		
PREAPP	136	158	122	166	153	146	121	150	122	138		
Totals	658	656	651	685	674	607	643	679	594	632	0	0

Split of Casework Received					
FY21/22		FY22/23		FY23/24: FQ1 & FQ2	
Statutory	2012	1982	925	75.9%	75.4%
Non-Statutory	56	51	41	2.1%	3.3%
PREAPP	582	570	260	22.0%	21.2%
Totals	2650	2603	1226		

This data is unfiltered - it shows all casework received.
 data source = UNiform (Access queries)



This tab provides detail on the volume of DM casework that has been closed and includes a breakdown between statutory items (planning and related applications), non-statutory items (consultations from other regulatory bodies), and pre-application enquiries.

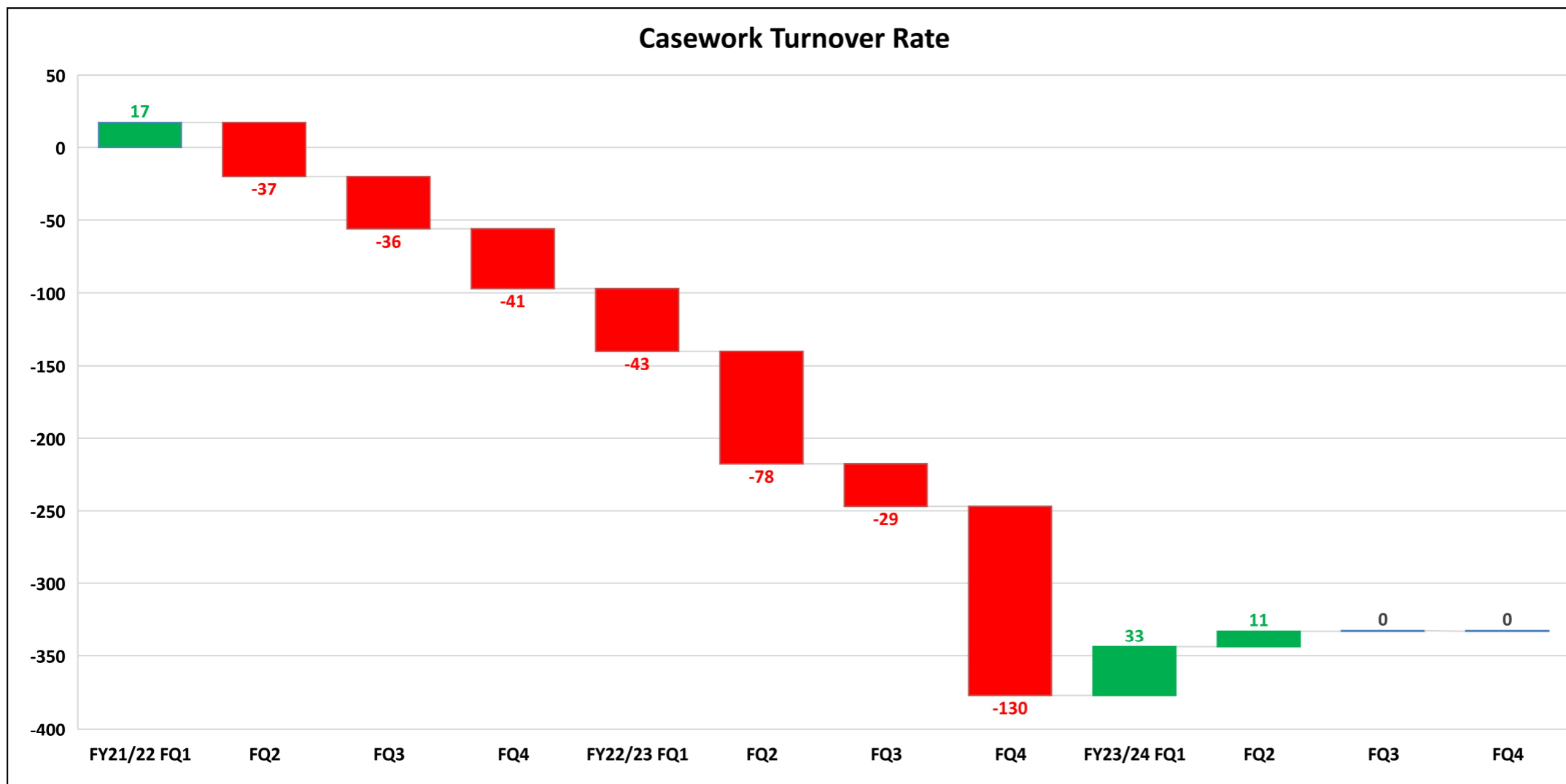


Commentary:
The data set covers the last 9 financial quarters and demonstrates that regardless of performance issues in respect of timeliness output remains high. Output during both 2021/22 and 2022/23 output has however been down between 20-25% as a result of interruption of workflow during Covid coupled with the constant stream of new casework and reduced availability of officer resource which was in part a result of increased absence but also more significantly as a result of difficulty in recruiting to vacant posts attributable to a national shortage of planning professionals. FQ1 2023/24 has shown a notable rise in output from previous quarters which is indicative of the increasing availability of officer resource and a more settled position following the initial introduction of NPF4. **End Sept 23:** Whilst productivity has dipped from FQ1, FQ2 output remains up from 2022/23 and is an acceptable position given reduced staff availability over the Summer holiday period.

Casework Closed												
Volumes	FY21/22 FQ1	FQ2	FQ3	FQ4	FY22/23 FQ1	FQ2	FQ3	FQ4	FY23/24 FQ1	FQ2	FQ3	FQ4
Statutory	410	411	393	396	410	369	402	368	476	421		
Non-Statutory	12	12	9	13	9	8	5	11	19	18		
PREAPP	133	172	115	145	148	118	40	101	139	103		

Split of Casework Closed					
FY21/22		FY22/23		FY23/24: FQ1 & FQ2	
1610	72.5%	1549	77.9%	897	76.3%
46	2.1%	33	1.7%	37	3.1%
565	25.4%	407	20.5%	242	20.6%
2221		1989		1176	

This data is unfiltered - it shows all casework closed.
data source = UNiform (Access queries)



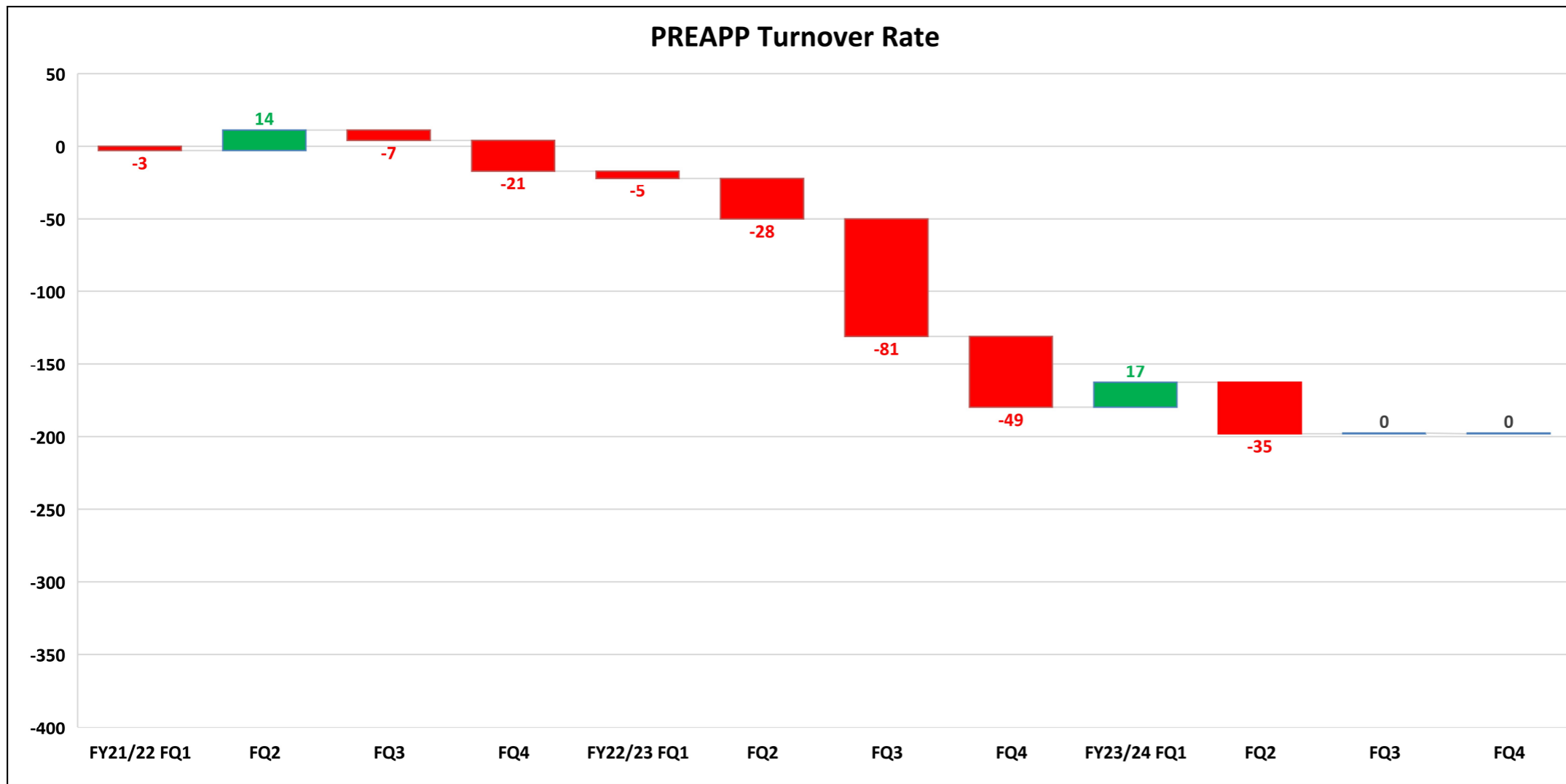
Commentary:

The graph shows that after 7 financial quarters where output has been lower than input a backlog of 375 casework items had been amassed since the start of FY21/22. A strong performance during FQ1 2023/24 has reduced the backlog at the end of June 2023 to 344 applications. End Sept 2023: FQ2 has seen officers again keeping pace with the rate of new applications. Staff availability has been reduced over the Summer period with increased periods of planned absence, the current position where a further albeit dent in the casework backlog has been achieved is considered to be a positive outcome. The limited progress does however highlights that current staff resource is adequate to meet 'normal' demand however additional planning officer resource is required on a short-term basis if any meaningful impact on the backlog is to be delivered.

This tab shows a comparison between the volume of new statutory and non-statutory casework and output per financial quarter. The Y axis has been formatted to track the cumulative backlog of applications that have accrued since FQ1 2021/22.

Casework Turnover - Volume												
Volumes	FY21/22 FQ1	FQ2	FQ3	FQ4	FY22/23 FQ1	FQ2	FQ3	FQ4	FY23/24 FQ1	FQ2	FQ3	FQ4
Closed	422	423	402	409	419	377	407	379	495	439	0	0
Validated	405	460	438	450	462	455	436	509	462	428	0	0
Difference (no)	17	-37	-36	-41	-43	-78	-29	-130	33	11	0	0

This data is unfiltered - it shows the number of cases closed vs number of cases validated.
data source = UNiform (Access queries)



Commentary:
 The graph shows that after 6 financial quarters where output has been lower than input a backlog of 180 pre-app casework items had been amassed since the start of FY21/22. Improving performance during FQ1 2023/24 has reduced the backlog at the end of June 2023 to 163 pre-app enquiries. **End Sept 23:** FQ2 has seen an increase in the number of outstanding pre-app enquiries - this is not unexpected given reduced staffing levels over the Summer holiday period and continued focus on clearing statutory casework but is a matter of concern that requires to be monitored by Team Leaders.

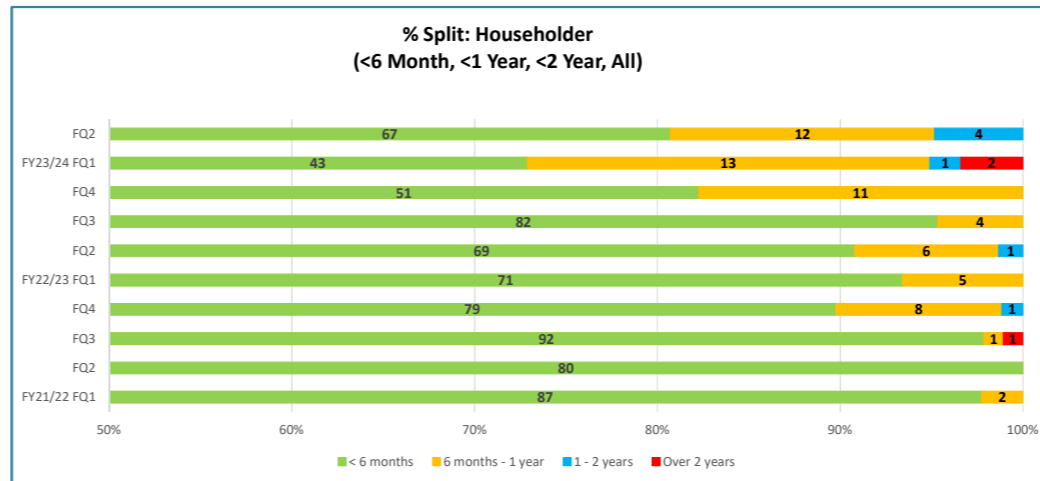
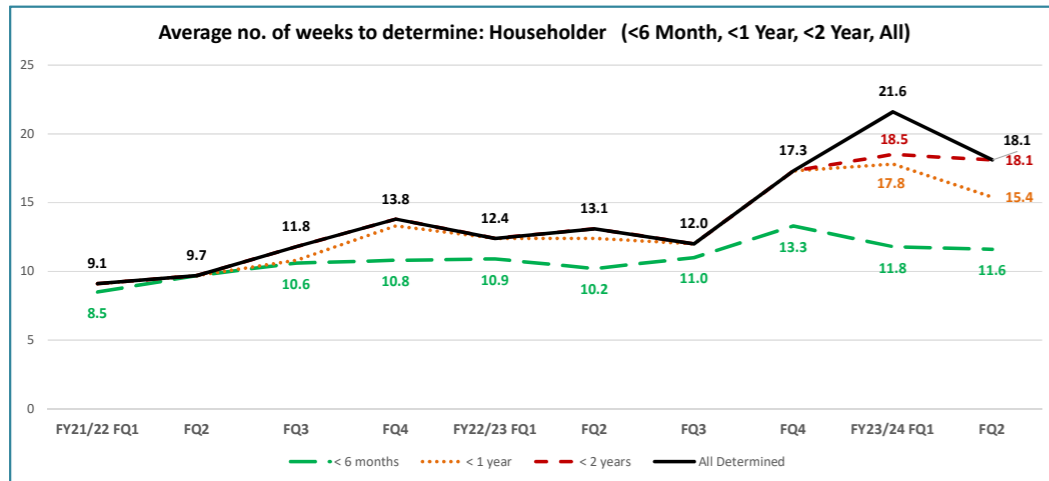
This tab shows a comparison between the volume of new pre-application casework and output per financial quarter. The Y axis has been formatted to track the cumulative backlog of pre-application enquiries that have accrued since FQ1 2021/22.

PREAPP Turnover - Volume												
Volumes	FY21/22 FQ1	FQ2	FQ3	FQ4	FY22/23 FQ1	FQ2	FQ3	FQ4	FY23/24 FQ1	FQ2	FQ3	FQ4
Closed	133	172	115	145	148	118	40	101	139	103	0	0
Received	136	158	122	166	153	146	121	150	122	138	0	0
Difference (no)	-3	14	-7	-21	-5	-28	-81	-49	17	-35	0	0

Number of PREAPP's closed vs number of PREAPP's validated.
 data source = UNiform (Access queries)

QTD = as at 31st August 2023

The Average Time Taken to Determine Householder Planning Applications



Commentary:
 The line graph shows performance over time; the 'All Determined' average can be readily impacted by the determination of a small number of 'legacy' applications. The improving resource availability has allowed the focus of the DM Service to move from addressing the most urgent applications to also addressing the wider backlog of application casework. Increasing output does however mean that a higher volume of 'legacy' applications will be determined with significant detriment to average time measures as is seen with the deterioration of performance during FQ4 2022/23 and FQ1 2023/24. In order to provide some context additional information is provided that demonstrates the effect of removing older applications from reporting to provide a truer picture of the time taken to deliver the larger proportion of casework. The bar graph provides this breakdown in a format which shows the increasing volume of older applications currently being determined but also confirms that a significant proportion of output is still undertaken in a timely manner. **End Sept 23:** 4 legacy applications have been determined in FQ2 to date adding almost 3 weeks to the avg time measure. An increasing proportion of newer applications being determined is also a positive outcome at this time. Excluding 'legacy' items householder applications were determined in an average of 15.4 weeks during FQ2, 81% of all householder applications were determined in 11.6 weeks

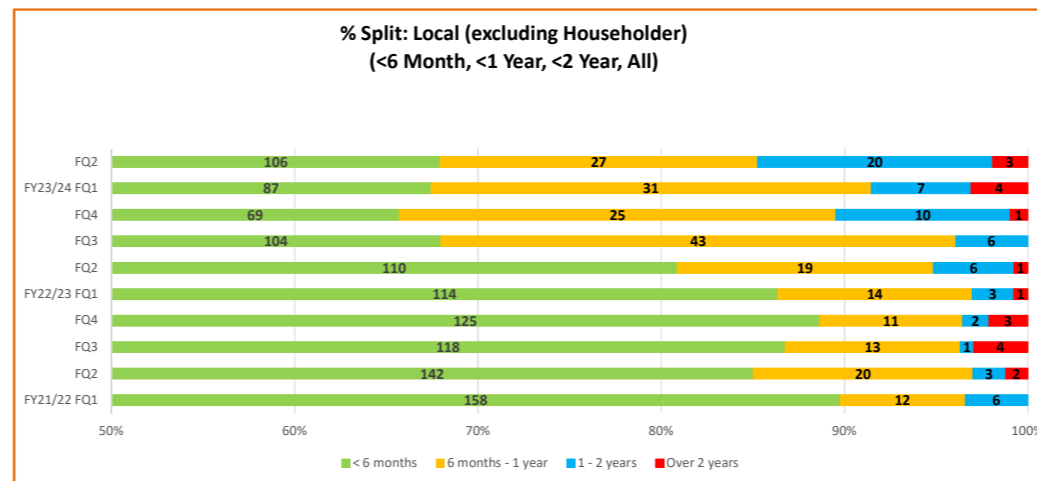
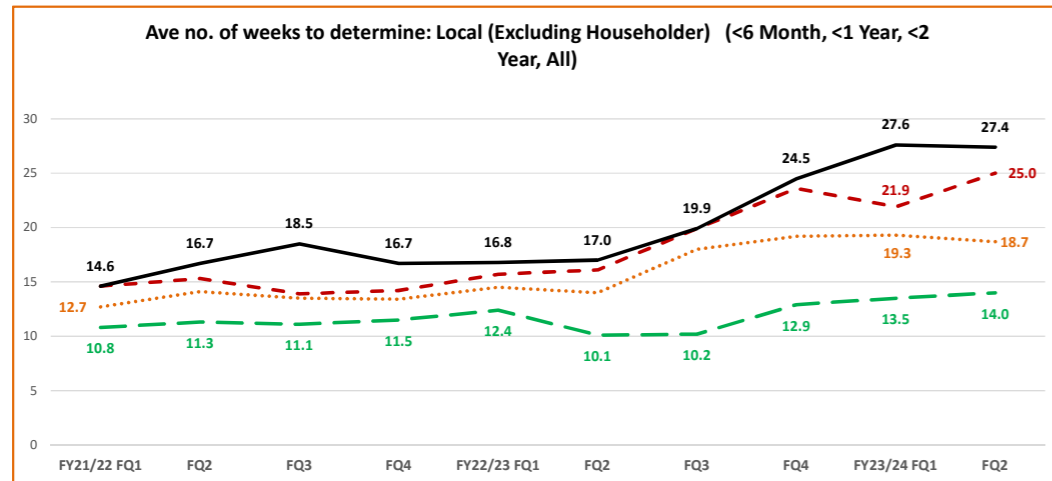
This tab provides detail on the average time taken to determine 'householder' planning applications, this is based on raw data which does not take into account any delays that might arise from matters outwith the control of the planning authority.

Average Time to Determine Applications: Householder (<6 Month, <1 Year, <2 Year, All)												
	FY21/22 FQ1	FQ2	FQ3	FQ4	FY22/23 FQ1	FQ2	FQ3	FQ4	FY23/24 FQ1	FQ2	FQ3	FQ4
< 6 months	8.5	9.7	10.6	10.8	10.9	10.2	11.0	13.3	11.8	11.6		
< 1 year	9.1	9.7	10.8	13.3	12.4	12.4	12.0	17.3	17.8	15.4		
< 2 years	9.1	9.7	11.8	13.8	12.4	13.1	12.0	17.3	18.5	18.1		
All Determined	9.1	9.7	11.8	13.8	12.4	13.1	12.0	17.3	21.6	18.1		

Volume of Applications Determined: Householder - Time Taken												
	FY21/22 FQ1	FQ2	FQ3	FQ4	FY22/23 FQ1	FQ2	FQ3	FQ4	FY23/24 FQ1	FQ2	FQ3	FQ4
< 6 months	87	80	92	79	71	69	82	51	43	67		
6 months - 1 year	2	0	1	8	5	6	4	11	13	12		
1 - 2 years	0	0	0	1	0	1	0	0	1	4		
Over 2 years	0	0	1	0	0	0	0	0	2	0		
Total	89	80	94	88	76	76	86	62	59	83	0	0

This data is filtered - as per Scottish Government statistical returns - to allow benchmarking. "Householder" = Development Type N01.
 data source = UNIFORM (Access queries)

The Average Time Taken to Determine Local (excluding Householder) Planning Applications



Commentary:
The line graph shows performance over time; the 'All Determined' average can be readily impacted by the determination of a small number of 'legacy' applications. The improving resource availability has allowed the focus of the DM Service is to move from addressing the most urgent applications to also addressing the wider backlog of application casework. Increasing output does however mean that a higher volume of 'legacy' applications will be determined with significant detriment to average time measures as is seen with the deterioration of performance during FQ3 & FQ4 2022/23 and FQ1 2023/24. In order to provide some context additional information is provided that demonstrates the effect of removing older applications from considerations to provide a truer picture of the time taken to deliver a larger proportion of casework. The bar graph provides this breakdown in a format which shows the increasing volume of older applications currently being determined but also confirms that a significant proportion of output is still undertaken in a timely manner. **End Sept 23:** FQ2 has seen 23 legacy applications cleared with the effect of adding 13.4 weeks to the avg performance stats. FQ2 has however also seen an increasing proportion of newer applications determined as well; excluding 'legacy' items local applications were determined in an average of 18.7 weeks; 68% of all local applications were determined in an average time of 14.4 weeks.

This tab provides detail on the average time taken to determine 'local' planning applications, this is based on raw data which does not take into account any delays that might arise from matters outwith the control of the planning authority.

	FY21/22 FQ1	FQ2	FQ3	FQ4	FY22/23 FQ1	FQ2	FQ3	FQ4	FY23/24 FQ1	FQ2	FQ3	FQ4
< 6 months	10.8	11.3	11.1	11.5	12.4	10.1	10.2	12.9	13.5	14.0		
< 1 year	12.7	14.1	13.5	13.4	14.5	14.0	18.0	19.2	19.3	18.7		
< 2 years	14.6	15.3	13.9	14.2	15.7	16.1	19.9	23.6	21.9	25.0		
All Determined	14.6	16.7	18.5	16.7	16.8	17.0	19.9	24.5	27.6	27.4		

	FY21/22 FQ1	FQ2	FQ3	FQ4	FY22/23 FQ1	FQ2	FQ3	FQ4	FY23/24 FQ1	FQ2	FQ3	FQ4
< 6 months	158	142	118	125	114	110	104	69	87	106		
6 months - 1 year	12	20	13	11	14	19	43	25	31	27		
1 - 2 years	6	3	1	2	3	6	6	10	7	20		
Over 2 years	0	2	4	3	1	1	0	1	4	3		
Total	176	167	136	141	132	136	153	105	129	156	0	0

This data is filtered - as per Scottish Government statistical returns - to allow benchmarking. "Local (excluding Householder)" = Development Types N02B/C, N03B/C, N04B/C, N05B/C, N06B/C, N07B/C, N08B/C, N09B/C, N10B/C.
data source = UNiform (Access queries)

ARGYLL AND BUTE COUNCIL**PPSL COMMITTEE****Development and Economic Growth****20th December 2023**

Planning Performance Framework 2022/23

1.0 EXECUTIVE SUMMARY

- 1.1 This report contains recent feedback from the Scottish Government in relation to our Planning Performance Framework (PPF). **Appendix A.**
- 1.2 Our PPF is the principal performance measure for Planning Services (*Development Management and Development Policy – within Planning and Regulatory Services*) and is submitted to the Scottish Government annually for scrutiny and scoring. The Council's 2022/23 PPF was submitted in July 2023 and was independently reviewed by the Scottish Government. A copy of the submitted document was submitted to the PPSL for noting at their meeting of 23rd August 2023.
- 1.3 Overall the feedback report is considered overall to be positive registering ten 'green', zero 'amber' outcomes, and four 'red' outcomes across the fourteen performance indicators assessed. Whilst it is disappointing to have any 'red' markers it is noted that three of these relate to performance measures looking at timeliness of determining planning applications which have been directly impacted by the pandemic and its impact upon workflow, and staff availability (absence and vacancies).
- 1.4 Whilst the Scottish Government have not identified any improvement actions for ABC this year, the service must not be complacent with the focus being year on year continuous improvement.
- 1.5 It is recommended that the Committee consider and note the content of the report and publicise (*press, Twitter, Facebook and website release*) the positive feedback from the Scottish Government.

ARGYLL AND BUTE COUNCIL

PPSL COMMITTEE

Development and Economic Growth

20th December 2023

Planning Performance Framework 2022/23

2.0 INTRODUCTION

2.1 This report contains recent feedback from the Scottish Government in relation to our Planning Performance Framework (PPF). **Appendix A.** The Executive Summary (above) provides further background information.

3.0 RECOMMENDATION

It is recommended that the Committee consider and note the content of report and publicise (*press, Twitter, Facebook and website release*) the positive feedback from the Scottish Government.

4.0 DETAIL

What is the Planning Performance Framework?

4.1 This was Planning Services 12th Annual Planning Performance Framework (PPF) and is our 'balance scorecard' of performance which all Local Authorities must submit to the Scottish Government for review and scrutiny.

4.2 The PPF aims to be a holistic and easy read document that encapsulates statistical performance indicators as well as more qualitative information and case studies of good practice for the previous financial year. The basic structure of the document is stipulated by the Scottish Government but the character, tone, style and content is all shaped by the individual Authority. The Scottish Government has suggested that Authorities use the PPF as more than a means of simply reporting performance but utilise the document as an opportunity to promote their service and local area, to incorporate customer feedback and to provide updated narrative on case study items from previous years. The PPF seeks to focus on the Council being 'open for business' and the positive economic contribution that Planning Services have made within Argyll and Bute. The PPF presents case studies and examples of good practice which demonstrates the ability of the Service to facilitate the delivery of high quality development on the ground, to provide certainty to developers and investors, to consult and engage with customers effectively and to ensure that appropriate management and service delivery structures are in place to work efficiently.

Review and Feedback

- 4.3 The review of the PPF was carried out by the Scottish Government and considered by the Minister for Local Government Empowerment and Planning. Joe Fitzpatrick MSP.
- 4.4 Within our PPF We managed to showcase a variety of good quality projects and initiatives that demonstrate our 'open for business' and service improvement ethos, and have identified a good range of service improvement commitments.
- 4.5 The covering letter and feedback from Joe Fitzpatrick MSP is contained in full at **Appendix A**, however some pertinent points are highlighted below:-
- **PM 1 Decision Making (Red):** This marker was also identified as Red in 2020/21 and 2021/22. Performance in the determination of planning applications remained significantly affected by the impacts of Coronavirus pandemic during a reporting period where the effects of service disruption/recovery have significantly impacted the time taken to determine applications, these include the longer-term impacts of managing a significant backlog of casework that has accrued and reduced staffing resource as a result of absence and difficulties in recruiting to vacancies. During the 2022/23 reporting period the time taken to determine all categories of application increased from the previous period. This position was not unexpected and is reflective of a position where Scottish averages have also increased. It is highlighted that Major applications were determined 3.6 weeks slower than the national average; and Local (non-householder) applications were determined 1.9 weeks slower than the Scottish average. The determination of householder applications remained significantly slower (+3.8 weeks) than the Scottish average however this is indicative of the prioritisation of available resources toward determination of applications that would deliver significant inward investment/employment, or were time critical in relation to grant funding or public health issues.
 - **PM 4 Legal Agreements (Red):** This marker was previously identified as Amber in 2021/22. The performance marker seeks to monitor the efficiency with which a planning authority concludes legal agreements after resolving to grant planning permission. During 2022/23 the average time taken to conclude legal agreements increased from 33.6 weeks to 49.5 weeks; the national average for this KPI was 41.1 weeks. It is noted that this performance marker relies on a small body of applications and is readily skewed. It is also recognised however that continuing pressures upon the DM Management staff resulting from long-term vacancies in the Service has reduced the scope to provide regular review and monitoring of outstanding cases awaiting conclusion of legal agreements.
 - **PM 5 Enforcement Charter (Green):** This marker has been green for the previous four reporting periods and recognises that the Council's Planning Enforcement Charter has been subject to its statutory bi-annual review. It is noted that the Charter is due to be reviewed again by March 2024.
 - **PM 6 Continuous Improvement (Green):** This marker was previously identified as Amber in the previous six reporting periods. The Planning Service received positive feedback for continuing to progress service improvements during 2022/23, these are detailed in Part 3 of the PPF.
 - **PM 7 Local Development Plan (Red):** This marker was previously identified as Red in 2020/21 and 2021/22 as the Argyll and Bute Local Development Plan 2015 has not been replaced within the required 5 year period. Despite the current

adopted LDP being more than 5 years old, this policy framework is still considered up to date and relevant, and a more than adequate housing land supply still exists as demonstrated in our annual Housing Land Audit (which has recently been cited by Scottish Government as an example of good practice). It is observed that pLDP2 has been on deposit with the Scottish Government for the duration of the reporting period and as such it has been outwith the control of the Council to deliver an improvement. It is noted that pLDP2 has subsequently progressed and is expected to be adopted during 2023/24.

- **PM 8 Development Plan Scheme (Green):** This marker was previously identified as Amber in the previous four reporting periods. Whilst confirmation that the LDP will not be replaced within the 5 year cycle flags as Red, this is balanced against the fact that the Council had recognised that the project was behind time within an updated Development Plan Scheme and amended the project plan for delivery accordingly. The feedback report notes that PLDP2 had progressed to Examination stage and was expected to be adopted during 2023/24.
- **PM 14 Stalled Sites / Legacy Cases (Red):** This marker was identified as Amber in the previous reporting period. The feedback commentary identifies that whilst 18 legacy cases were cleared during the reporting period the number of remaining legacy cases nearly doubled from 65 in 2021/22 to 125 undetermined applications as of 31st March 2023. The degradation in this measure is directly attributable to the matters identified in PM 1 above in relation to determination timescales, but also a reduction in availability of management resource available to actively progress determination of legacy cases whilst addressing the other significant challenges facing the DM Service during this period. The measure improved from Red to Amber as due to an increase in the volume of legacy cases that were determined during the reporting period.

Focus on Performance / Resources

- 4.6 The cover letter from the Minister for Local Government Empowerment and Planning. Joe Fitzpatrick MSP recognises that “resourcing remains a high priority” and sets out intent to continue to discuss this issue with the High Level Group on Planning Performance. It is identified that a variety of measures to improve resources require to be considered including “full cost recovery, the local setting of fees, charges for additional services, and approaches which could enable authorities to access the skills and expertise at the time they require”.
- 4.7 The Minister has also highlighted the appointment of the National Planning Improvement Champion (NPIC), Craig McLaren, who has taken up post in September 2023. It is identified that this new role will be pivotal in “supporting improvement and will also be looking at how we can improve the way we measure and assess the performance of the planning system in the future”.

5.0 CONCLUSION

- 5.1 Feedback from the Scottish Government is overall considered to be positive and has confirmed that the Planning Service has an ‘open for business’ approach to delivering sustainable economic growth throughout Argyll and Bute, and has set out appropriate service improvement measures to

address the current challenges impacting on performance.

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:** None

6.5.2 **Socio-Economic Duty:** None

6.5.3 **Islands:** None

6.6 **Risk:** Reputational of being identified as a poor performing authority if next year's PPF performance is substandard.

6.7 **Customer Service:** The PPF report provides Customers with an overview of the statistical and qualitative performance of the Council as the planning authority in a format that can be benchmarked with other authorities.

6.8 **Climate Change:** None

Executive Director with responsibility for Development and Economic Growth:

Kirsty Flanagan

Policy Lead:- Kieron Green

8th December 2023

For further information contact: Peter Bain – 01546 604204

APPENDICES

Appendix A – Planning Performance Framework 2022/23 Feedback

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Minister for Local Government Empowerment and
Planning
Ministear airson Cumhachdachadh is Dealbhachadh
Riaghaltas Ionadail
Joe FitzPatrick MSP
Joe Mac Giolla Phádraig BPA



Pippa Milne
Chief Executive
Argyll and Bute Council

20 October 2023

Dear Pippa Milne,

I am pleased to enclose feedback on your authority's twelfth Planning Performance Framework (PPF) Report, for the period April 2022 to March 2023.

Across the country, performance against the key markers continues to be stable and there has been little variation in the overall total of green, amber and red markings awarded this reporting period compared with previous periods. It is clear that each of you continue to put in considerable effort to ensuring our planning system continues to run efficiently. I have been particularly pleased to see there has been a marked improvement on speed of determination for major applications across some authorities.

Resourcing remains a key priority which I will continue to discuss with the High Level Group on Planning Performance, which I jointly chair with COSLA. I also have asked officials to bring different parties together to talk about resourcing in the autumn, to identify practical solutions. We need options that work for all sectors, and I think it would be really beneficial to discuss a variety of issues including full cost recovery, the local setting of fees, charges for additional services and approaches which could enable authorities to access the skills and expertise at the time they require.

Finally, I am delighted that we have recently announced the appointment of the National Planning Improvement Champion (NPIC), Craig McLaren, who took up this new post in early September. Craig will play a pivotal role in supporting improvement and will also be looking at how we can improve the way we measure and assess the performance of the planning system in the future.

If you would like to discuss any of the markings awarded below, please contact us at chief.planner@gov.scot and a member of the team will be happy to discuss them with you.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot

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Joe Fitzpatrick

JOE FITZPATRICK

CC: Fergus Murray, Head of Economic Development and Strategic Transportation

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PERFORMANCE MARKERS REPORT 2022-23

Name of planning authority: **Argyll & Bute Council**

The High Level Group on Performance agreed a set of performance markers. We have assessed your report against those markers to give an indication of priority areas for improvement action. The high level group will monitor and evaluate how the key markers have been reported and the value which they have added.

The Red, Amber, Green ratings are based on the evidence provided within the PPF reports. Where no information or insufficient evidence has been provided, a 'red' marking has been allocated.

No.	Performance Marker	RAG rating	Comments
1	Decision-making: continuous reduction of average timescales for all development categories [Q1 - Q4]	Red	<p>Major Applications Your average timescale is 43.1 weeks which is slower than the previous year and slower than the Scottish average of 39.5 weeks. RAG = Red</p> <p>Local (Non-Householder) Applications Your average timescale is 16.3 weeks which is slower than the previous year and slower than the Scottish average of 14.4 weeks. RAG = Red</p> <p>Householder Applications Your average timescale is 12.7 weeks which is slower than the previous year and slower the Scottish average of 8.9 weeks. RAG = Red</p> <p>Overall RAG = Red</p>
2	<p>Processing agreements:</p> <ul style="list-style-type: none"> offer to all prospective applicants for major development planning applications; and availability publicised on website 	Green	<p>You note that you offer processing agreements for all major developments however this was not taken up by any prospective applicant. RAG = Green</p> <p>You provide information on processing agreements on your website and you also highlight this as an option in all your pre-application reports. RAG = Green</p> <p>Overall RAG = Green</p>
3	<p>Early collaboration with applicants and consultees</p> <ul style="list-style-type: none"> availability and promotion of pre-application discussions for all prospective applications; and clear and proportionate requests for supporting information 	Green	<p>You continue to offer a pre-application service and are looking to undertake a review of the service to help provide follow up advice in 2023/24. RAG = Green</p> <p>Your pre-application service provides advice to applicants on the supporting information required in advance of a formal application process. RAG = Green</p> <p>Overall RAG = Green</p>
4	Legal agreements: conclude (or reconsider) applications after resolving to grant permission reducing number of live applications more than 6 months after resolution to grant (from last reporting period)	Red	<p>Your average timescale for determining applications with legal agreement is 49.5 weeks which is slower than the previous year and slower than the Scottish average of 41.1 weeks.</p> <p>It is noted that you have a process in place to flag up underdetermined applications subject to legal agreements however due to staff resources the availability to undertake this activity has reduced.</p>

	Enforcement charter updated / re-published within last 2 years	Green	Your enforcement charter was reviewed and updated in March 2022 which is within the last 2 years.
6	Continuous improvement: <ul style="list-style-type: none"> progress ambitious and relevant service improvement commitments identified through PPF report 	Green	You have completed 2 out of 12 service improvement commitments with a further 7 progressing. You have noted that 2 commitments were put on hold, one due to awaiting Scottish Government review of permitted development rights and the other commitment revised for the 2023/24 reporting period. You have identified a good range of service commitments for the coming year, with 8 carried over from the previous year and 4 new actions identified.
7	Local development plan less than 5 years since adoption	Red	Your LDP was 8 years old at the end of the reporting period which is more than 5 years since adoption.
8	Development plan scheme – next LDP: <ul style="list-style-type: none"> project planned and expected to be delivered to planned timescale 	Green	Your next LDP is currently at examination and is expected to be adopted in the coming year. This is in line with your most recent development plan scheme adopted in March 2022.
9 & 10	LDP Engagement: <ul style="list-style-type: none"> stakeholders including Elected Members, industry, agencies, the public and Scottish Government are engaged appropriately through all key stages of development plan preparation. 	N/A	Your next LDP is currently at examination stage and therefore no engagement has been carried out during the reporting period.
11	Policy Advice <ul style="list-style-type: none"> Production of relevant and up to date policy advice 	Green	You continue to produce up to date policy including updated guidance on both S64 submissions and Local Place Plans. You have also clearly signposted to applicants where to access all relevant policy advice on your website.
12	Corporate working across services to improve outputs and services for customer benefit (for example: protocols; joined-up services; single contact arrangements; joint pre-application advice)	Green	You have highlighted a range of joint up services including the merging of housing with development policy and having the planning service and roads and infrastructure team sit under one executive director. It is also noted that you have set up an internal working group to tackle key housing issues, which includes bringing senior officers from across various council services together.
13	Sharing good practice, skills and knowledge between authorities	Green	You have provided a good example of how you've shared good practice in relation to aquaculture applications by providing assistance to colleagues in other authorities. You also take up the role as Chair in the Local Authority Aquaculture-working group.
14	Stalled sites / legacy cases: conclusion or withdrawal of old planning applications and reducing number of live applications more than one year old	Red	You have cleared 18 cases during the reporting period. The number of cases remaining have nearly doubled from 65 last year to 125 this year.
15	Developer contributions: clear and proportionate expectations <ul style="list-style-type: none"> set out in development plan (and/or emerging plan); and in pre-application discussions 	Green	It is noted that expectations for developer contributions are set out in the current LDP which is supported by supplementary guidance. You have also highlighted that the upcoming LDP has a proposed policy relating to an updated approach on developer contributions. RAG = Green You note that developer contributions requirements are highlighted during the pre-application stage and provide justification to the prospective applicant on reasoning for the requirement. RAG = Green Overall RAG = Green

ARGYLL AND BUTE COUNCIL
Performance against Key Markers

Marker		13-14	14-15	15-16	16-17	17-18	18-19	19-20	20-21	21-22	22-23
1	Decision making timescales										
2	Processing agreements										
3	Early collaboration										
4	Legal agreements										
5	Enforcement charter										
6	Continuous improvement										
7	Local development plan										
8	Development plan scheme										
9 & 10	LDP Early Engagement	N/A	N/A	N/A			N/A	N/A	N/A	N/A	N/A
11	Regular and proportionate advice to support applications										
12	Corporate working across services										
13	Sharing good practice, skills and knowledge										
14	Stalled sites/legacy cases										
15	Developer contributions										

Overall Markings (total numbers for red, amber and green)

	Red	Amber	Green
2013-14	0	5	8
2014-15	0	2	11
2015-16	0	3	10
2016-17	1	3	11
2017-18	1	3	11
2018-19	0	3	10
2019-20	0	3	10
2020-21	3	2	8
2021-22	1	4	7
2022-23	4	0	10

Decision Making Timescales (weeks)

	13-14	14-15	15-16	16-17	17-18	18-19	19-20	20-21	21-22	22-23	2022-23 Scottish Average
Major Development	59.1	14.1	23.3	22.1	37.9	28.3	33.9	40.4	40.8	43.1	39.5
Local (Non-Householder) Development	13.1	10.8	10.3	12.4	12.6	10.8	10.2	12.5	13.6	16.3	14.4
Householder Development	7.2	6.9	7.0	7.5	7.9	7.1	7.2	9.1	10.3	12.7	8.9

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

PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE – 20/12/23

UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING APPEAL DECISIONS

19/01858/PP – 37/39 STEVENSON STREET, OBAN

22/01847/LIB – 26 CRICHTON ROAD, ROTHESAY, ISLE OF BUTE

(A) INTRODUCTION

This report summarises two decisions by Scottish Ministers. The first of these relates to a planning application called in for determination. The second relates to the outcome of an appeal decision.

(B) RECOMMENDATION

It is recommended that Members note the content of this report.

(C) BACKGROUND – 19/01858/PP

This report refers to planning application reference 19/01858/PP for the alterations to existing offices and funeral facilities at ground floor level and alterations and change of use of first and second floor workshops and stores to create 4 flats at 37/39 Stevenson Street, Oban.

Planning permission was refused under delegated powers on 22/03/22 due to the proposed development not being considered to be sustainable in terms of flood risk. The proposal would have resulted in the introduction of residential units into an area identified as being at medium to high risk of flooding and which increases the land use vulnerability of the site, contrary to the principles of Scottish Planning Policy, the SEPA Development Management Guidance on Flood Risk and the SEPA Flood Risk and Land Use Vulnerability Guidance. The development was also considered contrary to Policy LDP 10 and Supplementary Guidance SG LDP SERV 7 of the adopted 'Argyll and Bute Local Development Plan' 2015 which require development to be located out with areas of significant flood risk.

A subsequent appeal was submitted to the Local Review Body, reference 22/0004/LRB, who recommended that planning permission be granted and that this intent be notified to Ministers in accordance with the relevant legislation.

SCOTTISH MINISTERS' DECISION

The Scottish Government was notified of the Council's intention to grant planning permission for this development contrary to the advice of SEPA under the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 on the 30 January 2023. On the 1 March 2023, the Scottish Government, under the powers conferred on them by Section 46(1) of the Town and Country Planning (Scotland) Act 1997, issued to the Council a Direction requiring the application to be referred to them for determination.

This report provides an update on Scottish Ministers' decision dated 22 November 2023. Consideration of this proposal was undertaken by a Scottish Government Reporter who then submitted a report containing the conclusions and recommendations to Scottish Ministers. Scottish Ministers accepted these conclusions and decided that planning permission should be refused. The reason for this decision was summarised in the Scottish Ministers' letter as follows:

"Scottish Ministers agree with the reporter's conclusions in terms of the development plan that the proposal would allow for the sympathetic adaption of a listed building, in a central location within Oban, to enable it to better meet the needs of an existing business and as such gains some support from policies LDP DM 1, LDP 3, SG LDP ENV 16, LDP 5 and SG LDP BUS 1 of the Argyll and Bute LDP 2015. It is agreed, however, that these benefits need to be judged against national and development plan policy relating to flooding and the risk of harm to human safety associated with the risk of flooding (including tidal flooding). Policy 22 of NPF4 sets out a clear intention to strengthen resilience to flood risk by promoting avoidance as a first principle and reducing the vulnerability of existing and future development to flooding, the property is located within an area identified as at medium – high risk of flooding from tidal and fluvial sources on the SEPA indicative Flood Maps and the proposals would result in an increase in land use vulnerability classification from least vulnerable to highly vulnerable. The Scottish Ministers agree that proposal fails to satisfy the criteria for development in such areas as set out in Policy 10 and SG LDP SERV 7 of the Argyll and Bute LDP 2015 or Policy 22 of NPF4, and that the benefits of the proposal do not outweigh the risks of harm and would not be in accordance with the development plan".

Ministers also noted that in regards to proposed Local Development Plan 2 "...emerging policies within LDP2 (Policy 55 of proposed LDP2 relates to flooding) would not substantially or materially alter the assessment of the proposed development".

The decision of Scottish Ministers is final, subject to the right conferred by Sections 237 and 239 of the Town and Country Planning (Scotland) Act 1997 of any person aggrieved by the decision to apply to the Court of Session within 6 weeks of the date of the decision.

A copy of the letter from Scottish Ministers along with the DPEA Reporter's report is appended to this report.

(D) BACKGROUND 22/01847/LIB

This application for Listed Building Consent was refused by the Council under delegated powers on 21st June 2023. An appeal was subsequently submitted to the Planning and Environmental Appeals Division (PEAD).

As the appeal concerned works to a Category C Listed Building, the Reporter carried out an assessment in accordance with Section 14(2) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (as amended), which required him to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

As the appeal site lies within the Rothesay Conservation Area, in accordance with Section 64(1) of the aforementioned Act, he also paid special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

The proposed window replacements were also the subject of an application for Planning Permission (ref: 22/01848/PP) and this was also refused on 21st June 2023. The

applicant, Mr Peter Campbell, has sought a review of this decision by the Council's Local Review Body (LRB) and consideration of this matter is presently ongoing.

The first meeting of the LRB on 13th November 2023 requested further information from the Development Management Service in relation to appropriate conditions and reasons should the Members be minded to allow the review and the decision was also made to undertake an accompanied site inspection to view the current windows in the building in question and those of neighbouring properties. The site inspection is due to be held on 11th December 2023.

SCOTTISH MINISTERS' DECISION

In summary, the Reporter considered that the proposed replacement windows on the front elevation would use appropriate materials and replicate the fenestration pattern of the originals when closed and that the use of slim line double glazed units was acceptable in principle. However, the use of dual-swing openings would result in the windows projecting outwards from the façade of the property when open and he was of the view that this would not maintain the authentic character of the historic windows which are sliding sash and case and, as such, would introduce a visually discordant feature.

He also considered that the use of flat profile upvc windows on the rear elevation would fail to maintain the appropriate historic materials and stepped fenestration pattern for this property. Accordingly, he found that the proposed replacement windows on both the front and rear elevations would fail to preserve the listed building and its features of special architectural and historic interest.

In terms of the impacts on the Rothesay Conservation Area, he was satisfied that the windows on the rear elevation would not be particularly visible from any public vantage point within the surrounding area. As such, they would not have a significant adverse effect on the character or appearance of the conservation area. The windows on the front elevation, for the reasons set out above, would introduce a visually discordant feature to this prominent elevation within the street scene. As such, he found that they would fail to preserve the character and appearance of the conservation area.

His conclusion was that the proposed works would fail to preserve the listed building and its features of special architectural and historic interest and would also fail to preserve the character and appearance of the conservation area. He had considered all other matters but there was nothing before him that would lead him to alter his conclusion and, therefore, he dismissed the appeal.

Full details of the appeal documents and decision can be viewed on the PEAD website:

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

(E) IMPLICATIONS

Policy: None

Financial: None

Personnel: None

Equal Opportunities: None

Authors and Contact Officers: Fiona Scott and Kirsty Sweeney

Fergus Murray
Head of Development and Economic Growth

APPENDIX A: PEAD DECISION NOTICE 19/01858/PP
APPENDIX B: PEAD DECISION NOTICE 22/01847/LIB



E-mail: Planning.decisions@gov.scot

Hamish Hoey & Son,
c/o Bruce & Neil Chartered Architects
Sent by email

Our ref: NA-130-006
Planning Authority ref:22/0004/LRB - 19/01858/PP

22 November 2023

Dear Mr Neil

NOTIFIED APPLICATION: ALTERATIONS TO EXISTING OFFICES AND FUNERAL FACILITIES AT GROUND FLOOR LEVEL AND ALTERATIONS AND CHANGE OF USE OF FIRST AND SECOND FLOOR WORKSHOPS AND STORES TO CREATE 4 FLATS; 37 - 39 STEVENSON STREET OBAN PA34 5NA

1. This letter contains the Scottish Ministers' decision on the above planning application submitted to Argyll and Bute Council by Hamish Hoey & Son on 4 September 2019 (planning reference: 19/01858/PP).
2. The application was called in for the Scottish Ministers determination on 1 March 2023 by direction under section 46 of the Town and Country Planning (Scotland) Act 1997 "in view of the proposed development's potential conflict with national policy on flood risk".
3. The application was considered by means of written submissions and a site inspection by Sue Bell, a reporter appointed by the Scottish Ministers for that purpose.
4. The final report with the reporters' recommendation was issued to the Scottish Ministers on 29 September 2023. A copy of the reporters' report ('the Report') is enclosed. All references to paragraph and chapter numbers, unless otherwise stated, are to those in the Report.

Proposal

5. Improvements are proposed to the ground floor of the property to complement its existing use as a funeral director, together with the redevelopment of the upper floors from storage into 4 residential flats. The proposed development is a category C listed building.

Reporter's Recommendation and Scottish Ministers' Decision

6. The reporter has recommended that the application be refused. Scottish Ministers have carefully considered all the evidence presented and the reporter's findings and conclusions in the report. The Scottish Ministers agree with the reporter's recommendation and refuse planning permission, for the reasons summarised below and as detailed in the reporter's report.



Legal and Development Plan Context

7. Under the terms of section 25 of the Town and Country Planning (Scotland) Act 1997 all applications must be determined in accordance with the development plan, unless material considerations indicate otherwise. In this case, the Scottish Ministers agree with the reporter at paragraph 4 that the development plan for this case comprises National Planning Framework 4 (NPF4, 2023) and the Argyll and Bute Local Development Plan (LDP, 2015) and its associated supplementary guidance.

8. The Scottish Ministers agree with the reporter's identification of other relevant policy and guidance documents at paragraph 7 including:

- SEPA's Flood Risk and Land Use Vulnerability Guidance
- SEPA's Development Management Guidance: Flood Risk
- Historic Environment Policy for Scotland (HEPS) 2019
- HES Managing Change in the Historic Environment – Setting, 2016
- HES Managing Change in the Historic Environment – Interiors, 2016
- HES Managing Change in the Historic Environment – Windows, 2018

9. The Scottish Ministers also agree with the reporter's findings at paragraph 6 that as the property is a Category C listed building, section 14 (2) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (LBCA) requires that special regard must be given to the desirability of preserving the listed building or its setting and any special features of historic or architectural interest that it possesses.

10. Relevant policies include (Paragraph 35, 42): Policy LDP 3 (supporting the protection, conservation and enhancement of our environment) of the Argyll and Bute LDP 2015; SG LDP ENV 16(a) (impact on listed buildings); NPF4 Policy 7(Listed buildings) which seeks to achieve similar outcomes through protecting and enhancing historic environment assets and places and to enable positive change as a catalyst for the regeneration of places; Historic Environment Policy for Scotland (HEPS) 2019; and the Managing Change series of documents, which provide advice on how to ensure that developments to listed buildings are of the highest quality, design and finish.

Main Issues

11. The Scottish Ministers agree with the reporter at paragraph 9, that the main considerations in deciding this application are:

- Flood risk
- Effects of the proposal on the listed building

Flood risk

12. The Scottish Ministers have taken into account the reporter's findings in paragraph 21 that there is no dispute between parties that the application site lies within the medium likelihood (0.5% annual probability or 1 in 200 year return period) fluvial and coastal flood extents of the SEPA Flood Map. It is therefore considered to be at medium to high risk of flooding.

13. The Scottish Ministers agree with the reporter that there is a clear conflict between the proposed development and Policy LDP 10 (maximising our resources and reducing our consumption) of the Argyll and Bute LDP 2015 and supplementary guidance (SG) SG LDP SERV 7 (flooding and land erosion – risk framework). This is in terms of avoiding areas subject to flood risk or erosion, applying the ‘precautionary principle’ and refusing proposals that do not meet the criteria for exemption and/ or on the advice of SEPA.

14. The Scottish Ministers agree with the reporter in paragraph 19 that the proposed development does not meet the exceptions in NPF4 Policy 22 (flood risk and water management) where development proposals are at risk of flooding.

15. The Scottish Ministers also agree with the reporter in paragraph 22 that there do not appear to be any specific flood prevention measures in place or planned to meet the standards set out in policy LDP 10 and SG LDP ENV7. In addition, the proposals do not appear to accord with flood prevention or management measures as specified in association with a Local Development Plan Allocation or development brief. Thus, the proposals do not fully satisfy any of the exemption criteria set out in Policy LDP 10 or the supporting SG LDP SERV 7.

16. The Scottish Ministers agree with the reporter in paragraph 23 that while the proposed re-development works to the ground floor would not result in any change in the vulnerability use class as set out in SEPA’s ‘Flood Risk and Land Use Vulnerability Guidance’ (2018), the proposed residential use for the upper floors would represent an increase in vulnerability from Least Vulnerable to Highly Vulnerable. This would be contrary to the requirements of criterion (iii) of part a) of NPF4 Policy 22. The proposals would also fail to satisfy criterion (iv) of the same policy as the building is not identified within the local development plan as a site that should be brought into positive use, given the building is already occupied and in active use.

17. The Scottish Ministers agree with the reporter in paragraph 24 that both Policy LDP 10 and NPF4 Policy 22 require proposals to be in accordance with SEPA advice. The applicant has not provided a Flood Risk Assessment specific to the proposal site, contrary to published SEPA guidance (Technical Flood Risk Guidance for Stakeholders - SEPA requirements for undertaking a Flood Risk Assessment -Version 13 June 2022), instead, relying on a Flood Risk Assessment prepared to support proposals for a different development site located upstream of the proposal site (Lochside Street) albeit on the same watercourse, dating from 2009.

18. The Scottish Ministers note the commentary on the Flood Risk Assessment for the Lochside Street, council records of flood incidents, SEPA records of events at / near the site and reports from the owners of the proposal building about localised flooding at the site inspection as set out in paragraphs 25-28. The Scottish Ministers agree with the reporter’s conclusions on this matter in paragraph 29, that in the absence of a detailed site-specific Flood Risk Assessment it is necessary to rely on the indicative SEPA Flood Maps. The Scottish Ministers also agree with the reporter that it is not appropriate to rely on the Flood Risk Assessment prepared for a different site, given that assessment only considers risks from fluvial flooding and makes no provision for tidal flooding. Also climate change allowances for river flow and sea level rise have been updated since the report was produced, and the submitted Flood Risk Assessment is for a retail and office development, as opposed to residential development.

19. The Scottish Ministers acknowledge (paragraph 30) SEPA’s consideration that even if a site specific Flood Risk Assessment were undertaken it is likely that it would only serve to confirm the serious flood risk to the site.

20. The Scottish Ministers accept the reporter's findings in paragraph 31 that there appears no possibility of providing mitigation for risk in the case of emergencies in the form of alternative access routes from the rear of the property, which sits directly adjacent to a near-vertical cliff-face.

21. The Scottish Ministers agree with the reporter's overall findings in paragraph 33 that in summary the proposed development: is in an area identified as at medium – high risk of flooding from fluvial and tidal sources; fails to meet the criteria for developments acceptable in such areas, as set out in Policy 10 LDP and SG LDP SERV 7 of the Argyll and Bute LDP; the change in use of the upper floors of the application building would represent an increase in the land use vulnerability classification from least vulnerable to highly vulnerable, and the proposals fail to meet the criteria for development in flood risk areas set out in Policy 22 of NPF4. In addition, the proposed development has not been accompanied by a site-specific Flood Risk Assessment contrary to published SEPA guidance. No evidence has been provided to support the view of the applicant that local conditions mean that the risk of flooding would be linked to tidal flooding and that an incidence of flooding coinciding with a medical emergency is low. In conclusion, Scottish Ministers agree with the reporter that the proposed development fails to satisfy Policy 10 and its supporting SG LDP SERV 7 of the Argyll and Bute LDP 2015 and Policy 22 of NPF4.

Main issue 2: Effects of the proposal on the listed building

22. The Scottish Ministers have taken into account the reporter's findings in paragraphs 37-41: that the proposals would require both internal and external alterations; the description of the special interest of the building makes no reference to any internal features of importance; there did not appear to be any original features or architectural features of historic importance within the building; and the proposed external alterations would result in some changes in the overall appearance of the building, but the overall visual layout and symmetrical façade of three bays on the western (Stevenson Street) elevation would remain.

23. The Scottish Ministers agree with the reporter's findings in paragraphs 42-43 that: the proposed development would be consistent with Policy 3 of Historic Environment Policy for Scotland (HEPS) 2019; the Managing Change series of documents; SG LDP ENV 16 of the Argyll and Bute LDP 2015; and that the proposals would not have a potentially significant impact on the listed building.

Other material considerations

24. The Scottish Ministers agree with the reporter's findings in paragraph 44, that the proposal gains some support from: Policy LDP DM 1 (development within the Development Management Zones); Policy LDP 5 (supporting the sustainable growth of our economy); and SG LDP BUS 1 (business and industry proposals in existing settlements and identified business and industry areas of the 2015 LDP) of the Argyll and Bute LDP 2015.

25. The Scottish Ministers agree with the reporter in paragraph 45 that the proposals would not have an adverse impact on the setting within the wider North-West Argyll (Coast) Area of Panoramic Quality and is not contrary to Policy LDP 9 (development setting, layout and design) or SG LDP ENV 13 (development impact on Areas of Panoramic Quality (APQs)).

26. The Scottish Ministers agree with the reporter in paragraph 46, in terms of parking and water connection, that the proposals comply with the requirements of policies LDP11 (improving our connectivity and infrastructure); SG LDP TRAN 4 (new & existing, public

roads & private access regimes); and SG LDP TRAN 6 (vehicle parking provision of the LDP).

27. The Scottish Ministers similarly agree with the reporter in paragraph 47, that the proposal is consistent with the other ‘spatial principles’ that the applicant has highlighted in terms of conserving and recycling existing assets; ‘local living’ with the associated benefits to mental and physical wellbeing and ‘compact urban growth’.

Conclusion

28. The Scottish Ministers agree with the reporter’s conclusions in terms of the development plan in paragraphs 52-55, that the proposal would allow for the sympathetic adaption of a listed building, in a central location within Oban, to enable it to better meet the needs of an existing business and as such gains some support from policies LDP DM 1, LDP 3, SG LDP ENV 16, LDP 5 and SG LDP BUS 1 of the Argyll and Bute LDP 2015. It is agreed, however, that these benefits need to be judged against national and development plan policy relating to flooding and the risk of harm to human safety associated with the risk of flooding (including tidal flooding). Policy 22 of NPF4 sets out a clear intention to strengthen resilience to flood risk by promoting avoidance as a first principle and reducing the vulnerability of existing and future development to flooding, the property is located within an area identified as at medium – high risk of flooding from tidal and fluvial sources on the SEPA indicative Flood Maps and the proposals would result in an increase in land use vulnerability classification from least vulnerable to highly vulnerable. The Scottish Ministers agree that proposal fails to satisfy the criteria for development in such areas as set out in Policy 10 and SG LDP SERV 7 of the Argyll and Bute LDP 2015 or Policy 22 of NPF4, and that the benefits of the proposal do not outweigh the risks of harm and would not be in accordance with the development plan.

29. The Scottish Ministers note that a replacement LDP (LDP2) is in preparation. On the 20th October, 2023, Argyll and Bute Council submitted their intention to adopt their LDP and this is currently under consideration by the Scottish Ministers. The Scottish Ministers agree with the reporter on paragraph 56 that the proposed LDP2 and examination report are an important material consideration, but the emerging policies within LDP2 (Policy 55 of proposed LDP2 relates to flooding) would not substantially or materially alter the assessment of the proposed development above.

30. The Scottish Ministers agree with the reporter that for the reasons set out above, the proposed development does not accord overall with the relevant provisions of the development plan and that there are no material considerations which would justify granting planning permission.

Formal Decision

31. Accordingly, for the reasons detailed in the reporter’s report and as summarised in this letter, the Scottish Ministers hereby refuse planning permission for the proposed development.

Right to Challenge

32. This decision of Scottish Ministers is final, subject to the right conferred by Sections 237 and 239 of the Town and Country Planning (Scotland) Act 1997, of any person aggrieved by the decision to apply to the Court of Session within 6 weeks of the date of this letter. If such an appeal is made, the Court may quash the decision if satisfied that it is not within the powers of the Act, or that the applicant’s interests have been substantially prejudiced by a

failure to comply with any requirements of the Act, or of the Tribunals and Inquiries Act 1992, or any orders, regulations or rules made under these Acts.

33. A copy of this letter and the reporter's report has been sent to Argyll and Bute Council.

Yours sincerely

Allen Hughes

ALLEN HUGHES

Reporter's Report

Planning and Environmental Appeals Division

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Hadrian House, Callendar Business Park, Falkirk, FK1 1XR

Report to the Scottish Ministers

Town and Country Planning (Scotland) Act 1997

Report by Sue Bell, a reporter appointed by the Scottish Ministers

- Case reference: NA-130-006
- Site Address: 37 – 39 Stevenson Street, Oban, Argyll and Bute, PA34 5NA
- Application by: Hamish Hoey & Son
- Application for planning permission ref. 22/0004/LRB dated 17 June 2022; (planning application ref) 19/01858/PP dated 4 September 2019
- The development proposed: alterations to existing offices and funeral facilities at ground floor level and alterations and change of use of first and second floor workshops and stores to create 4 flats
- Date of site visit: 23 May 2023

Date of this report and recommendation: 29 September 2023

Recommendation¹

Refuse planning permission.

Background

1. The proposal seeks permission for redevelopment of a category C listed building. Ground floor alterations would complement the current use as a funeral undertakers. The upper floors, which are currently used for storage, would be redeveloped into four flats.

2. The Scottish Environment Protection Agency (SEPA) has objected to the proposals as the site is at medium likelihood of flooding from fluvial and coastal flood sources and the proposed residential use represents an increase in vulnerability of use class from the current office/commercial use. SEPA would have no objection if the use of the building were to remain in the Least vulnerable use category. SEPA also considers that inadequate site-specific information about flood risk has been provided. Concerns about flood risk were also raised by the council's flood advisers.

3. The proposals were initially refused by the council's planning officers on the grounds of flood risk. The application was subsequently reviewed by the Local Review Body, who considered that the proposal could be approved as a minor departure from policy.

Policy context

4. The development plan comprises National Planning Framework 4 (NPF4) and the Argyll and Bute Local Development Plan 2015 and its associated supplementary guidance.

5. The proposal was assessed by the council prior to implementation of NPF4, but parties have had an opportunity to comment on the implications of this.

6. The property is a listed building. Section 14 (2) of the Listed Building and Conservation Area (LBCA) Act requires me to have special regard to the desirability of preserving the listed building or its setting and any special features of historic or architectural interest that it possesses.

7. Other relevant policy and guidance documents include:

- SEPA's Flood Risk and Land Use Vulnerability Guidance
- SEPA's Development Management Guidance: Flood Risk
- Historic Environment Policy for Scotland (HEPS) 2019
- HES Managing Change in the Historic Environment – Setting, 2016
- HES Managing Change in the Historic Environment – Interiors, 2016
- HES Managing Change in the Historic Environment – Windows, 2018

8. In addition, the council is preparing an updated local development plan (Argyll and Bute proposed Local Development Plan 2, November 2019). This has been subject to examination by Scottish Ministers. At time of writing, the council is considering the modifications proposed by reporters, but has not yet adopted the proposed plan.

The relevant issues for Ministers' consideration

9. Having considered all the evidence before me my advice is that the main considerations for Ministers in deciding this application are:

- | |
|---|
| <ul style="list-style-type: none">• Flood risk• Effects of the proposal on the listed building |
|---|

10. Whilst the proposal could be defined as an 'urban development project', the area of development is less than 0.5ha and is not in a sensitive area. Hence it falls below the thresholds set out in Schedule 2 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 and an Environmental Impact Assessment is not required.

The main points for the applicant

11. The main points as set out in the applicant's request for review by the council's Local Review Body and in response to my requests for further information are:

- A Flood Risk Assessment for a site further upstream on the Black Lynn Burn at Lochside Street prepared in 2009 has been submitted in support of the application.

- The applicant's local Environmental consultant has confirmed that a fresh Flood Risk Assessment based on current predictions would be unlikely to demonstrate any lesser risk of 1:200 year event flooding at the application site.
- The applicant recognises that there is a 1:200 year risk of tidal flooding at the application site.
- The proposed alterations to the ground floor of the building would continue an existing and established function with no increase in risk.
- The objections from SEPA and the council's Flood Risk Adviser are based on the serious but unlikely coincidence of tidal (and therefore temporary) flooding at the application site with the need for an emergency evacuation from the proposed flats.
- The topography at the rear of the building has been investigated. It is considered that given the relative heights and levels, a tortuous series of stairs and ramps would be required in order to reach Star Brae from the top floor in a manner that would be acceptable to Building Standards.
- The stairs and ramps that would be required are considered unlikely to be acceptable at the rear of the listed building.
- The potential emergency access/escape route from the rear of the building to Star Brae is considered to be more hazardous and unsuitable than an evacuation through a partially flooded Stevenson Street at the front of the building.
- Refusal of this application on the basis of short term tidal flooding on a 1:200 year event coinciding with an emergency in the building would effectively sterilise this prominent listed building in its town centre location for use in adaptation to much needed town centre housing.
- The flood risk concerns by SEPA have been allowed to override all other positive aspects of the proposals.
- The relevant provisions of NPF4 add emphasis to the applicant's contention that the application should not be refused on the grounds of flood risk alone.

The main points for the planning authority

12. The application was initially refused by the Planning Service under delegated powers. Reasons for this decision were set out in the Report of Handling included at pages 22 – 31 of the 1st Agenda Pack for the Local Review Body. These relate to flood risk, which officers considered contrary to national policy, SEPA guidance and policy related to flooding within the local development plan.

13. The application was subsequently referred to the Local Review Body. It reached the decision that the proposal could be approved as a minor departure to the local development plan, the provisions of Scottish Planning Policy 2014 and the advice of SEPA, based on the following:

- The proposed development complies with the adopted LDP 2015 in all respects except that it is considered contrary to Scottish Planning Policy 2014, SEPA's Flood Guidance and to Policy LDP 10 and Supplementary guidance SG LDP SERV 7 of the Local Development Plan, which require development to be located outwith areas of significant flood risk.
- The determining factor in the assessment of this application rests on a single technical issue and a matter of national and local planning policy with respect to flood risk.

- It is proposed to reuse the upper floors of an existing listed building to form four new flats and there is a recognised shortage of permanent residential accommodation in Oban.
- The council's WDM Asset Management System lists three flooding incidents in Stevenson Street since 2012. Two of these occurred in 2015 outside 11 Stevenson Street, which is approximately 200 yards from the application site. One dates from 2018, which advises of a possible issue due to the demolition of a building but there is no record of flooding occurring.
- There are records of several floods at a location around 500/600 yards from Stevenson Street. However, it is not thought that there was any flooding in Stevenson Street at the same time as these floods occurred.
- The Black Lynn Burn runs approximately 6/8 feet below the road level in Stevenson Street and there is a retaining wall of another 4 feet that the water would have to get over in order for Stevenson Street to flood at the location of the application site.
- It is accepted that there is a 1:200 year risk of flooding in this area and there could be a risk to the ability to evacuate any occupants of the flat should there be an unusually high tide combined with someone being critically ill.
- By mandating the flats to be used for permanent residential accommodation and the use of water resistant materials wherever possible, the proposed development would secure the best viable use of the listed building and offer a wider public benefit in the provision of town centre permanent residential development. This would significantly outweigh any disadvantages of the development.
- The proposals would also retain and enhance the special interest, character and setting of the listed building.

The main points for SEPA

14. SEPA's original objection to the proposals made reference to Scottish Planning Policy 2014. SEPA notes that whilst implementation of NPF4 this has changed its policy position, its objection still stands. Key points raised are:

- The application site (or parts thereof) lies within the medium likelihood (0.5% annual probability or 1 in 200 year return period) fluvial and coastal flood extents of the SEPA Flood Map and may therefore be at medium to high risk of flooding.
- There are a number of records of historical flooding in the surrounding area attributed to both coastal, river and also surface water flooding.
- Flood records state that Stevenson Street flooded in 2005 to a depth of 2 – 3 feet, from tidal/ coastal inundation only.
- For planning purposes, the functional flood plain will generally have a greater than 0.5% (1:200) probability of flooding in any year. Built development should not therefore take place on the functional flood plain.
- The proposal includes a proposed change of use from office/commercial to a flatted development on the second floor which is viewed as an increase in Land Use Vulnerability from Least to Highly Vulnerable.
- The flatted development may be elevated above flood levels, but SEPA has concerns about the viability of access/egress.
- Insufficient information is provided to enable SEPA to assess flood risk.
- SEPA objects to the development until a Flood Risk Assessment or other appropriate information is provided in support of the application.

- SEPA will remove its objection on flood risk grounds if a Flood Risk Assessment (or other information) demonstrates that the proposed development accords with the principles of Scottish Planning Policy.
- Policy 22a) of NPF4 outlines four exceptional development types which may be located in flood risk areas. The proposed development does not meet any of these exceptional criteria.

Other parties' cases

15. In addition to comments from SEPA, consultation responses were received from three parties. The council's Roads Authority did not object to the proposals. Scottish Water also did not object, but noted that they were unable to confirm capacity for provision of water.

16. JBA Consulting Ltd (JBA) provide advice on flood risk issues to Argyll and Bute Council. Its initial response (21 October 2019) deferred a decision pending receipt of details to demonstrate that emergency pedestrian access/egress is achievable within a 1 in 200 year flood event. Its later response (24/12/2019) following submission of additional information by the applicant, raised similar points to made by SEPA: the additional information was qualitative in nature; the submitted Flood Risk Assessment for a different site would need to be updated; and the proposals appear to be within or close to the SEPA coastal flood warning scheme for Oban. The response suggested that the applicants confirm that SEPA that there would be no objection in principle to the proposals.

Reporter's findings

Flood Risk

17. Policy LDP 10 (maximising our resources and reducing our consumption) of the Argyll and Bute LDP 2015 supports all development proposals that seek to maximise resources and reduce consumption, providing they meet certain criteria. This includes avoiding areas subject to flood risk or erosion. Further information about the application of the policy is provided in supplementary guidance (SG) SG LDP SERV 7 (flooding and land erosion – risk framework). This sets out the type of development that will generally be permissible within specific flood risk areas. Three broad categories of development are identified, of which two have potential relevance for the proposal site. Within those areas identified as at medium to high risk (1:200 or greater annual probability of flooding), residential, commercial and industrial development within built-up areas may be permissible, providing flood prevention measures to the appropriate standard (1:100 year return period) already exist or are under construction and they use water resistant materials / construction together with a suitable freeboard allowance as appropriate. Development may also be acceptable if it is in accord with flood prevention or management measures as specified in association with a Local Development Plan Allocation or development brief.

18. In all cases, the guidance notes that the planning authority will apply the 'precautionary principle' and refuse proposals that do not meet the criteria for exemption and/ or on the advice of SEPA.

19. NPF4 requires that all development must be assessed against the 0.5% annual exceedance probability flood event (200 year) including an allowance for climate

change. Policy 22 (flood risk and water management) seeks to strengthen resilience to flood risk and to ensure that water resources are used efficiently and sustainably. Part a) of the policy identifies four circumstances where development proposals at risk of flooding may be supported. The first two criteria relate to the location of essential infrastructure, where the location is required for operational reasons and where the development is a water compatible use. Neither of these exceptions apply to the current proposals.

20. Criterion (iii) of part a) allows for “redevelopment of an existing building or site for an equal or less vulnerable use.” Land use vulnerability is categorised as set out in SEPA’s ‘Flood Risk and Land Use Vulnerability Guidance’ (2018). Criterion (iv) allows for redevelopment of previously used sites in built up areas where the local development plan has identified a need to bring these into positive use and where proposals demonstrate that long-term safety and resilience can be secured in accordance with the relevant SEPA advice.

21. There is no dispute between parties that the application site lies within the medium likelihood (0.5% annual probability or 1 in 200 year return period) fluvial and coastal flood extents of the SEPA Flood Map. It is therefore considered to be at medium to high risk of flooding.

22. The proposals would lead to re-development of an existing building and hence would help to maximise resources and reduce consumption. However, whilst the proposals are for residential and commercial use, I am not aware of any specific flood prevention measures in place or planned to meet the standards set out in policy LDP 10 and SG LDP ENV7. Whilst the proposals do not specifically include for the use of water resistant materials, I note the applicant’s willingness to allow for this and this could be made a condition of any permission that was granted. In addition, the proposals do not appear to be in accord with flood prevention or management measures as specified in association with a Local Development Plan Allocation or development brief. Thus, the proposals do not fully satisfy any of the exemption criteria set out in Policy LDP 10 or the supporting SG LDP SERV 7.

23. The proposed re-development works to the ground floor would not result in any change in the vulnerability use class. However, the proposed residential use for the upper floors would represent an increase in vulnerability from Least Vulnerable to Highly Vulnerable, contrary to the requirements of criterion (iii) of part a) of NPF4 Policy 22. The proposals would also fail to satisfy criterion (iv) of the same policy as the building is not identified within the local development plan as a site that should be brought into positive use. Indeed, as noted, the building is already occupied and in active use.

24. Both Policy LDP 10 and NPF4 Policy 22 require proposals to be in accordance with SEPA advice. The applicant has not provided a Flood Risk Assessment specific to the proposal site, contrary to published SEPA guidance (Technical Flood Risk Guidance for Stakeholders - SEPA requirements for undertaking a Flood Risk Assessment -Version 13 June 2022). Instead, the applicant has placed reliance on a Flood Risk Assessment prepared to support proposals for a different development site located upstream of the proposal site (Lochside Street) albeit on the same watercourse. This assessment, which dates from 2009, appears to have focussed on an assessment of flooding from the burn only (fluvial flooding). Supplemental

information about the characteristics of the burn adjacent to the application site have also been provided.

25. The Flood Risk Assessment for the Lochside Street development did not identify any records of flooding downstream of Lochside Street in the vicinity of the proposal site. However, the council has provided extracts from the WDM Asset Management System, which lists three flood incidents on Stevenson Street since 2012 (i.e. after the date of the submitted Flood Risk Assessment). These relate to locations downstream of the proposal site. In particular, they highlight a potential risk arising as a result of demolition of a building, on the bend of the burn, to the north and west of the site. The rear walls of that building had previously acted to prevent loss of water from the burn at times of fast and high flows. During my site inspection I observed that this site remains vacant and is at a lower level than the proposal site. Nevertheless, the owners of the proposal building have not noted any incidences of flooding from the Black Lynn Burn since around 1982. They comment that recent localised flood events have resulted from inadequate surface drainage from the public road between the application premises and the Black Lynn Burn. No further incidences of flooding have occurred since new road gullies were installed.

26. SEPA has referred to a number of records of historical flooding in the area surrounding the application site. In particular, it notes that Stevenson Street flooded in 2005 to a depth of 2- 3 feet from tidal/coastal inundation only. It also raises concerns that the street could flood from the watercourse on its own, or in combination with the tide and comments that there is a degree of tide locking of the culverts and drains when the tide is high, which could cause serious fluvial flooding if the burn were to become backed up.

27. The applicant has provided qualitative information to suggest that the risks may not be as great as suggested by SEPA's indicative Flood Maps. During my site inspection I saw that the proposal site sits on the eastern side of Stevenson Road, with the Black Lynn Burn lying adjacent to the western boundary of the road. Where the burn flows adjacent to the proposal site, it is contained within a rocky channel, which is supplemented by retaining walls. These rise to a height of approximately 2.9 metres above the bed of the burn and are around 1.1 metres above the height of the neighbouring road. There is a metal beam which spans the watercourse between the banks, below the height of the wall, but well above what appears to be the normal range of variation of flow within the channel. I saw that the wall had a number of cracks and fissures lower down. Nevertheless, at this point, the burn is contained within a reinforced channel.

28. The burn flows northwards and then westwards along the western side of Stevenson Road for approximately 200 metres. It passes under George Street (A85) and Queen's Park Place to meet the coast. These roads appear at grade with the bank top of the burn and I observed some structures within the upper heights of the bank channel, which could act to impede water movement at times of elevated flows.

29. I accept that the SEPA Flood Maps are indicative and designed as a strategic tool to assess flood risk at the community level. Local factors may alter the actual level of predicted flood risk. The constrained nature of the burn adjacent to the proposal site and its height above stream bed level may reduce the indicative risk of flooding and I note that there are no historic records for flooding of the application site itself. However, in the absence of a detailed site specific Flood Risk Assessment it is

necessary to rely on the indicative SEPA Flood Maps. I do not consider the Flood Risk Assessment prepared for a different site, albeit on the same watercourse, to be a sufficient substitute for a site-specific Flood Risk Assessment. That assessment relates to a site upstream of the application site, only considers risks from fluvial flooding and makes no provision for tidal flooding. I have also taken into account SEPA's advice that the report is insufficient. It also commented that new hydrological modelling approaches have been developed and that climate change allowances for river flow and sea level rise have been updated since the report was produced. Further, the submitted Flood Risk Assessment is for a retail and office development, as opposed to residential development.

30. SEPA has suggested that even if a site specific Flood Risk Assessment were undertaken it is likely that it would only serve to confirm the serious flood risk to the site. This point is acknowledged by the applicant, but they consider that the objections are based on the serious but unlikely coincidence of tidal (temporary) flooding with the need for an emergency evacuation from one of the proposed residential units.

31. I recognise that the residential element of the proposal would be confined to the upper floors and hence potentially above any likely flood levels. I saw that the burn is at a lower level than the proposal site and I also note that there does not appear to be a history of flooding directly outside the proposal site. It may be that the greatest risks would be presented by temporary tidal flooding combined with a medical emergency in one of the proposed flats, but I have insufficient evidence to support that or evidence that safe access could be maintained under those conditions. There appears no possibility of providing mitigation for this risk in the form of alternative access routes. The layout of the site and topography is such that there is no safe or accessible option for exit from the rear of the property, which sits directly adjacent to a near-vertical cliff-face. The applicant has provided an indicative layout for a series of steps and landings to allow emergency escape up the cliff face to Star Brae. However, this would result in an intrusive and substantial addition to the rear of the listed building. Even if such an escape system were an acceptable addition to the building, I conclude that it would still represent a challenging exit route in the case of a medical emergency.

32. Reference has been made to permissions that have been granted for other residential developments and a hotel in the immediate vicinity of the site, although these may also be subject to the same degree of flood risk. Notwithstanding that each application must be considered on its own merits, I note that those decisions were made some time ago, prior to the publication of the most up-to-date Flood Maps and when there were different triggers requiring consultation with SEPA.

33. In summary, the application site is in an area identified as at medium – high risk of flooding from fluvial and tidal sources. The proposal fails to meet the criteria for developments acceptable in such areas as set out in Policy 10 LDP and SG LDP SERV 7 of the Argyll and Bute LDP. The change in use of the upper floors of the application building would represent an increase in the land use vulnerability classification from Least Vulnerable to Highly Vulnerable and the proposals fail to meet the criteria for development in flood risk areas set out in Policy 22 of NPF4. In addition, the application has not been accompanied by a site-specific Flood Risk Assessment contrary to published SEPA guidance. No evidence has been provided to support the view of the applicant that local conditions mean that the risk of flooding would be linked to tidal flooding and that an incidence of flooding coinciding with a medical emergency is low. I therefore conclude that the proposals fail to satisfy Policy

10 and its supporting SG LDP SERV 7 of the Argyll and Bute LDP 2015 and Policy 22 of NPF4.

Effects on the listed building

34. The property is a category C listed building.

35. Policy LDP 3 (supporting the protection, conservation and enhancement of our environment) of the Argyll and Bute LDP 2015 seeks to protect, conserve and where possible enhance the built, human and natural environment. The policy is supported by SG LDP ENV 16(a) (impact on listed buildings). It requires that development affecting a listed building or its setting shall preserve the building or its setting and any features of special architectural or historic interest that it possesses. Developments that affect listed buildings must be of the highest quality and respect the original structure in terms of setting, scale design and materials; be essential to securing the best viable use of the building without undermining its architectural or historic character; and conform to Scottish Historic Environment Policy.

36. NPF4 Policy 7(Listed buildings) also seeks to achieve similar outcomes through protecting and enhancing historic environment assets and places and to enable positive change as a catalyst for the regeneration of places.

37. The proposals would require both internal and external alterations to the listed building. A number of internal changes are proposed at the ground floor level, to accommodate the changing demands of the existing business and allow separate access to the upper floors. The upper floors would be sub-divided to create the residential units.

38. The listing description characterises the building as “Mid 19th century, 2-storey and attic, 3-bay rectangular plan workshop. Piend-roofed, slate hung dormers breaking eaves, timber construction above eaves. Street elevation of grey bull-faced squared and snecked rubble, with stugged yellow ashlar dressings, window cills and surrounds, deeply chamfered, droved into arrises. Random rubble rear and side elevations.” The description also refers to the “symmetrical façade of 3 bays, 2 cart arches at ground, re-using dressings. Sliding timber doors in right-hand arch, glazed at top. Narrow window to centre.”

39. The description of the special interest of the building makes no reference to any internal features of importance. The applicant has suggested that much of the building’s original interior detail had been lost prior to listing owing to alterations and a fire. During my site inspection I saw that there did not appear to be any original features or architectural features of historic importance within the building. The ground floor has a number of dividing walls, which appeared modern in layout and construction. The upper floors were more open, with some dividing walls. Again, these did not appear to have any architectural or historic importance.

40. The external changes would involve the replacement of a window at ground floor level by a door, to allow access to the upper levels. In addition to replacement of the existing timber windows, new window openings would be formed in the rear elevation of the upper floors. Four of these would be dormer windows. These have been designed to match the existing dormer windows on the front of the property.

Three rooflights are also proposed. The building would also be re-roofed with Spanish slate.

41. The proposed external alterations would result in some changes in the overall appearance of the building. Nevertheless, the overall visual layout and symmetrical façade of three bays on the western (Stevenson Street) elevation would remain. The proposed replacement windows would be consistent with that set out on the description of the listed building. The proposed new windows to the rear of the property would be of limited visibility, but have been designed to echo those on the front elevation. I understand that the proposed roofing materials have previously been approved for use on listed buildings. Approval of materials could be secured by a condition to any permission that were granted.

42. In assessing the effects of these proposed changes on the listed building, I have taken account of Historic Environment Policy for Scotland (HEPS) 2019 and the Managing Change series of documents, which provide advice on how to ensure that developments to listed buildings are of the highest quality, design and finish. In addition, I note that there have been no objections to the proposed alterations, materials or finishes. I am therefore content that the proposals would be consistent with Policy 3 and SG LDP ENV 16 of the Argyll and Bute LDP 2015.

43. I note that part (a) of Policy 7 of NPF4 requires that any proposals with a “potentially significant impact” on historic assets or places should be accompanied by an assessment which is based on an understanding of the cultural significance of the historic asset and/or place. As the proposal was submitted prior to the adoption of NPF4, no such assessment has been submitted. However, the applicant has provided some details of the history of the building and has taken account of the features of special interest. Given the absence of objection or concern by the council about effects on the listed building, I am satisfied that the proposals would not have a potentially significant impact on the listed building and that hence an assessment would not be required.

Other matters for Ministers’ consideration

44. The proposal is located within the Settlement Zone of Oban. Policy LDP DM 1 (development within the Development Management Zones) of the Argyll and Bute LDP 2015 provides support to sustainable forms of development here, subject to compliance with other relevant policies and supplementary guidance. The proposal partially relates to an existing business. Support for new and existing businesses which help deliver sustainable economic growth throughout the area is also provided by Policy LDP 5 (supporting the sustainable growth of our economy) and SG LDP BUS 1 (business and industry proposals in existing settlements and identified business and industry areas of the 2015 LDP). Thus, the proposal gains some support from these policies.

45. The site is located within the North West Argyll (Coast) Area of Panoramic Quality. Policy LDP 9 (development setting, layout and design), requires development to have a high standard of appropriate design and to pay regard to the context within which it is located. The design should also be compatible with the surroundings and particular attention should be paid to massing, form and design details within sensitive locations including Areas of Panoramic Quality. Further guidance is provided by SG LDP ENV 13 (development impact on Areas of Panoramic Quality (APQs)). As noted

above, the proposal is located within central Oban and would require works to a listed building. However, for the reasons set out above, I find that the external changes to the property would be in keeping with character of the listed building and would not have an adverse effect on the listed building or its setting. Hence, I conclude that the proposals would not have an adverse impact on the setting within the wider APQ.

46. The infrastructure requirements of the proposals, including need for parking have been assessed. As it is located within the town centre, there is no requirement to provide parking. Whilst Scottish Water is unable to confirm capacity for water supply, it does not object to the proposals. There have been no objections from any other consultees. Consequently, the proposals comply with the requirements of policies LDP 11 (improving our connectivity and infrastructure); SG LDP TRAN 4 (new & existing, public roads & private access regimes); and SG LDP TRAN 6 (vehicle parking provision of the LDP).

47. The applicant has highlighted a number of 'spatial principles' within NPF4, which it considers provide support for the proposals. In particular, I have been directed towards principles for conserving and recycling existing assets; 'local living' with the associated benefits to mental and physical wellbeing in being part of an established community directly linked to local facilities; and 'compact urban growth' giving encouragement to use of town centres and opportunities. I accept that the location of the proposal, within the centre of Oban, is consistent with these principles.

Proposed Conditions

48. In granting permission, the council identified two conditions that should be appended. The first relates to implementing the development in accordance with the submitted plans. This is a standard general condition and would be appropriate in this context, particularly given that the property is a listed building.

49. The second condition restricts the use of the proposed flats for Class 9 permanent residential use only and removes permitted development rights in respect of changing use within the Use Class Category. This condition has been appended to enable control of any subsequent change of use. Given the medium – high risk of flooding of the development site and the location of the development, within the town centre, I agree that such a condition is appropriate and necessary.

50. It has been suggested that a condition could be imposed to require the use of water resistant materials. Whilst these could limit damage to the property should flooding arise, their use would not alleviate or mitigate the concerns relating to access to the residential units under flood conditions. Hence I see no justification to include this requirement.

51. I have not identified a need for any other conditions.

Conclusions and recommendation

The development plan

52. As summarised above, the proposal would allow for the sympathetic adaption of a listed building, in a central location within Oban, to enable it to better meet the needs of an existing business and as such gains some support from policies LDP DM 1, LDP 3, SG LDP ENV 16, LDP 5 and SG LDP BUS 1 of the Argyll and Bute LDP 2015. However, these benefits need to be judged against national and development plan policy relating to flooding and the risk of harm to human safety associated with the risk of flooding (including tidal flooding).

53. The applicant has suggested there is a direct conflict between flood and climate change considerations and the spatial principles in NPF4, which encourage 'local living' and 'compact growth' and the emphasis placed on the six qualities of successful places. Policy 22 of NPF4 sets out a clear intention to strengthen resilience to flood risk by promoting avoidance as a first principle and reducing the vulnerability of existing and future development to flooding. Thus, I accept there may be occasions where there are some tensions between the desire to re-develop land and changing flood risk conditions as a result of climate change.

54. Notwithstanding that there are no historic records of the property flooding, it is located within an area identified as at medium – high risk of flooding from tidal and fluvial sources on the SEPA indicative Flood Maps. The proposals would result in an increase in land use vulnerability classification from Least Vulnerable to Highly Vulnerable. In addition, they fail to satisfy the criteria for development in such areas as set out in Policy 10 and SG LDP SERV 7 of the Argyll and Bute LDP 2015 or Policy 22 of NPF4.

55. The building is currently used and there is no suggestion that this use would cease, should the current application be refused. The scale of risk to human life may be lower than the levels predicted, but there is no site specific Flood Risk Assessment to demonstrate this, and I have no clear evidence that safe access to the residential units could be maintained under flood conditions. Given the strong policy support to avoid development that would represent an increase in land use vulnerability in areas identified as of medium – high risk of flooding, I find that the benefits of the proposal do not outweigh the risks of harm and would not be in accordance with the development plan.

Other material considerations

56. A replacement LDP (LDP2) is in preparation. The plan has been subject to examination and the report of examination has been submitted to the local planning authority. As yet, the council has not yet confirmed whether it will accept the recommendations of the report and move to adopt the plan. Nevertheless, given its stage of development, the proposed LDP2 and examination report are an important material consideration.

57. Policy 55 of proposed LDP2 relates to flooding. Subject to the proposed modifications being adopted by the council, the policy reiterates the requirements of NPF4 Policy 22. It sets a presumption against development on the functional floodplain (land with greater than 0.5% (1 in 200) probability of flooding in any year),

except in limited circumstances. These criteria mirror those set out in NPF4 and which I assessed above. In determining applications, the policy continues to require the planning authority to exercise the 'precautionary principle' and to refuse proposals on the advice of SEPA. Thus, I conclude that the proposed policy modification would make no material difference to the assessment of the proposal.

58. The applicant has highlighted proposed modifications to proposed LDP2 Policy 15 (Supporting the Protection, Conservation and Enhancement of our Historic Built Environment). If adopted the policy sets an expectation that developments involving heritage assets will demonstrate that they would enable positive change by balancing the need to secure the long-term sustainability of the asset against the need to address the impacts of climate change. I have considered this aspect above and concluded that the benefits in this instance do not outweigh the flood risk concerns.

59. In conclusion, I do not find that the emerging policies within LDP2 would substantially or materially alter my assessment of the proposal.

Overall conclusion and recommendation.

60. I therefore conclude, for the reasons set out above, that the proposed development does not accord overall with the relevant provisions of the development plan and that there are no material considerations which would still justify granting planning permission.

61. Therefore, I recommend that planning permission is refused.

62. If Ministers disagree my recommendation and are minded to grant planning permission than I recommend that this is subject to the conditions listed in Appendix 1.

Sue Bell
Reporter

Appendix 1: Recommended conditions**1. GENERAL**

The development shall be implemented in accordance with the details specified on the application form dated 03/09/12, 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 and Site Plan	10		September 2019
Plans, Elevations and Section As Existing	11	A	September 2019
Plans, Elevations and Section As Proposed	12	C	September 2019
Openings Schedule	13	A	September 2019
Allan Brothers Window & Door Specifications– 8 PAGES			September 2019
Planning Supporting Statement – 2 PAGES			September 2019

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

Note to Applicant:

- This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]
- In order to comply with Sections 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start. Failure to comply with this requirement constitutes a breach of planning control under Section 123(1) of the Act.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed. Both the Notification of Initiation and Notification of Completion forms referred to above are available via the following link on the council's website:

<https://www.argyll-bute.gov.uk/planning-and-environment/make-planningapplication>

- Please note the advice and guidance contained in the consultation response from Scottish Water details of which is available to view via the following link on the Council's Public Access System. Should you wish to discuss any of the points raised in the response you are advised to contact Scottish Water direct.

<https://www.argyll-bute.gov.uk/planning-and-environment/find-and-commentplanning-applications>

2. Notwithstanding the effect of Condition 1, the proposed flats at first and second floor level shall only be used for Class 9 permanent residential use and for no other use including any other purpose in Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 and the General Permitted Development Order 1992 (as amended).

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

Appendix 2: Application drawings

These are as listed under Condition 1 of Appendix 1.

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Planning and Environmental Appeals Division

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Appeal Decision Notice

Decision by Gordon S Reid, a Reporter appointed by the Scottish Ministers

- Listed building consent appeal reference: LBA-130-2029
- Site address: 26 Crichton Road, Rothesay, Isle of Bute, Argyll and Bute, PA20 9JR
- Appeal by P Campbell against the decision by Argyll and Bute Council
- Application for listed building consent 22/01847/LIB dated 9 September 2022 refused by notice dated 21 June 2023
- The works proposed: replace existing sliding sash and case single glazed windows with double swing double glazed timber frame windows to front elevation and upvc double glazed windows to the rear
- Date of site visit by Reporter: 3 November 2023

Date of appeal decision: 21 November 2023

Decision

I dismiss the appeal and refuse listed building consent.

Reasoning

1. The appeal concerns works to a C-listed building. Section 14(2) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (as amended) requires me to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
2. As the appeal site lies within the Rothesay Conservation Area, in accordance with section 64(1) of the aforementioned Act, I must also pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
3. Accordingly, the determining issues in this appeal are whether the proposed works would preserve the listed building, its setting or any features of special architectural or historic interest it possesses and whether the works would preserve or enhance the character and appearance of the conservation area.
4. Reference is made to the historic environment policies in National Planning Framework 4 and in the adopted Argyll and Bute Local Development Plan 2015 including the related supplementary guidance. In addition, reference is made to the council's Rothesay Windows Technical Working Note 2015, the proposed local development plan and Historic Environment Scotland's Managing Change Guidance on Windows (2018).
5. As this is an appeal against refusal of listed building consent not planning permission, development plan policies do not have statutory status. Nevertheless, together with the submitted advice and guidance, the submissions are relevant considerations and I have taken them into account in reaching my decision. In essence, the provisions in these

documents promote the care and protection of the historic environment where changes to assets are informed by a clear understanding of their importance and sensitivity to change.

6. The appeal property dates from 1878 and forms the easternmost half of a two-storey semi-detached villa. The other half of the property at 25 Crichton Road is subdivided into two flats. The property is located within the Rothesay Conservation Area and forms part of the symmetrical Brighton Terrace. The list description notes the presence of the original fenestration as two pane timber sash and case windows. I am satisfied that the existing windows, with the exception of the two ground floor windows on the main rear elevation, form part of the special historic and architectural interest of this listed building.

7. The proposed works would involve the removal of all 13 windows on the front elevation of the property. These are all two-paned, timber, sliding sash and case, single-glazed windows. The proposed replacements are two-paned, timber, dual-swing, double-glazed windows. On the rear elevation the two windows on the upper floor are two-paned, timber, sliding sash and case, single-glazed units which are to be replaced with two-paned, upvc, dual-swing, double-glazed windows. The two smaller windows on the single storey extension to the rear are two-paned, timber, sliding sash and case, single-glazed units and are to be replaced with two-paned, upvc, double-glazed windows with only the upper section opening outwards.

8. I observed during my site visit that the four original windows on the rear elevations had already been replaced with flat profile upvc windows. These do not maintain the stepped character or method of opening of the original windows.

9. Historic Environment Scotland's guidance on windows and the council's Technical Working Note advise that where the original windows or those of historic interest remain then the repair of their components is preferable to replacement. However, where repair is not viable then the installation of 'like-for-like' replacements is the preferred option. The guidance also advises that where windows are in a poor condition, a survey by an appropriately skilled tradesperson is useful to establish whether the windows can be repaired. No condition survey has been submitted by the appellant. I observed during my visit that there appeared to be some level of decay to the external elements of the windows on the front elevation. However, without the benefit of a condition survey providing an assessment of each window, I am unable to fully establish whether they are beyond viable repair.

10. The proposed replacement windows on the front elevation use appropriate materials and replicate the fenestration pattern of the originals, when closed. In addition, the use of slimline double glazed units is acceptable in principle. However, the use of dual-swing openings would result in the windows projecting outwards from the façade of the property when open. I am of the view that this would not maintain the authentic character of the historic windows which are sliding sash and case and as such would introduce a visually discordant feature. In addition, I consider that the use of flat profile upvc windows on the rear elevation would fail to maintain the appropriate historic materials and stepped fenestration pattern for this property. Accordingly, I find that the proposed replacement windows on both the front and rear elevations would fail to preserve the listed building and its features of special architectural and historic interest.

11. In terms of the impacts on the Rothesay Conservation Area, I am satisfied that the windows on the rear elevation would not be particularly visible from any public vantage point within the surrounding area. As such they would not have a significant adverse effect on the character or appearance of the conservation area. The windows on the front

elevation, for the reasons set out above, would introduce a visually discordant feature to this prominent elevation within the street scene. As such, I find that they would fail to preserve the character and appearance of the conservation area.

12. The appellant refers to examples of properties with varying window types in the surrounding area including those at the ground floor at 28 Crichton Road. I viewed these properties from the street during my site visit. I acknowledge that varying window types are present within other properties. I also note the reasons submitted in evidence for the approval of those at 28 Crichton Road. However, I do not find that these matters are sufficient to outweigh the requirement to protect the special interest of the appeal property. In any case, I am required to determine the current appeal proposal on its own merits.

13. The appellant raises issues of energy efficiency and financial cost as being important in considering the design of the replacement windows. I consider that the principle of using slimline double-glazed units would be acceptable and could equally be used in either refurbished or replacement sliding sash and case windows to achieve similar energy efficiency outcomes. Whilst the financial cost is a matter of importance to the appellant, I do not consider that it is sufficient to set aside the requirement to preserve the special interest of the property in this instance.

14. Overall, I conclude that the proposed works would fail to preserve the listed building and its features of special architectural and historic interest and would also fail to preserve the character and appearance of the conservation area. I have considered all other matters but there is nothing before me that would lead me to alter my conclusion and I, therefore, dismiss this appeal.

Gordon S Reid
Reporter

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ARGYLL AND BUTE COUNCIL

**PLANNING, PROTECTIVE SERVICES
AND LICENSING COMMITTEE**

LEGAL AND REGULATORY SUPPORT

20 December 2023

CIVIC GOVERNMENT (SCOTLAND) ACT 1982

TAXI AND PRIVATE HIRE CAR SURVEY

1.0 EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to update Members on the timescale for submitting the taxi survey report. It was noted in October that a report with information on a future taxi survey would be submitted to PPSL before the end of 2023. Officers are currently working on the report and it will be submitted to a meeting of PPSL in early 2024.

2.0 RECOMMENDATIONS

- 2.1 Members are asked to note the updated position.

Douglas Hendry

Executive Director with responsibility for Legal and Regulatory Support

Policy Lead: Cllr Kieron Green

For further information contact: Sheila MacFadyen, Senior Solicitor

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