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Argyll and Bute Council
Comhairle Earra-Ghàidheal Agus Bhòid

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23 January 2024

NOTICE OF MEETING

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held **ON A HYBRID BASIS IN THE STUDIO THEATRE, CORRAN HALLS, CORRAN ESPLANADE, OBAN AND BY MICROSOFT TEAMS** on **TUESDAY, 30 JANUARY 2024** at **11:00 AM**, which you are requested to attend.

Douglas Hendry
Executive Director

BUSINESS

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST**
3. **MR SHAUN SINCLAIR: ERECTION OF CAFÉ WITH ASSOCIATED LANDSCAPING INCLUDING A VIEWPOINT, SEATING, INTERPRETIVE SIGN AND PLAY PARK: LAND WEST OF INVERLUSRAGAN, CONNEL (REF: 21/01583/PP) (Pages 3 - 52)**

Report by Head of Development and Economic Growth

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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Argyll and Bute Council
Development & Economic Growth

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

Reference No: 21/01583/PP
Planning Hierarchy: Local
Applicant: Mr Shaun Sinclair
Proposal: Erection of Café with Associated Landscaping including a Viewpoint, Seating, Interpretive Sign and Play Park
Site Address: Land West of Inverlusragan, Connel

DECISION ROUTE

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

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

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

(ii) Other specified operations

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

(B) RECOMMENDATION:

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

(C) CONSULTATIONS:

Transport Scotland

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

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

Argyll and Bute Council – Roads Authority

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

Argyll and Bute Council – Environmental Health Service (EHS)

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

Argyll and Bute Council – Biodiversity Officer (BDO)

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

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

Argyll and Bute Council – Development Policy Team (DPT)

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

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

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

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

Scottish Water

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

JBA Consulting Ltd (JBA)

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

Connel Community Council (CCC)

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

(D) HISTORY:

03/01550/DET

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

(E) PUBLICITY:

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

(F) REPRESENTATIONS:

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

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

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

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

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

Validity of Application

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

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

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

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

Compliance with National and Local Policy

- The proposal conflicts with NPF4 and LDP Policies

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

Open Space Protection Area (OSPA)

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

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

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

Critiquing the Agents Report on the OSPA

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

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

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

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

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

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

History of Shoreside Planning Applications

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

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

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

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

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

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

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

Impact on Wildlife, Biodiversity and Habitats

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

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

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

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

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

Existing Use of Site

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

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

Existing Planning Permission/Alternative Sites

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

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

Flood Risk

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

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

Road and Pedestrian Safety Issues

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

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

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

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

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

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

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

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

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

Noise/Odour

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

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

Public Gathering

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

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

General

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

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

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

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

Mr and Mrs Pat Howe – Specific Objections

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

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

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

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

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

(ii) Summary of issues raised – Support

- Pro-forma letter of support

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

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

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

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

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

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

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

(iii) Summary of issues raised – Representation

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

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

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

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

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

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

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

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

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

(G) SUPPORTING INFORMATION

Has the application been the subject of:

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

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: Yes No

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

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

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

Part 2 – National Planning Policy

Sustainable Places

NPF4 Policy 1 – Tackling the Climate and Nature Crises

NPF4 Policy 2 – Climate Mitigation and Adaption

NPF4 Policy 3 – Biodiversity

NPF4 Policy 4 – Natural Places

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

NPF4 Policy 12 – Zero Waste

NPF4 Policy 13 – Sustainable Transport

Liveable Places

NPF4 Policy 14 – Design, Quality and Place

NPF4 Policy 18 – Infrastructure First

NPF4 Policy 22 – Flood Risk and Water Management

NPF4 Policy 23 – Health and Safety

Productive Places

NPF4 Policy 28 – Retail

NPF4 Policy 29 – Rural Development

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

LDP STRAT 1 – Sustainable Development

LDP DM 1 – Development within the Development Management Zones

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

LDP 5 – Supporting the Sustainable Growth of our Economy

LDP 7 – Supporting our Town Centres and Retail

LDP 8 – Supporting the Strength of our Communities

LDP 9 – Development Setting, Layout and Design

LDP 10 – Maximising our Resources and Reducing our Consumption

LDP 11 – Improving our Connectivity and Infrastructure

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

Natural Environment

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

Landscape and Design

SG LDP ENV 14 – Landscape

Retail Developments (Including COU to and from Shops)

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

Bad Neighbour Development

SG LDP BAD 1 – Bad Neighbour Development

Sustainable Siting and Design

SG LDP Sustainable – Sustainable Siting and Design Principles

Resources and Consumption

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

SG LDP SERV 2 – Incorporation of Natural Features / SuDS

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

Addressing Climate Change

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

Transport (Including Core Paths)

SG LDP TRAN 2 – Development and Public Transport Accessibility

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

SG LDP TRAN 6 – Vehicle Parking Provision

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

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

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

Spatial and Settlement Strategy

Policy 01 – Settlement Areas

Policy 04 – Sustainable Development

High Quality Places

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

Diverse and Sustainable Economy

- Policy 22 – Economic Development

Connected Places

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

Sustainable Communities

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

High Quality Environment

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- Open Space Protection Area

(P)(ii) Soils

[Agricultural Land Classification:](#)

Unclassified Land

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

Class 1

Class 2

- Class 3
- N/A
- N/A

Peat Depth Classification:

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

(P)(iii) Woodland

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

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

- Status of Land within the Application (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 proposal the subject of this application is seeking to secure planning permission for the erection of a cafe with incidental 'drive-thru' takeaway plus associated landscaping including a viewpoint, seating, interpretive sign and play park.

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

However, the site the subject of this application is within an Open Space Protection Area (OSPA) where Policy SG LDP REC/COM 2 does not permit development on an OSPA unless it satisfies one of the 5 criteria listed in Policy SG LDP REC/COM2.

The OSPA the subject of this planning application provides visual amenity functions rather than recreation functions and accordingly it is not considered that the proposed development satisfies any of the 5 criteria set out in Policy SG LDP REC/COM 2 and accordingly the proposal is considered contrary to the provisions of this policy.

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

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

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

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

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

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

The OSPA in this location helps preserve the open aspect of the land on the shore side of the road and along with it the public views. It should be recognised that the OSPA forms part of the wider network of OSPAs alongside Loch Etive that, together, provide the wider function of preserving the undeveloped aspect of the shore side of the road. Development within this OSPA with the proposal subject of this planning application would represent the piecemeal erosion of the wider OSPA network and would potentially lead to pressure for development within other designated OSPAs either side of Loch Etive, thereby undermining their functions.

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

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

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

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

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

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

(R) Reasons why Planning Permission should be Refused

See reasons for refusal below.

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

N/A

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

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

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

Fergus Murray
Head of Development & Economic Growth

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

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

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

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

The OSPA has been designated to provide visual amenity functions by helping preserve the open aspect on the seaward side of the A85 and with it, public views across Loch Etive. The OSPA forms part of the wider network of OSPAs alongside Loch Etive that, together, provide the wider function of preserving the undeveloped aspect of the shore side of the road.

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

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

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

1. Introduction

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

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

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

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

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

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

2. Location of Development

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

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

3. Settlement Strategy

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

However, the site the subject of this application is within an Open Space Protection Area (OSPA) where Policy SG LDP REC/COM 2 does not permit development on an OSPA

unless it satisfies one of the 5 criteria listed in the Policy and discussed below.

The OSPA the subject of this planning application provides visual amenity functions rather than recreation functions and accordingly it is not considered that the proposed development satisfies any of the 5 criteria set out above and therefore the proposal is considered to be contrary to the provisions of Policy SG LDP REC/COM 2.

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

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

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

4. Proposal

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

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

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

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

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

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

5. Compliance with National Policy

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

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

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

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

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

5.2. NPF4 Policy 2 – Climate, Mitigation and Adaption

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

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

5.3. NPF4 Policy 3 – Biodiversity

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

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

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

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

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

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

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

Both reports are summarised as follows.

Transtech Ltd (July 2022)

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

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

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

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

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

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

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

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

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

JDC Ecology Ltd (December 2022)

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

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

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

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

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

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

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

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

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

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

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

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

5.4. NPF4 Policy 4 – Natural Places

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

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

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

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

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

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

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

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

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

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

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

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

The DPT advise that Policy SG LDP REC/COM 2 sets out that the development of OSPAs will not be permitted except where one of the five clauses set out in the policy are met, as follows.

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

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

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

The report considers the existing recreational use and visual amenity of the site and the impact that the proposed development will have on the OSPA.

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

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

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

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

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

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

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

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

"Improvements to public open space access and recreation"

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

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

Visual amenity

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

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

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

Economic benefits

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

Whilst the potential economic benefit arising from the proposed development is noted, it is not considered that this is sufficient to set aside the detrimental impact that the proposed development will have on the OSPA.

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

5.6. NPF4 Policy 12 – Zero Waste

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

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

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

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

5.7. NPF4 Policy 13 – Sustainable Transport

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

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

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

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

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

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

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

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

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

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

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

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

5.8. NPF4 Policy 14 – Design, Quality and Place

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

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

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

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

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

5.9. NPF4 Policy 18 – Infrastructure First

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

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

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

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

5.10. NPF4 Policy 22 – Flood Risk and Water Management

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

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

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

5.11. NPF4 Policy 23 – Health and Safety

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

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

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

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

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

5.12. NPF4 Policy 28 – Retail

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

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

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

5.13. NPF4 Policy 29 – Rural Development

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

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

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

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

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

6. Public Representation

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

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

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

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

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

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

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

7. Conclusion

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

As detailed above, the OSPA in this location helps preserve the open aspect of the land on the shore side of the road and along with it the public views. It should be recognised that the OSPA forms part of the wider network of OSPAs alongside Loch Etive that, together, provide the wider function of preserving the undeveloped aspect of the shore side of the road. Development within this OSPA with the proposal subject of this planning application would represent the piecemeal erosion of the wider OSPA network and would potentially lead to pressure for development within other designated OSPAs either side of Loch Etive, thereby undermining their functions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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



1:1,250

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ARGYLL AND BUTE COUNCIL

PROCEDURE NOTE FOR USE AT

HYBRID DISCRETIONARY HEARING

HELD BY THE PLANNING, PROTECTIVE SERVICES & LICENSING COMMITTEE

1. Hybrid meetings are those that will involve a physical location and facilitate attendees joining virtually if they wish.
2. The Executive Director with responsibility for Legal and Regulatory Support will notify the applicant, all representees, supporters and objectors of the Council's decision to hold a Hearing and to indicate the date on which the hearing will take place. The hearing will proceed on that day, unless the Council otherwise decides, whether or not some or all of the parties are represented or not. Statutory consultees (including Community Councils) will be invited to attend the meeting to provide an oral presentation on their written submissions to the Committee, if they so wish. Details on how interested parties can access the meeting will be referenced within the same notification.
3. On receipt of the notification the applicant, all representees, including supporters and objectors will be encouraged to appoint one or a small number of spokespersons to present their views to concentrate on the matters of main concern to them and to avoid repetition. Parties who wish to speak at the meeting shall notify Argyll and Bute Council no less than 2 working Days (excluding public holidays and weekends) prior to the start of the meeting. This is to facilitate remote access (see note 1) and the good conduct of the meeting.
4. The Executive Director with responsibility for Legal and Regulatory Support will give a minimum of 7 days' notice of the date and time for the proposed Hearing to all parties.
5. The hearing will proceed in the following order and as follows.
6. The Chair will introduce the Members of the Committee, confirm the parties present who have indicated their wish to speak and outline the procedure which will be followed. It is therefore imperative that those parties intending to speak join the meeting at its commencement.
7. The Executive Director with responsibility for Development and Economic Growth's representative will present their report and recommendations to the Committee.

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8. The applicant will be given an opportunity to present their case for approval of the proposal and may include in their submission any relevant points made by representees supporting the application or in relation to points contained in the written representations of objectors.
9. The consultees, supporters and objectors in that order (see note 1), will be given the opportunity to state their case to the Committee.
10. All parties to the proceedings will be given a period of time to state their case (see note 3). In exceptional circumstances and on good cause shown the Committee may extend the time for a presentation by any of the parties at their sole discretion.
11. Members of the Committee only will have the opportunity to put questions to the Executive Director with responsibility for Development and Economic Growth's representative, the applicant, the consultees, the supporters and the objectors.
12. At the conclusion of the question session the Executive Director with responsibility for Development and Economic Growth's representative, the applicant, any consultees present, the supporters and the objectors (in that order) will each be given an opportunity to comment on any particular information given by any other party after they had made their original submission and sum up their case.
13. If at any stage it appears to the Chair that any of the parties is speaking for an excessive length of time he/she will be entitled to invite them to conclude their presentation forthwith. (see note 3)
14. The Chair will ascertain from the parties present that they have had a reasonable opportunity to state their case.
15. The Committee will then debate the merits of the application and will reach a decision on it. No new information can be introduced after the Committee begins to debate.
16. The Chair or the Governance Officer on his/her behalf will announce the decision.
17. A summary of the proceedings will be recorded by the Committee Services Officer.

NOTE

- (1) If you wish to speak at the hearing you will require to notify the Committee Services Officer no less than 2 working Days (excluding public holidays and weekends) prior to the start of the meeting. This is to facilitate remote access if required and the good conduct of the meeting.

In the event that a party wishes to speak to a visual presentation, this requires to be sent to Committee Services no less than 2 working days (excluding public holidays and weekends) before the commencement of the Hearing; this will not be shared with other parties prior to the meeting but will ensure its availability for the commencement of the Hearing. The Committee Services Officer will control the slides under explicit instruction from the spokesperson(s), it would therefore be helpful if the slides were individually numbered. It would also be helpful if the file size of the presentations is kept to a minimum to mitigate against any potential IT issues – guidance can be provided if required.

If it is your intention to join the hearing to observe the proceedings, please advise the Committee Services Officer no less than 2 working Days (excluding public holidays and weekends) prior to the start of the meeting to facilitate remote access if required.

- (2) Councillors (other than those on the Committee) who have made written representations and who wish to speak at the hearing will do so under note 1 above according to their representations but will be heard by the Committee individually.
- (3) Recognising the level of representation the following time periods have been allocated to the parties involved in the Hearing. For the avoidance of doubt the time allocated will be per party and will include for example all supporters/objectors in the half hour slot except where additional time is agreed by the Chair.

The representative of the Executive Director with responsibility for Development and Economic Growth – not more than half an hour
The Applicant - not more than half an hour.
The Consultees - not more than half an hour.
The Supporters - not more than half an hour.
The Objectors - not more than half an hour.

- (4) The purpose of the meeting is to ensure that all relevant information is before the Committee and this is best achieved when people with similar views co-operate in making their submissions.
- (5) Everyone properly qualified as a representee recorded on the application report who wishes to be given an opportunity to speak will be given such opportunity subject to the requirements for notice herein.
- (6) Should, for any reason, Members of the Committee who are joining remotely lose connection or have any technical issues during the meeting, they will be asked to contact the Governance or Committee Support officer, if possible, by email or instant message. A short adjournment may be taken to try and resolve the connection. If the Members of the Committee are unable to re-join the meeting and a quorum still exists then the meeting will continue to proceed. If a

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quorum does not exist the meeting will require to be adjourned. For the avoidance of doubt Members of the Committee have to be present for the whole hearing in order to take part in the decision.

- (7) Should, for any reason, participants joining the hearing remotely lose connection or have any technical issues during the meeting, a short adjournment may be taken to try and resolve the connection. In the event the connection cannot be restored within a reasonable timeframe consideration will be given to the continuation of the meeting.
- (8) Members of the Committee joining remotely will use the hands up function to indicate to the Chair when they wish to speak to ask a question or make a comment. This function will be monitored by the Chair and by governance staff in attendance.
- (9) Where a Councillor who is a member of the PPSL has made or wishes to make a representation (on behalf of any party) during the meeting in relation to the application under consideration, they should make their position clear to the Chair and declare an interest. Having done so, they may, at the appropriate time, make the relevant representation and then must retire fully from the meeting room prior to deliberation of the matter commencing. A Councillor, not a member of the PPSL, may make a representation (on behalf of any party) during the meeting in relation to the application then must retire fully from the meeting room prior to deliberation of the matter commencing.
- (10) The Council has developed guidance for Councillors on the need to compose a competent motion if they consider that they do not support the recommendation from the Executive Director with responsibility for Development and Economic Growth which is attached hereto.

I:data/typing/virtual planning hearings/procedure note

COMPETENT MOTIONS

- Why is there a need for a competent motion?
 - Need to avoid challenge by “third party” to local authority decision which may result in award of expenses and/or decision being overturned.
 - Challenges may arise from: judicial review, planning appeal, ombudsman (maladministration) referral. Expenses may be awarded against unsuccessful parties, or on the basis of one party acting in an unreasonable manner, in appeal/review proceedings.
- Member/Officer protocol for agreeing competent motion:
 - The process that should be followed should Members be minded to go against an officer’s recommendation is set out below.
- The key elements involved in formulating a competent motion:
 - It is preferable to have discussed the component parts of a competent motion with the relevant Member in advance of the Committee (role of professional officers). This does not mean that a Member has prejudged the matter but rather will reflect discussions on whether opinions contrary to that of professional officers have a sound basis as material planning considerations.
 - A motion should relate to material considerations only.
 - A motion must address the issue as to whether proposals are considered consistent with Adopted Policy of justified as a departure to the Development Plan. Departure must be determined as being major or minor.
 - If a motion for approval is on the basis of being consistent with policy reasoned justification for considering why it is consistent with policy contrary to the Head of Development and Economic Growth’s recommendation must be clearly stated and minuted.
 - If a motion for approval is on the basis of a departure from policy, reasoned justification for that departure must be clearly stated and minuted. Consideration should be given to holding a PAN 41 Hearing (determined by policy grounds for objection, how up to date development plan policies are, volume and strength of representation/contention)
 - A motion should also address planning conditions and the need for a Section 75 Agreement.
 - Advice from the Scottish Government as contained within Planning Circular 3/2013: Development management procedures on the definition of a material planning consideration is attached herewith However, interested parties should always seek their own advice on matters relating to legal or

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planning considerations as the Council cannot be held liable for any error or omission in the said guidance.

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DEFINING A MATERIAL CONSIDERATION

1. Legislation requires decisions on planning applications to be made in accordance with the development plan (and, in the case of national developments, any statement in the National Planning Framework made under section 3A (5) of the 1997 Act) unless material considerations indicate otherwise. The House of Lord's judgement on *City of Edinburgh Council v the Secretary of State for Scotland* (1998) provided the following interpretation. If a proposal accords with the development plan and there are no material considerations indicating that it should be refused, permission should be granted. If the proposal does not accord with the development plan, it should be refused unless there are material considerations indicating that it should be granted.
2. The House of Lord's judgement also set out the following approach to deciding an application:
 - Identify any provisions of the development plan which are relevant to the decision,
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies,
 - Consider whether or not the proposal accords with the development plan.
 - Identify and consider relevant material considerations for and against the proposal, and
 - Assess whether these considerations warrant a departure from the development plan.
3. There are two main tests in deciding whether a consideration is material and relevant:
 - It should serve or be related to the purpose of planning. It should therefore relate to the development and use of land, and
 - It should fairly and reasonably relate to the particular application.
4. It is for the decision maker to decide if a consideration is material and to assess both the weight to be attached to each material consideration and whether individually or together they are sufficient to outweigh the development plan. Where development plan policies are not directly relevant to the development proposal, material considerations will be of particular importance.
5. The range of considerations which might be considered material in planning terms is very wide and can only be determined in the context of each case. Examples of possible material considerations include:
 - Scottish Government policy, and UK Government policy on reserved matters
 - The National Planning Framework
 - Scottish planning policy, advice and circulars
 - European policy
 - A proposed strategic development plan, a proposed local development plan, or proposed supplementary guidance

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- Guidance adopted by a Strategic Development Plan Authority or a planning authority that is not supplementary guidance adopted under section 22(1) of the 1997 Act
 - A National Park Plan
 - The National Waste Management Plan
 - Community plans
 - The Environmental impact of the proposal
 - The design of the proposed development and its relationship to its surroundings
 - Access, provision of infrastructure and planning history of the site
 - Views of statutory and other consultees
 - Legitimate public concern or support expressed on relevant planning matters
6. The planning system operates in the long term public interest. It does not exist to protect the interests of one person or business against the activities of another. In distinguishing between public and private interest, the basic question is whether the proposal would unacceptably affect the amenity and existing use of land and buildings which ought to be protected in the public interest, not whether owners or occupiers of neighbouring or other existing properties would experience financial or other loss from a particular development.