

# Public Document Pack

**Argyll and Bute Council**  
Comhairle Earra-Ghàidheal Agus Bhòid

*Executive Director: Douglas Hendry*



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14 February 2024*

## NOTICE OF MEETING

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held **BY MICROSOFT TEAMS** on **WEDNESDAY, 21 FEBRUARY 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. **MINUTES**
  - (a) Planning, Protective Services and Licensing Committee held on 24 January 2024 at 11.00 am (Pages 3 - 6)
  - (b) Planning, Protective Services and Licensing Committee held on 24 January 2024 at 2.00 pm (Pages 7 - 10)
  - (c) Planning, Protective Services and Licensing Committee held on 24 January 2024 at 3.00 pm (Pages 11 - 14)
  - (d) Planning, Protective Services and Licensing Committee held on 24 January 2024 at 4.00 pm (Pages 15 - 16)
  - (e) Planning, Protective Services and Licensing Committee held on 30 January 2024 (Pages 17 - 40)
4. **MR SHAUN SINCLAIR: ERECTION OF CAFÉ WITH ASSOCIATED LANDSCAPING INCLUDING A VIEWPOINT, SEATING, INTERPRETIVE SIGN AND PLAY PARK: LAND WEST OF INVERLUSRAGAN, CONNEL (REF: 21/01583/PP)** (Pages 41 - 86)

Report by Head of Development and Economic Growth

5. **MS SHEENA FERRAND: SITE FOR THE ERECTION OF 10 DWELLINGHOUSES (AS AMENDED 23.09.22): LAND NORTH OF ACHNAGARADH, CRAIGHOUSE, ISLE OF JURA: (REF: 21/01037/PPP)** (Pages 87 - 120)  
Report by Head of Development and Economic Growth
6. **BEATON AND MCMURCHY ARCHITECTS LTD: SITE FOR THE ERECTION OF DWELLINGHOUSE: LAND NORTH OF LYNBURN, ROWAN ROAD, OBAN: (REF: 22/01986/PP)** (Pages 121 - 152)  
Report by Head of Development and Economic Growth
7. **MR DOUGIE CRAIG: ALTERATIONS AND EXTENSION, SUB-DIVISION OF EXISTING MAISONETTE AT FIRST FLOOR TO FORM SELF-CONTAINED 2 BEDROOM FLAT AT FIRST FLOOR AND 3 BEDROOM FLAT AT SECOND FLOOR, REPAIR AND REPLACEMENT OF EXISTING ROOF: FLAT 1, 11 BATTERY PLACE, ROTHESAY: (REF: 22/02090/PP)** (Pages 153 - 174)  
Report by Head of Development and Economic Growth
8. **MRS KIRSTEEN MACDONALD: FORMATION OF VEHICULAR ACCESS, FORMATION OF PARKING SPACE AND REMOVAL OF WALL AND GATE: 4A ARGYLE PLACE, ROTHESAY, ISLE OF BUTE: (REF: 23/00395/PP)** (Pages 175 - 194)  
Report by Head of Development and Economic Growth

## **Planning, Protective Services and Licensing Committee**

Councillor John Armour	Councillor Gordon Blair
Councillor Jan Brown	Councillor Audrey Forrest
Councillor Kieron Green (Chair)	Councillor Amanda Hampsey (Vice-Chair)
Councillor Daniel Hampsey	Councillor Graham Hardie
Councillor Mark Irvine	Councillor Andrew Kain
Councillor Paul Donald Kennedy	Councillor Liz McCabe
Councillor Luna Martin	Councillor Dougie Philand
Councillor Peter Wallace	

Contact: Hazel MacInnes Tel: 01546 604269

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE  
held BY MICROSOFT TEAMS on WEDNESDAY, 24 JANUARY 2024**

**Present:** Councillor Kieron Green (Chair)

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

**Attending:** Fergus Murray, Head of Development and Economic Growth  
Shona Barton, Governance Manager  
Matt Mulderrig, Development Policy & Housing Manager  
Fiona Macdonald, Solicitor  
Katie Clanahan, Solicitor

**1. APOLOGIES FOR ABSENCE**

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

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. MINUTES**

- a) The Minute of the Planning, Protective Services and Licensing Committee held on 20 December 2023 was approved as a correct record.
- b) The Minute of the Planning, Protective Services and Licensing Committee held on 16 January 2024 was approved as a correct record.

**4. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: TAXI SURVEY**

A report providing information to Members to enable them to consider whether they wish to commission a further survey in relation to unmet demand for taxis within the local authority area was considered.

**Decision**

The Committee agreed:

1. to note the contents of the report;
2. to instruct Officers to commission a new taxi survey for the Helensburgh and Lomond administrative area;
3. that going forward in the other administrative areas (Bute and Cowal, Oban, Lorn and the Isles, and Mid Argyll, Kintyre and the Islands) that there would be no regard taken

to the existing taxi surveys when considering applications for taxi car/operator licences;  
and

4. that no further survey be carried out in respect of private hire cars at this time as the last surveys concluded that there was not an over provision of private hire cars as a whole.

(Reference: Report by Executive Director with responsibility for Legal and Regulatory Support dated 12 December 2023, submitted)

\* **5. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - LICENSING FEES IN PREPARATION FOR LICENCE RENEWALS**

A report updating Members on preparations for the renewal of licences granted under the Civic Government (Scotland) Act 1982, as well as inviting Members to approve the revision of the respective fees and conditions which apply to these licences, was considered.

**Decision**

The Committee agreed to:

1. note and approve the contents of the report; and
2. recommend to Council –
  - a) that fees for all Civic Government licences be increased as detailed in Appendix 1; and
  - b) that licences currently subject to a fixed three year period and due for renewal in June 2024 continue to be granted on that basis.

(Reference: Report by Executive Director with responsibility for Legal and Regulatory Support dated 6 December 2023, submitted)

Councillor Dougie Philand joined the meeting during consideration of the foregoing item.

**6. OBAN AND HELENSBURGH STRATEGIC DEVELOPMENT FRAMEWORKS**

The Argyll and Bute Outcome Improvement Plan and LDP2 aim to reverse population decline and promote economically driven growth across Argyll and Bute. Notwithstanding many strengths and opportunities throughout Argyll and Bute, the only two areas that can potentially deliver and sustain growth of any significant size, particularly in terms of population are Oban and its hinterland, and Helensburgh and Lomond.

A report outlining the preliminary progress to date in developing the Frameworks, and that a resource request is made to Policy and Resources Committee to drive forward these tasks was considered.

**Decision**

The Committee agreed to

1. note the contents of the paper; and
2. endorse the resource requests to be made to Policy and Resources Committee to assist in driving forward the Strategic Development Frameworks.

(Reference: Report by Executive Director with responsibility for Development and Economic Growth dated 24 January 2024, submitted)

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE  
held BY MICROSOFT TEAMS on WEDNESDAY, 24 JANUARY 2024**

**Present:** Councillor Amanda Hampsey (Chair)

Councillor John Armour	Councillor Graham Hardie
Councillor Jan Brown	Councillor Liz McCabe
Councillor Audrey Forrest	Councillor Dougie Philand
Councillor Kieron Green	Councillor Peter Wallace

**Attending:** Shona Barton, Governance Manager  
Fiona Macdonald, Solicitor  
Katie Clanahan, Solicitor  
Peter McDougall, Applicant

**1. APOLOGIES FOR ABSENCE**

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

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF A TAXI CAR LICENCE (P MCDUGALL, HELENSBURGH)**

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

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

**APPLICANT**

Mr McDougall advised that he had been working for his Uncle as a taxi driver and as his Uncle was retiring he was applying to get his own plate. He advised that he enjoyed the job and had previous experience working with the public in the retail business. He commented that working as a taxi driver was the best job he'd had all his working life and that he wanted to carry on with this as a full time career.

**MEMBERS' QUESTIONS**

Councillor Brown sought and received confirmation from Mr McDougall that he had a taxi driver licence and that he was now applying for his own taxi car licence. Mr McDougall advised that he would like to work for himself as it would bring him a higher income.

Councillor Brown sought and received confirmation from Mr McDougall that the car he would use had not been used as a taxi before. He said that the previous vehicle was a Toyota and this was a Ford Focus.

Councillor Brown sought and received confirmation from Mr McDougall that if this licence was granted he would arrange for his vehicle to be inspected prior to using it and that he would also need to arrange for a meter to be fitted and a taxi sign displayed.

## **SUMMING UP**

### **Applicant**

Mr McDougall advised that he would be extremely grateful if he was granted this licence as it would be life changing for him. He said that he enjoyed the job and that it would be a full time career for him. He advised that he enjoyed dealing with the public and that he felt this was the perfect job for him.

Mr McDougall confirmed that he had received a fair hearing.

## **DEBATE**

Councillor Hardie referred to a slight over provision of taxis in the Helensburgh and Lomond area but advised that he believed the Applicant would be well suited to this job and that he would be happy to grant the licence.

Councillor Philand said that it was heartening to hear from the Applicant that he enjoyed his job. He commented that it was also a very difficult job and that the fact that the Applicant enjoyed it would mean he would get a lot out of it while providing a vital service. He confirmed that he would be happy to approve the application.

Councillor Forrest advised that she would have no hesitation in approving the application.

Councillor Brown advised that she would also like to approve the application.

Councillor Green commented that as with similar applications from Helensburgh recently, and the Committee not being certain of the accuracy of the data within the survey conducted a number of years ago now, he would be content with approving any application at the moment where the Applicant seemed to be a good fit. He confirmed that he would be happy to approve this application.

Councillor McCabe advised that she agreed with everyone else and would be happy to grant this licence.

Councillor Wallace said he would also be happy to approve the application.

Councillor Armour also agreed to support the application.

Councillor Hampsey said she agreed that this would be a much needed service for the Helensburgh and Lomond area and commented that she was sure it would be appreciated by the local community as well. She noted that the Members of the Committee unanimously agreed that this licence should be granted.

## **DECISION**



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

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

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE  
held BY MICROSOFT TEAMS on WEDNESDAY, 24 JANUARY 2024**

**Present:** Councillor Amanda Hampsey (Chair)

Councillor John Armour	Councillor Graham Hardie
Councillor Jan Brown	Councillor Liz McCabe
Councillor Audrey Forrest	Councillor Dougie Philand
Councillor Kieron Green	Councillor Peter Wallace

**Attending:** Shona Barton, Governance Manager  
Fiona Macdonald, Solicitor  
Katie Clanahan, Solicitor  
Sergeant David Holmes, Police Scotland

**1. APOLOGIES FOR ABSENCE**

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

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: REQUEST FOR SUSPENSION OF TAXI DRIVER LICENCE (NUMBER 6662) (J MACINTYRE, OBAN)**

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

The Licence Holder had confirmed that he would not be attending the hearing.

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

**POLICE SCOTLAND**

Sergeant Holmes read out the contents of a letter dated 13 November 2023 from the Divisional Commander which advised that the Chief Constable complained, in terms of Paragraph 11(1) of Schedule 1 of the Act that the Licensing Committee suspend Mr MacIntyre's Taxi Driver Licence. The Chief Constable complained, in terms of Paragraph 11(2)(a) of Schedule 1 of the Act that Mr MacIntyre was no longer a fit and proper person to hold this licence. In addition the Chief Constable asked the Committee to order the immediate suspension of his taxi driver licence in terms of Paragraph 12(1) of Schedule 1 of the act, on the grounds that the carrying out on of the activity to which his licence related was likely to cause a serious threat to public order or public safety. In support of this request the Chief Constable asked the Committee to consider the details of an incident which took place on 10 November 2023.

Sergeant Holmes confirmed that Mr MacIntyre pled guilty to drink driving and careless driving at Oban Sheriff Court on 29 November 2023 and he was disqualified from driving for 16 months and received a monetary fine.

### **MEMBERS' QUESTIONS**

Councillor Philand sought and received confirmation from Sergeant Holmes that the Licence Holder had been approximately 3.5 times over the legal limit.

### **SUMMING UP**

#### **Police Scotland**

Sergeant Holmes advised that it was extremely concerning. He pointed out that Mr MacIntyre would not be able to drive again until March 2025. He stressed that there were serious concerns for public safety in respect of this ongoing concern.

Sergeant Holmes confirmed that he had received a fair hearing.

### **DEBATE**

Councillor Green advised that quite often objections came to the Committee when there was not necessarily a conviction. He noted in this case that there was a conviction and that under the circumstances he felt it was quite clear that the Committee had a duty to take this licence away and he confirmed that he would be supporting Police Scotland's position on this.

Councillor Forrest said she agreed with Councillor Green. She said she was horrified that this incident had taken place in the Licence Holder's taxi. She noted that there were no passengers at the time but pointed out that he was more than 3 times over the limit and could have picked up people at any time.

Councillor Philand said he was similarly horrified that the Licence Holder was over 3 times the limit. He commented that he was thankful that no one had been injured and agreed that he would support the immediate suspension of the licence.

Councillor Brown also agreed with her fellow Councillors.

Councillor Armour advised that he could not disagree with anything that had been said. He commented on the Licence Holder being 3 times over the limit in the middle of the day when it would have been busy with traffic and young people coming out of the schools. He said that he hoped the Licence Holder would seek help. He confirmed that he supported the immediate suspension of the licence.

Councillor Hardie agreed with his fellow Councillors and confirmed that he would be happy to see the immediate suspension of the licence.

Councillors Wallace and Hampsey also agreed to the immediate suspension of the licence.

### **DECISION**

The Committee unanimously agreed to suspend Mr MacIntyre's Taxi Driver Licence (No 6662) with immediate effect for the unexpired portion of the licence.

It was noted that written confirmation of this decision would be issued within 7 days.

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

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE  
held BY MICROSOFT TEAMS on WEDNESDAY, 24 JANUARY 2024**

**Present:** Councillor Amanda Hampsey (Chair)

Councillor John Armour	Councillor Graham Hardie
Councillor Jan Brown	Councillor Liz McCabe
Councillor Audrey Forrest	Councillor Peter Wallace
Councillor Kieron Green	

**Attending:** Shona Barton, Governance Manager  
Fiona Macdonald, Solicitor  
Katie Clanahan, Solicitor  
Sergeant David Holmes, Police Scotland

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Gordon Blair, Daniel Hampsey, Mark Irvine, Andrew Kain, Paul Kennedy and Dougie Philand.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: REQUEST FOR SUSPENSION OF TAXI CAR LICENCE NUMBER 6685 (J MACINTYRE, OBAN)**

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

The Licence Holder had confirmed that he would not be attending the meeting.

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

**POLICE SCOTLAND**

Sergeant Holmes read out the contents of a letter dated 13 November 2023 from the Divisional Commander which advised that the Chief Constable complained, in terms of Paragraph 11(1) of Schedule 1 of the Act that the Licensing Committee suspend Mr MacIntyre's taxi car licence. The Chief Constable complained, in terms of Paragraph 11(2)(a) of Schedule 1 of the Act that Mr MacIntyre was no longer a fit and proper person to hold this licence. In addition the Chief Constable asked the Committee to order the immediate suspension of his taxi car licence in terms of Paragraph 12(1) of Schedule 1 of the act, on the grounds that the carrying out on of the activity to which his licence related was likely to cause a serious threat to public order or public safety. In support of this request the Chief Constable asked the Committee to consider the details of an incident which took place on 10 November 2023.

Sergeant Holmes confirmed that Mr MacIntyre pled guilty to drink driving and careless driving at Oban Sheriff Court on 29 November 2023 and he was disqualified from driving for 16 months and received a monetary fine.

### **MEMBERS' QUESTIONS**

There were no questions.

### **SUMMING UP**

#### **Police Scotland**

Sergeant Holmes advised that he had nothing further to add and confirmed that he had received a fair hearing.

### **DEBATE**

Councillor Forrest advised that she supported the immediate suspension of this licence.

Councillor Brown confirmed that she too would support the immediate suspension of the licence.

Councillor Hardie advised that he agreed with his fellow Councillors. He said that following the decision taken at the previous hearing, he thought the licence should be suspended with immediate effect for the duration of the licence.

Councillor Hampsey agreed with the recommendation of Sergeant Holmes and supported the immediate suspension of the licence for the duration of the licence.

### **DECISION**

The Committee unanimously agreed to suspend Mr MacIntyre's Taxi Car Licence (No 6685) with immediate effect for the unexpired portion of the licence.

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

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



**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE  
held in the ON A HYBRID BASIS IN THE STUDIO THEATRE, CORRAN HALLS, CORRAN  
ESPLANADE, OBAN AND BY MICROSOFT TEAMS  
on TUESDAY, 30 JANUARY 2024**

**Present:** Councillor Amanda Hampsey (Chair)

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

**Attending:** Iain Jackson, Governance, Risk and Safety Manager  
Peter Bain, Development Manager – Planning Authority  
Fiona Scott, Planning Officer – Planning Authority  
Shaun Sinclair – Applicant  
Alastair Bledowski – Applicant’s Agent  
Sandy Dunlop, Connel Community Council – Consultee  
Fiona Ferguson, Connel Community Council – Consultee  
Matt Watkiss, Policy Officer – Consultee  
Roslyn Purdie, on behalf of Pat an Cheryl Howe – Objectors  
Ross Wilson - Objector

**1. APOLOGIES FOR ABSENCE**

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

**2. DECLARATIONS OF INTEREST**

There were no 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)**

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

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

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

## **PLANNING**

On behalf of the Head of Development and Economic Growth, Fiona Scott, Planning Officer, made the following presentation with the aid of power point slides.

### **SLIDE 1**

This application is seeking to secure planning permission for the erection of a cafe with incidental 'drive-thru' takeaway facility and associated landscaping including a viewpoint, seating, interpretive signage and play park on an area of land to the west of Inverlusragan, Connel.

### **SLIDE 2**

This slide shows an extract from the adopted 'Local Development Plan' showing the application site within the defined Minor Settlement Zone of Connel shown in pink.

The site is overlain with blue hatching which delineates an Open Space Protection Area designation, which I will reference as OSPA for the purposes of this presentation. The OSPA is the hatched area limited to the coastal strip with the opposite diagonal hatching denoting the extent of Loch Etive.

### **SLIDE 3**

This slide shows a further extract from the 'Local Development Plan' showing the network of OSPAs in blue hatching along the shore side of Connel adjacent to Loch Etive.

### **SLIDE 4**

This slide shows the site and location plan submitted with the application.

The site is served by a central access point spurring from the A85 Trunk Road, with the proposed café building contained along the eastern boundary of the site, and the parking and turning provision to the west.

The proposed play park, viewpoint, seating and interpretive signage is proposed within the north-eastern corner of the site.

### **SLIDE 5**

This slide shows the elevations of the proposed café building along with some perspective views showing a contemporary designed, mono-pitch roofed structure finished in a natural stone cladding with elements of white render and a dark metal roof.

### **SLIDE 6**

This slide shows a photomontage submitted with the application giving an indication of how the development will appear within the site.

The following slides show some images of the application site.

**SLIDE 7**

This slide shows a view of the proposed access point into the site from the A85 Trunk Road.

**SLIDE 8**

This slide shows a view of the site from the A85 Trunk Road with the neighbouring dwellinghouse Inverlusragan visible centrally within this view.

**SLIDE 9**

This slide shows a view of the site from the public footway adjacent to the A85 Trunk Road.

**SLIDE 10**

This slide shows a view from within the site looking out towards Loch Etive.

**SLIDE 11**

This slide shows a further view from within the site looking back towards Connel Bridge.

**SLIDE 12**

This slide shows a view of the site from the North Connel/Bonawe public road with the red arrow indicating the position of the site.

**SLIDE 13**

This final slide shows an aerial view of the site overlaid with the application site boundary.

**SUMMARY**

To conclude, in summary, the determining factor in the assessment of this application is whether the proposed café development is consistent with the provisions of the adopted National Planning Framework 4 as underpinned by the Local Development Plan and the emerging Local Development Plan 2.

As set out in the Report of Handling before Members, the OSPA within which the development is proposed, has been designated to provide visual amenity functions by helping preserve the open aspect on the seaward side of the A85 Trunk Road and with it, public views across Loch Etive.

The primary purpose of the OSPA is to preserve the remaining open land adjacent to the Trunk Road and to protect it from built development, in acknowledgement of the fact that these open areas are a key component of the landscape character of Connel and are an important part of the local distinctiveness of the settlement.

These OSPAs, including the one the subject of the current planning application, were introduced at the request of the community at the time of the adoption of the 2009 Local Development Plan following appeal refusal decisions for residential development on adjacent land.

The OSPAs followed through into the current 2015 Local Development Plan and are proposed to continue into the emerging Local Development Plan 2, a proposal that received no objections following public consultation and one that is supported by the Scottish Government and expects to be adopted as part of the new Development Plan in due course.

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, resulting in an adverse environmental impact eroding the open aspect of the site and the associated public views across it, thereby materially harming the open, visual landscape character of this part of Connel, and eroding the local distinctiveness of the settlement to an unacceptable extent, whilst undermining the OSPA designation of the site and setting a harmful precedent for the remaining coastal OSPA land, contrary to the provisions of National Planning Framework 4 and adopted and emerging Local Development Plan Policy.

It is recommended that planning permission for this proposal be refused – thank you.

## **APPLICANT**

### Shaun Sinclair

Mr Sinclair gave the following presentation:

Good morning and thank you for allowing me to discuss by application with you.

I have submitted this application to provide employment in the village and to ensure a future for my children and grandchildren in this community.

Kirsty is my daughter and is the 5<sup>th</sup> generation to be the tenant of our croft, with my son's children being the 6<sup>th</sup>. They live in my great grandfather's house neighbouring the field.

We have been advised that the field would work well for a cattle shed and poly tunnels to grow vegetables for local businesses. This would have an impact on views.

We understand that to diversify the croft, because of croft laws, this would be an unacceptable use of the field.

We have planning to convert the original Croft Byre across the road into a café. However, this application was met with a lot of negatives from neighbours and the Community Council, as it was felt a café in this location between existing houses could possible cause issues with parking and disturbance through general coming and going.

A suggestion of moving the café to the shore field was considered. This is an Open Space Protection Area and although supported off the record by some officials, the Planning Department could not support it.

The Open Space Protection Area policy is intended to stop building on playing fields or ground that is open to the public.

This field is not a playing field nor recreational, public ground as it is private. The policy therefore does not apply.

We also believe that the proposal accords with the spirit of the policy, as it will open the field to the public, re-establishing a connection between the Loch and the community.

This is an improvement in access over the status quo.

The proposal will not obstruct views, as the café has been carefully located on the most discreet part of the site.

The Oban Times ran an independent poll about the proposal with over 400 supporters putting their name to it.

We express our desire to invest in the community and provide job opportunities, a place for grandparents and a safe place for young families to gather and play safely.

We have lost the primary school, the playground has gone and the village shop is for sale.

I ask you, should we all just sit back and let Connel become a suburb of Oban.

### **CONSULTEES**

#### Connel Community Council

Sandy Dunlop gave the following presentation:

I thank you for the opportunity to address this Planning Committee. My name is Sandy Dunlop. I have been a member of Connel Community Council for almost 40 years and, over this time, I have seen a lot of changes in the village, some of benefit – others not so much.

This café planning application has not been discussed by the present Community Council due to conflicts in interest.

I will be referencing the decision made by the previous Community Council, which at that time took the decision to object to this plan for the following reasons.

This application lies within an OSPA – an Open Space Protection Area. I was personally involved when the OSPA was granted, as were the landowners, members of the local community, Argyll and Bute Councillors and other parties who had an interest in protecting the beauty of the area, the views and the natural wildlife habitats, encompassing not only our side of the loch, but including the opposite foreshore.

The deep concern, and indeed the fear of the Community Council is, that should the OSPA be ignored and this application granted, the floodgates would be then opened to future further development. We will then lose, not only the irreplaceable wildlife habitats, which in itself would be a tragedy, but the peaceful tranquillity of our loch side of which we are the elected custodians. It may also be worth noting that 2 previous applications in this OSPA were unsuccessful.

Thank you for your attention.

## **OBJECTORS**

Roslyn Purdie, on behalf of Pat and Cheryl Howe

With the aid of power point slides, Ms Purdie gave the following presentation:

My clients Mr and Mrs Howe wish to put forward their strong objections to the proposed development. They reside at Inverlusragan, which is the dwellinghouse immediately east of the proposed site. Since the application was submitted over two years ago, in 2021, they have suffered a great deal of stress and worry about the potential, and very likely, impacts of the proposed development on their residential amenity and the visual amenity of the wider area, should this scheme be implemented. They also have several other concerns, some of which I will address first if I may.

### Principle of development

Chair, Members, it would be remiss not to address the principle of development first, which is one of my client's biggest concerns, and one which is strongly echoed by the other public representations received in objection to this proposal. The site in question is a greenfield site and the NPF4 stipulates that greenfield sites are not to be developed unless the Local Development Plans stipulate otherwise. In this case, the Local Development Plan expressly forbids development of this site, given its designation as an Open Space Protection Area and in light of the application's failure to comply with the criteria set out by Policy DM8 supplementary guidance REC/COM2. Section 25 of The Town & Country Planning Act states that planning applications are to be assessed in accordance with the local development plan, unless material considerations indicate otherwise. In this case, there are no material considerations which suggest that the application should be supported as a departure from the Plan.

In order to set the OSPA designations, Argyll and Bute Council, which funded the project, underwent extensive consultation with the local community council and members of the community. The council commissioned a landscape architect, who assessed every individual relevant area of ground, and its interrelationship with Connel Bridge, Falls of Lora, Loch Etive and the coastal views out towards the Isle of Lismore. They also assessed how each area of ground relied on the other to achieve the required aim of ensuring that these vistas were protected.

The point being, the allocation of its protected status was taken very seriously, and it was collaboratively designated in the interest of the wider public benefit. It was even commented by the Reporter in the 2009 Local Plan Enquiry, just how important this particular piece of land is to the wider OSPA designation, given its proximity to Connel Bridge and the waterfront. Accordingly, you will note that the Planning Service does not support the application, the Local Community Council objects to the application, and the report of Handling states 44 public objections to the proposal. My clients would like Members to be aware that these 44 objections were individual letters of representation. Whereas, the letters of support - bar 3 - were submitted in the form of a petition and pro-forma letter.

My clients also respectfully ask the Planning Service if it could clarify whether the petition and pro-forma letter are each counted as 1 representation, as they feel the wording of the Officer's report, where these are broken down to detail the composition of 120 expression of support, is somewhat unclear.

The application site serves as one of the most valuable landscape and visual components of the wider OSPA, designated to protect the public views of the undeveloped shores of Loch Etive, Connel, and the wider landscape setting. If this proposal is approved and implemented, there will be a notable visual impact on the landscape character, as viewed from numerous prominent vantage points in the local area (identify on ppt using Client's photos).

If this application is approved, it will constitute piecemeal development of the OSPA and there will be wider ramifications for the future of other areas of OSPA land around Loch Etive. The Decision will create planning history which will undermine the weight that the LDP has regarding this particular issue, and it will make it very difficult for the Council to refuse future development on other protected land parcels, leading to the loss of prominent public views and visually appealing and unique landscape character, which was fought so hard to protect in the first place.

It is in this context that I would like to draw your attention to the refusal of nearby applications for three dwellinghouses between the application site and Connel Surgery. These were the catalyst for the OSPA designation and were refused back in 2005 in order to protect the land between the A85 and the foreshore from development.

The community council pushed for the designation on behalf of the local community, as it was felt that the visual impact "would seriously diminish the amenity and thus the economy (based on tourism)". As such, we respectfully request that Members consider this proposal with this planning history in mind, and in context of NPF4 Policy 9(b), LDP Policy DM8 and SG LDP REC/COM 2, as well as the emerging LDP Policy 81 – we ask that you support the Planning Officer's recommendation to refuse the application and protect the landscape.

### Economic Need

The application proposes there is a need for the café and drive-thru for economic reasons and due to a lack of other cafes and local amenities in Connel. In terms of the economic impacts, the proposal will only create 4 full time and 3 part time jobs. This is not a significant local economic benefit in its own right, and certainly not an economic impact which outweighs the importance of retaining the OSPA. Accordingly it is not sound justification to depart from the Plan in this instance.

In terms of there being an economic need owing to a lack of other amenities in the area, this is not so significant as to warrant the loss of the OSPA. Whilst additional amenities in rural areas are welcomed, Connel has similar amenities available such as Connel Surgery Coffee Shop, Falls of Lora Hotel, bar and restaurant, the take away by the village shop, the Oyster Inn, and Lochnell Arms, which are mostly within walking distance of the site, and in accessible locations via public transport. In any case, it's not the proposed provision that my clients object to, it is the proposed location of it. In the absence of a sequential site assessment, the application does not suitably justify why this site should be developed instead of an allocated or brownfield site instead.

With regards economic need, it's also important to highlight that Permission has recently been granted under application reference 20/00038/PP for a café on brownfield land directly opposite this site (indicate location on Ppt). Members should also be aware that there is currently a live application, validated last week (24 Jan), to renew the permission under 24/00103/PP. Incidentally, both applications were akin to the same applicant.

One of the reasons given by the applicant to justify the current proposal, is that they wish to address the concerns raised by letters of representation during the assessment of the approved permission. There were only 6 objections to that application. This justification is not a material planning consideration – and certainly does not warrant the loss of the OSPA. My clients wish to express their dismay in the absence of a Sequential Site Assessment, which would have gone some way to justifying why *this site* was ultimately selected, rather than an unprotected or allocated land parcel, or a brownfield site elsewhere, which incidentally the applicant already has permission for.

### Amenity

In terms of amenity, my clients are concerned about the likely visual impacts on the landscape character of the banks of Loch Etive, as outlined earlier. On a more personal level, my clients are deeply concerned about the impact of the proposed development on their residential amenity. As can be seen from slide 13, the footprint of the proposed café building, at its closest point, is only approximately 4m from the site boundary of my client's garden. From building line to building line, the closest point of the proposed café would be around 14m from their sunroom, which is where they spend most of their family time together, and where their garden decking is too, which they use frequently throughout the year for their enjoyment of their peaceful, private outdoor space.

If the proposed development is allowed, their right to the peaceful enjoyment of their property (Article 8 of the Human Rights Act) will be eroded. The proposed design of the café positions the commercial kitchen, (and presumably the ventilation units, which are not shown on plan), bin stances, and the noisy play area towards the boundary with Inverlusragan. Associated with each is unwelcome odour and noise emissions and the potential for rodents, flies and seagulls which are generally attracted to bins.

Given the Planning Service has recommended refusal of the application, there is no information publicly available on the proposed ventilation/extraction systems in order for an assessment to be made on their appropriateness for the site in terms of their visual impact, their noise and odour emanation, all of which may propagate in the direction of my client's home and garden. Similarly, there are no details available on the proposed external lighting, which has the potential to cause light pollution disrupting residential amenity, sleep, and also impact on the natural environment.

There does not appear to be any details publicly available on opening hours or deliveries to the site, either. It is therefore unknown, and unassessed, which types of vehicles are likely to be delivering to the site, at what times of the day, how many days per week, and how the deliveries will be made from the vehicle to the café (mechanical or manual?). As I'm sure Members will empathise, this causes a lot of worry for my clients given the degree of noise generally associated with the rattling



movement of metal/mesh cages and trolleys, the clattering of wooden or plastic crates/ pallets, and noise from reversing alerts on commercial vehicles. The relative increase in noise between the existing vacant use of the site and the proposed commercial operations, which includes multiple idle vehicle engines using a drive-thru (which incidentally will generate particulate matter and damage local ecosystems), will undoubtedly have a negative impact on the residential amenity of Inverlusragan dwellinghouse.

Despite this, my clients are disappointed that there was no Noise Impact Assessment provided to demonstrate that noise produced by the development will be acceptable, suitably mitigated, or to detail how it will be controlled. We therefore request that Members consider supporting the Planning Officer's recommendation to refuse the application.

### Road Safety/Access

Whilst the technical aspects of the vehicular access have been addressed by the relevant consultees, the increased traffic generation and formation of a new commercial access along the A85, which is in close proximity to Inverlasragan dwellinghouse, is of concern to my clients. There is a real concern about increased numbers of pedestrians crossing the A85 trunk road and the increased risk of road traffic accidents resulting from a new and relatively busy access road to and from a busy commuter route. This section of road is known locally as a dangerous stretch, where even the most experienced and highly trained drivers have encountered issues (show police car photos).

### Subsidence

Members will note that the topography of the site declines from the A85 towards the shore of Loch Etive. Land levels are around 8.0m AOD towards the A85 and approximately 1.5m AOD at the shoreline. The proposed development would be "dug into" the land with a finished floor level of 6.0m AOD and a retaining wall installed to the south-east. Given how close the building will be situated to the boundary of my client's site, they wish to express their serious concerns about the proposed excavation and bring into question the potential for damage to the integrity of their land and/or property caused by landslip or subsidence in association with the development.

### Flood Risk/Erosion

Finally, my clients also wish to bring flood risk and coastal erosion to the attention of Members, as even in light of consultee satisfaction, these issues give rise to concerns about the stability of the shorefront embankment and the land within and around the application site boundary. Given the tidal nature of the loch combined with rising sea levels and ever-increasing flooding events associated with Global Warming, my clients are concerned that erosion to some degree will inevitably occur, and this will lead to the need for visually inappropriate structural reinforcements to the embankment, such as Gabion baskets (show photos of flooding). This would further erode the visual appeal of the shoreline which provides open, attractive views of Loch Etive and Connel as viewed from popular public vantage points.

Thank you Chair, thank you Members for the opportunity to represent my clients' views on this development proposal. They are very grateful for the opportunity to express their concerns.

We respectfully ask that you take into consideration the impacts on the environment, road safety, the risks associated with flooding & coastal erosion, and the potential for landslip.

On a personal note, my clients would be grateful for your consideration of the negative impacts on the amenity of their immediately adjacent property, in terms of light, noise and odour pollution. However, they are particularly worried about the potential loss of the OSPA, which is also a recurring concern of many other objectors too. We ask you to consider the irreversible impacts that this would have on the character of the surrounding area, and the significant ramifications facing the Planning Service in refusing future applications of this nature, should a precedent for development of the OSPA be set. My clients, like many other local residents who have voiced their concerns, wish to protect and enhance the OSPAs in perpetuity, both for visitors to the Connel and future generations to come.

Ross Wilson

Mr Wilson gave the following presentation:

Thank you for this opportunity to address the Planning, Protective Services and Licensing Committee. I am Ross Wilson and speak as a resident of Connel and have taking note of 44 objections submitted to this application.

I would first like to thank Connel Community Council for being the driving force behind the creation of the Open Space Protection Areas (OSPAs) in and around Connel Village. Also for objecting to this application on behalf of Connel Residents.

These OSPAs were put in place jointly by Argyll & Bute Council, Connel Community Council and members of the community themselves. A Spatial Architect was employed who assessed every individual area of ground, and its interrelationship with Connel Bridge, Falls of Lora, Loch Etive and the coastal views out towards the Isle of Lismore. They also assessed how each area of ground relied on each other to achieve the required aim of ensuring that these vistas are protected.

These were established and confirmed by the Reporter in 2009, after previous attempts by other developers to try to build on the coastline which would have resulted in the loss of these vistas of the iconic Connel Bridge, Falls of Lora etc and fundamentally changed the character of the village and its relationship with the coastline.

The proposed development seeks to effectively eradicate the existing biodiverse habitat on this area of ground. This includes the resident Sea Otter population, the pair of Mute Swans that return every year and raise signets, the flora and fauna which supports the insect population that in turn is the feeding ground for our resident bat population. All of these species are legally protected under UK Law as is their habitat.

I remind everyone that the Applicant already has planning permission for a Café just metres from the proposed location, but crucially this is within Local Development Plan, and is a much more sustainable option as it seeks to restore a currently ruined building. This repurposing of a brown field site is therefore far preferable than removal of a green

field site. This site is conveniently located in the centre of Connel village and away from the busy A85, making pedestrian and vehicle access both easier and safer (particularly for the young and old).

This open aspect of land forms part of a wider network of OSPAs that preserve the undeveloped aspect of the shore side of the A85. An approved development in an OSPA would be a piecemeal removal of this, setting a precedent for development in these other areas. Once they are gone they are lost forever, denying their benefits to present and future generations. Although permission is being sought for a Café with public access for viewing and play space, what guarantee is there that a future change of use to, for example, a private dwelling will not subsequently occur thereby further restricting benefit to the public, both local and visitor? It should be noted that there is already a public play area provided in the village.

I therefore ask that the PPSL Committee continue to protect these OSPAs and do not approve this Planning Application, thank you.

### **MEMBERS' QUESTIONS**

Councillor Forrest sought and received confirmation from Ms Scott that the OSPA designation came into force as part of the 2009 Local Development Plan.

Councillor Martin asked the Applicant what his reasons were for choosing this site on the waterside as opposed to the other site in the village. Mr Sinclair referred opposition to building on the other site and that he had tried to address the issues raised at that time. He commented that the OSPA was to stop houses and other developments on playing fields. He said that the membership of the Community Council had changed since their objection was submitted. He added that there were more letters of support than negatives for this development. He said he had listened to the community and thought about what could be done. He said that this was croft land and that he could develop it to make it work better as a croft, for example, building an agricultural shed.

Councillor Martin asked the Applicant if the other site would have an impact on his business if the development went ahead on the brown field site rather than the green field site. Mr Sinclair said that there would be an impact as the original site was much smaller.

Councillor Brown sought and received confirmation from Mr Sinclair that he had a working croft with 40 sheep and 60 cows. He said the croft did not make any money and pointed out that it cost £20,000 to feed cattle and repair fences. He said the croft ran from through the village to the shore frontage, this included the main road, which, he said, had never been decrofted.

Councillor Brown sought and received confirmation from Mr Sinclair that his father and grandfather had used this site as part of the croft but there had always been a problem with handling animals there due to the access. He said that to make it work a shed or fank would need to be built on it.

Councillor Brown sought and received confirmation from Mr Sinclair that he would be able to sustain his new business all day, every day.

Councillor Brown sought and received confirmation from Mr Sinclair that he would manage queues of traffic at the drive thru with signage for parking. It was noted that there were 16 car parking spaces marked on the site plan.

Councillor Armour sought and received confirmation from Mr Sinclair that the site was last used as a croft 5 – 10 years ago. Mr Sinclair referred to the problem of getting in and out it with animals.

Councillor Armour referred to Mr Sinclair advising that as this was a croft he could build a shed or poly tunnels on it. He asked Planning if that type of development would be more possible than what was currently proposed. Mr Bain referred to deemed permissions for some types of agricultural buildings. He said that there would still be a requirement to notify the Council so that any impacts could be identified and the proposal assessed against the Local Development Plan and other planning controls. He advised that if an operational need for the farm could be demonstrated, that may permit development at that location but it would not be guaranteed as it would still need weighed up against any potential impacts and potential loss of OSPAs. He said that this issue had not been discussed with Planning and it was not something that had been used as a trade-off.

Councillor Armour commented that it was clear that the OSPA would make it very difficult for this planning application to go through and asked if it would be less difficult if this development was for an agricultural unit or poly tunnel. Mr Bain advised that it would still be difficult. He said that development for agricultural use deemed necessary would have material weight in terms of whether to protect the OSPA or not.

Councillor Martin referred to the number of car parking spaces and the main road being at a higher elevation than the site. She asked how congestion on the road could be avoided. She asked how road users would know if the drive thru was shut. Mr Bledowski advised that the sighting of the junction had been drawn up by engineers and approved by Transport Scotland. He said that Transport Scotland had no issues with the visibility at the junction in or out of the site. He said there would be no need to reverse out of the junction on to the main road and there would be ample room to turn around. He said he could not foresee any need to reverse on to the trunk road.

Councillor Blair sought and received confirmation from Mr Watkiss on the history and process of putting the OSPAs in place. He advised that they were included in the 2009 Local Development Plan following consultation and engagement with the local community and other interested parties. There were no objections to the OSPAs received and they continued to stay in place for the 2015 Local Development Plan and will remain for the emerging Local Development Plan 2, as there have been no objections to them remaining and no requests made for them to be removed.

Councillor Blair sought and received confirmation from Mr Watkiss that through the current LDP consultation process there have been no responses received in support or objection in respect of this OSPA.

Councillor Blair sought and received confirmation from Mr Watkiss that the Council followed a process of public consultation, which was set out in the Development Plan Scheme and had been approved by Committee. Mr Watkiss said he felt there was adequate opportunity for comments. He said that they received hundreds of comments regarding all manner of aspects of the LDP. He advised that part of the engagement process included a call out for ideas. He pointed out that one of the ideas posted related to OSPAs and asked if there were any OSPAs that needed to be added or removed. He confirmed that no specific comments about this OSPA were made either way.

Councillor Blair asked what the timescale would be for members of the community or others to make amendments to LDP2 once it was adopted. Mr Watkiss explained that once LDP2 was adopted the process for preparing for LDP3 would start right away. He said it was a 5 year process. He advised that no formal timescale had been prepared for LDP3 yet but this would come before Committee for approval in due course. He confirmed that there would be the opportunity for comments and engagement and that would be within the coming months and early years following adoption of LDP2. He said there would be a lot of evidence gathering at the early stages.

Councillor Blair asked about the general consensus within the village and within the Community Council with regard to the support the Applicant would have in relation to development of the other site. Mr Dunlop said that the other site was right in the middle of the village and that the only concern had at that time was traffic leaving the café site and coming on to the village road, not going on to the main road where the car park was. He said the main entrance into the one that had been granted was from the main road, not from the village road. Mr Dunlop said that was the previous Community Council's view.

Councillor Philand said he had a number of questions with the first being about policy LDP 8 and criteria 5 for the OSPA which stated "in the case of valued recreational areas (public or private) if 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". He asked what the reasons were for the proposed development being rejected on that basis. Mr Watkiss said it was important to note that the policy protects established public and private playing fields, sports pitches and those recreational areas and Open Space Protection Areas (OSPAs) shown to be safeguarded in the LDP Proposals Maps. So in effect it is safeguarding sports pitches, playing fields and recreational areas and all the other OSPAs shown to be safeguarded on the Proposals Maps. So it can be seen that the first 4 criteria relate to play fields. Point 5 relates to valued recreational areas. He referred to the proposed development site being on an OSPA with amenity value. He said the development was not assessed against all 5 criteria as the first 4 did not apply to it. It was assessed against criteria number 5. This was land with amenity value with an OPSA shown to be safeguarded on the LDP proposals map. Therefore development should not be permitted unless it satisfies one of the clauses but the clauses do not apply to those amenity areas.

Councillor Philand asked what the basis was for this application being recommended for refusal. Mr Watkiss referred to the proposal being contrary to the LDP in terms of policy LDP SG REC/COM 2 as the proposal would be harmful to an OSPA which has been identified to be safeguarded in the LDP Proposals Maps. This has been summed up in the Officer's report in respect of the importance of this visual amenity OSPA protecting the character and the setting of the settlement there. He said the 5 clauses were effectively exception tests where development might be considered acceptable and those involve the playing fields and the valued recreational areas. They don't apply to OSPAs which are set up of amenity visual aspects.

Councillor Philand sought and received confirmation from Ms Scott that representations submitted on pro forma letters were valid and counted as individual representations. She advised that petitions with lists of names were treated as one representation but she pointed out that in this case the petition was submitted as individual slips with names so they were all treated as individual representations.

Councillor Philand referred to the number of Connel supporters being 44, with 25 being objectors. He asked Mr Dunlop why they had come to their conclusion that it was the

Community's will that this proposal be rejected. Mr Dunlop said it was at an open Community Council meeting. He said it was the consensus of the members and the local community attending. He said there were objectors and supporters at the meeting.

Councillor Philand asked Ms Purdie to expand on what she said about Article 8 of the Human Rights Act and asked how material that was. Ms Purdie said that it fed into the right of people to enjoy the amenity of their private property plus local policy regarding the protection of residential amenity.

Councillor Philand referred to the economic argument versus the OSPA argument and asked what Ms Purdie meant when she said the economic argument outweighed it. Ms Purdie explained that the proposal for 4 full time and 3 part time jobs was akin to a local application and the significance of an OSPA designation applied throughout a wider area. She said it was her professional opinion that you can only really outweigh that type of designation with something more akin to a major application and certainly more than 4 full time and 3 part time jobs. She advised that she did not feel that the Applicant had demonstrated what the economic benefit would be to the local economy and so in the absence of that information from our perspective it did not outweigh the significance of the OSPA designation.

Councillor Philand referred to concerns about the wildlife and sought comment from Planning. Ms Scott advised that two ecological studies were undertaken for the site and the Local Biodiversity Officer was content with the conditions that would be imposed in order to protect species if the application were granted

Councillor Green referred to the process of preparing a LDP and asked Planning if everything contained within the current LDP was automatically carried forward into the new LDP and then consulted on and in terms of an OSPA was an assessment carried out first to see if it was still relevant. Mr Watkiss said that for every LDP process everything was considered. Continuity from one LDP to the next was looked for, taking on board things that might need to be changed. Engagement and evidence gathering was carried out along with consultations such as calls for ideas and calls for sites. Input and feedback was sought and that was when requests for changes may be made. Officers would also be aware of things that might need to change through the application of policy.

Councillor Armour referred to concerns expressed by Ms Purdie's clients about the impact of the amenity of their own house. He also referred to the possibility of an agricultural building being on that site and asked Ms Purdie if her clients would be okay with that. Ms Purdie said it would depend on the scale and the size of the building and whether it would involve excavation. She said a small scale agricultural building on the site may be more appropriate but would be subject to other details put forward.

Councillor Armour referred to Mr Dunlop advising that he represented the views of the previous Community Council and not the current one. He asked why that was the case. Mr Dunlop said this was due to a conflict of interest. He said that the present Convener of the Community Council was the Applicant.

Councillor Armour commented that he was sure the Convener would have taken a back seat when the Community Council considered this application. Mr Dunlop said it was decided to go with what the previous Community Council agreed.

Fiona Ferguson explained that the previous Community Council were only against it at that time because of the OSPA. She advised that since the new Community Council was

elected there were at least 3 Members who were now totally for the café. She said she supported it but was told not to speak up as there would have been a conflict of interest. She said she was a relative of Mr Sinclair but not a direct relative. Fiona advised that for her personally as a resident who has lived in the village for 14 years with 4 young children, she thought it was a good idea to have the café. She acknowledged there were other places like the Falls of Lora Hotel and the Glue Pot. She commented that for teenage children there would be the opportunity of a job at the café. She said she had no concerns about her children crossing the main road to go to the café with their friends as they did so already to get to the shore and jetty. She pointed out that the village no longer had a school and there was no longer a toddler group. She said that families with lots of children had moved into the area and this would be a place for parents to go and meet with each other with their young children. She said she thought it would be a big asset to the village.

Councillor Brown sought and received confirmation from Mr Bain that the development was recommended for refusal because of the visual impact on the OSPA. Mr Bain referred to the site designation and its passive value to the undeveloped nature of the site and the opportunity to look out.

Councillor Hampsey asked if there had been any reports of issues with cars entering and leaving the Connel Surgery which was also on the shore side of the trunk road. Ms Scott said she was not aware of any statistics about that.

Councillor Irvine sought and received confirmation from Planning that the issue here was the OSPA designation and the visual amenity was the fundamental reason for recommending refusal.

## **SUMMING UP**

### **Planning**

Peter Bain summed up as follows:

In reaching a decision on this application, Members are reminded of the requirements placed upon decision makers by Section 25 of the Town and Country Planning (Scotland) Act 1997 to determine all planning applications in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.

During the course of today's hearing members have heard arguments with opposing views on the merits of the proposed development, its anticipated benefits and expected impacts.

The concerns raised by objectors cover a wide range of issues including the impact of the development upon wildlife and biodiversity, concerns about flood risk, concerns about road safety, concerns about loss of amenity. Whilst these are all issues that are relevant to planning and material considerations, the position detailed by planning officers in the report of handling dated 5<sup>th</sup> September 2023 essentially identifies a single fundamental issue which precludes the proposal from being considered to be consistent with the Development Plan.

The provisions of National Planning Framework Policy 9(b) set out 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".

In this instance the proposal is located within an area identified within the Argyll and Bute Local Development Plan 2015 as an Open Space Protection Area, or OSPA, wherein the provisions of policy LDP 8 and SG LDP REC/COM2 set out a presumption against the development or redevelopment of the areas shown to be safeguarded except where one or more of 5 identified criteria are met. It is the consideration of officers that these criteria are not applicable to the circumstances of the proposal.

The case set out by the applicant and other supporters of the proposal has sought to challenge the designation of this particular OSPA by contending that its existing use as occasional agricultural grazing precludes it functioning as site for active recreational purposes. It has also been contended the improvement of access and provision of outdoor seating and an equipped play area will provide improved public access and open space, and enhance the relationship between the village and the adjacent Loch Etive.

Members are however reminded that the designation of the site as an OSPA within the LDP and its impending successor, LDP2, are established matters. In order to assist members in reaching their decision the following matters are highlighted:

- Planning Advice Note 65 on Planning and Open Space identifies that all spaces, regardless of ownership and accessibility contribute to the amenity and character of an area and can be taken into account by Council's when undertaking their open space audits and strategies.
- PAN 65 also identifies Amenity Greenspace as areas providing visual amenity or separating different buildings or land uses for environmental, visual or safety reasons, and provides justification for a planning authority to identify and safeguard open space for visual amenity value in its development plan.
- The meaning of the term "Open Space Protection Area" is defined in the Glossary to the Argyll and Bute Local Development Plan 2015 as "areas of valued open space, sports pitches and playing fields as identified in the proposals maps of the Local Development Plan".
- The aim of LDP policy SG LDP REC/COM2 is explicitly set out in Supplementary Guidance and is part of the Development Plan. This is expressed succinctly in the explanatory text as "The aim of this policy is to safeguard areas of valued open space, sports pitches and playing fields from being lost to new development without adequate alternatives being provided by the developer proposing those works."
- Development Policy Officers in their consultation response have confirmed that whilst Policy REC/COM2 contains exceptions that permit development in circumstances where replacement playing fields and recreational facilities would be provided the policy does not contain an exception which provides support for the development of "valued open space" where that function is visual amenity. This is because it is considered that such visual amenity value is intrinsic to the OSPAs location and function and therefore is not readily capable of absorbing the impact of new development, nor is it able to be replaced in the same manner that a sports pitch or recreational space might be able to be relocated.
- Whilst the designation dates back to the production of the 2009 Local Development Plan, it is noted that there has been subsequent opportunity to review the OSPA



designation through production of the 2015 LDP and more recently LDP2 where no objections to the retention of this designation were raised.

- The applicant has also highlighted that the proposal will give rise to a local economic benefit through the creation of 4 fulltime jobs and 3 part-time jobs, and has also sought to advance the argument that the provision of enhanced access to the site and a play area will provide a wider benefit to the local and whilst these matters are not sufficient to overcome the presumption against development established by policy SG LDP REC/COM2 they are material considerations for members to weigh up in reaching their decision.
- Members should however also afford consideration to the fact that the original designation of OSPAs at this location was a matter promoted and supported by a wider body of the community. Whilst the proposal has many merits officers also recognise that there is a lack of consensus within the community on this particular proposal and concern that a grant of permission would erode the character of an area which is valued locally as an area of undeveloped open space that provides visual amenity and open views to Connel Bridge and the Falls of Lora.

The application is accordingly commended to members with a recommendation that planning permission be refused as development contrary to the provisions of Policy 9(b) of National Planning Framework 4, and policies LDP 8 and SG LDP REC COM 2 of the Argyll and Bute Local Development Plan 2015.

### **Applicant**

Mr Sinclair advised that he became involved with the Community Council because of this application as when looking into it and looking for support it became apparent that the Community Council at the time was not the voice of the community. He said at the time he would go on to the Community Council and then he was voted on as Chairman to replace Mr Dunlop, who had been a Chair for a long time. He confirmed that he had no involvement in discussions about this application at the Community Council meetings.

He advised that he thought that Connel had evolved since 2009. He said there were more letters of support for the application than against it. He said that the loss of the OSPA would not make history if it was changed. He said there was no other croft land in Connel. He pointed out that none of the slides showed the views from east to west and he passed pictures of this to the Committee on his phone. He commented that you would need the eyesight of an owl to look back and see the view that would be lost. He said that heading towards Oban there would be no view lost. He said he had been as sympathetic as he could for the neighbours with the design of the building with a flat roof. He referred to environmental issues raised and advised that he would agree with any environmental principles for the building. He said he would be open to entering into a legal agreement with the Planners for the building. He said that all the other permissions for wildlife were sought.

## **Consultees**

Mr Dunlop said he had nothing more to add. He said that the fear was that if the OSPA was disregarded it would open the floodgates and the Community Council felt at the time it was their duty to protect this.

## **Objectors**

### **Roslyn Purdie**

Ms Purdie said that the main concern of her clients was the impact that this proposal would have on the landscape setting. She said that this particular piece of land in the OSPA was singled out by Reporters and was highlighted for its contribution to the landscape setting given its proximity to the waterfront and Connel Bridge. She referred to views from east to west, which, she said she knew would have more soft landscaping coverage, and she advised that was just one aspect of a view of that site. She advised that looking from North Connel or the approach to Connel on the walkway, the site, would be seen quite clearly. She said it was a very prominent site if viewed from those locations. One of the landscape characteristics of the land was the undeveloped characteristics around the Loch, which was so unique. She commented that whilst not necessarily a precedent in planning, planning history was a material consideration, and it would be very difficult to protect other OSPAs going forward. These were the fundamental concerns. She said that it was appreciated that the impact of amenity had been suitably addressed but that did not dilute their concerns and given the lack of information about delivery vans etc. She said it had not been disproven that smoke or odours would come directly onto a part of their land that had been built to enjoy their space.

### **Ross Wilson**

Mr Wilson emphasised that there was already an application with planning permission on a brown field site in the centre of the village with safe pedestrian and vehicle access, which had wide community support.

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

The Chair ruled, and the Committee agreed, to adjourn the meeting at 12.40 pm for lunch and reconvened at 1.55 pm.

## **DEBATE**

Councillor Hardie thanked everyone for their presentations. He advised that he had concluded that having heard all the evidence, he did not feel that the Committee should be diverting away from the LDP and OSPA and that he would support the Planning recommendation to refuse the application.

Councillor Green advised that he agreed with Councillor Hardie. He commented that quite a bit had been mentioned about the OSPA. The fact that the various parts of the OSPA were interdependent of each other. He said that the Committee could not look at one small part in isolation and that it had to think about the impact for the whole area. He commented that there may be impacts for neighbours in respect of any development but this was wider for the OSPA and for him was insurmountable in terms of it being incorporated into the LDP and, on the basis of information presented, he confirmed he was in agreement with the recommendation from the Planners.

Councillor Kain advised that he took a contrary view. He felt there were a lot of contentious issues surrounding the proposal. He advised there was a need to start looking at how commercial development could be brought into Argyll and Bute. He said that if everything kept being knocked back Argyll and Bute would carry on down a road of decline. He referred to visual benefits and said he did not feel this was an area of special beauty and that he would be in favour of granting the application.

Councillor McCabe said that she would agree with Councillor Kain. She advised that she did have doubt but having built up a café herself a few years ago, she was aware that it was a tough process to go through and understood the work involved. She referred to concerns about deliveries and said there would be no huge trucks delivering to a small café. She said she would support the application.

Councillor Armour said he really wanted to support the application and that if there was a way around the OSPA he would want to find it. He advised that he thought the Applicant had put over his case very well. He noted that it was croft land and that farm buildings could be built there. He said he thought that would be more detrimental to the village. He referred to continuing consideration of the application to another day in order to find a way to support it.

Councillor Irvine said that the fundamental reason for the Officers recommending refusal of this application was based on the OSPA, which had never been challenged, reviewed or objected to. He commented that there had been ample opportunity to do this since 2009. He said the Committee have been asked to review this application and the recommended reason to refuse. He said it was not for this Committee to debate whether the OSPA was bad or not, it was to debate whether or not the Officers have made the right decision. He commended the Applicant on his plans and his obvious passion and commitment to the community. He advised that if he could find grounds to grant the application he would do but based on what was before him he thought the Officers had made the correct decision based on the OSPA and none of the 5 exceptions being met.

Councillor Blair thanked everyone for coming along today. He commended the Applicant's opportunity to diversify his business and develop the site. He advised that having reviewed the comprehensive reports and listened to the valuable contributions made, he was not minded to support the Applicant and would agree with the Officer recommendation to refuse the application. He referred to the rules and regulations of the OSPA which have been in place for some time. He commented that these things were not tablets in stone so if the local community and Ward Councillors deemed that the OSPA had to be changed or looked at again going forward then they should go ahead and make these representations. Measuring and weighing everything up today, he advised that while he fully appreciated the Applicant's concerns and the comments from the community, he could not move away from the whole nature of the natural environment needing to be protected and said that was why the OSPA was there. He referred to climate change and advised that he thought there was more of an emphasis on looking after the natural environment. He advised that at this point in time, that was where he stood.

Councillor Philand referred to being between a rock and a hard place. He advised that from what he had picked up today the community had shifted and changed their mind. If the OSPA was done today, he said it would be interesting to see what the views would be. He advised that like Councillor Armour, if there was a way to support the application he would do. He referred to the village being small and the possibility of employment which,

be felt, should be encouraged or Argyll would die. He advised that currently he could not support a refusal at this time.

Councillor Wallace said there was a lot of merit in this application, which could be very positive for the area. He said that he would have concerns about setting a precedent but like Councillors Armour and Philand, if a way could be found to support it, he would. He advised that he would support continuing consideration of the application to another day to explore this further.

Councillor Green referred to the economic aspects of the application. He also referred to mentioning that the OSPA was an insurmountable problem at this stage and advised that in due course perhaps it could be reviewed as part of the next LDP. He referred to it being pointed out that there were other sites in the village and acknowledged that each application had to be considered on its own merits. He noted that there was permission for another site, which had been submitted for renewal. He commented that there were other sites in the LDP in the area that would be suitable for development. He commented that while this was a welcome proposal the fact that it was located in an OSPA meant it was impossible for him to support it.

Councillor Brown said she found it quite difficult and could see it from both sides. She said she agreed that there was a need for OSPAs to protect what was there. She advised that there was also a need to protect what people had and how we move forward and made our areas fit for purpose for the future. She said she could not see how this could be done with the OSPA in place. She advised she was mindful that this was part of a croft with commercial work going on within the OSPA. She said she was not sure if there was any way to look at that for the future. She advised that she would love to support it but the OSPA had to be considered and at this time she could not approve the application.

Councillor Martin said it was very difficult for her. She advised that she had taken the time to listen to what others had said and that she was a Ward Member. She advised that she thought the proposal was a great idea and she thought that the business would do really well. She referred to Connel being its own place and that this would bring employment. However, she pointed out that the OSPAs were there and they were there for a reason. She advised that if it was possible to find a way round it she would be happy to support the application. She said she was conscious of the property situation right behind the development and as this moment she was not sure if she would be able to support the development.

Councillor Forrest said that this had been hard. She referred to balancing interests, with neither being wrong. She referred to looking at this and looking at all the conditions in which it could be approved. She pointed out that the Committee would need to have a legally competent Motion, with competent reasons for supporting it, and, in the current position, she could not find any. She said she was sorry but if one of her colleagues was able to find a competent Motion, she would be willing to consider her position again. As it stood now, she would not be able to approve the application.

Councillor Kain commented that if the Committee were being stopped here by legislation the whole situation needed to be looked at. He said he understood reluctance to go against the legislation. He referred to an already reducing population in Argyll and Bute and said it was not going to get easier if the economy was poor. He advised that at the very least this should be stalled in some way and reviewed a bit more clearly to see what was wanted to be achieved. He referred to understanding from the Applicant that there may have been an issue with decrofting in the past. He said that if this was the case then

the legislation going through was not perfect and that perhaps if it was not perfect it should not impede the economic activity of the region. He referred to the notion that jobs for 4 people was not valid. He said he did not believe this application should be thrown aside and that there must some way to stall it and look at it more clearly. He said that he drove by this area regularly and thought that the business would enhance the whole area and make it more attractive.

Councillor Blair advised that the OSPA was there for a particular purpose to protect the natural environment. He referred to the added value to his life of looking at and enjoying the natural environment. He said he was not against new business and diversification. He referred to the importance of tourism. He referred to the difficulty the Committee had and that what it did was based on regulations which were set and agreed by previous Committees and Councils. He commented that he did not always do what the bureaucrats said. He advised that the balance he had with regard to this OSPA, the natural environment, the implications and reflecting on the opportunities the Applicant has in another area, he felt that was the best option in this case. He advised that he would be reluctant after this period of process to delay the decision. He said that would not be fair on the Applicant or Objectors to drag this on. He referred to this being one of the most beautiful parts of the world and that there was a need to try and protect that and that was what this OSPA was all about and that was why he had reached his decision.

Councillor Martin said she agreed with Councillor Kain that in a small area 4 or 5 members of staff was significant. However, she pointed out that those members of staff had the potential to be staff at the location where this development had planning permission. She advised that what could not be replaced would be the visual impact of that space and the habitats within in. She said the reasons for OSPAs was to protect the land etc. She advised that she wanted to add that and that she did consider that the jobs were significant.

Councillor Philand referred to how people were consulted on OSPAs and whether or not it was made clear what it would mean to have one in their back yard. He said it was important to reflect on this so that the people on the street knew what was in the LDP and what it meant.

Councillor Hardie said he shared the sentiments of Councillor Blair. He said he would like to put forward a Motion to refuse the application and accept the recommendation of the Planners.

Councillor Armour said that the Planners had done everything they needed to do and they were right to refuse this. He advised that there was nothing out of order and that he fully respected that. He commented that from what he was seeing and hearing today there was huge support in the village for this and that there was none before. The previous Community Council have advised why it should not be supported, but the Committee have not heard from the current Community Council, which, we have been advised by Ms Ferguson, do support it. He advised that he would support the application and that there may well be a Motion to continue this to see if there is a way to get around this OSPA and agree the application.

Councillor Irvine said he took on board comments made about the OSPA. He pointed out that the reality was the OSPA was in place and it was not the purpose or role of this Committee to say whether or not it was appropriate. There was an opportunity for the community to come together and review their support or not for the OSPA being in place and there was a process for that. He referred to it coming into being in 2009. He advised

that the decision the Committee were being asked to make was unfortunate, despite the many merits of the application. He advised that he would encourage the entire community to go back and review the LDP again, and review the OSPAs in place, and decide if they were fit for purpose. This would be 2, 3 or 5 years down the line and not something that could be done overnight. He advised that if there was not an OSPA there he would have no doubt or concern about supporting this application. Unfortunately the OSPA was in place and there was a long process to replace it.

Councillor Brown agreed with what Councillor Irvine said about the need for the community to come together. She advised that it was up to the community to lobby the Council to get the LDP changed. She said that at this time her hands were tied with this.

Councillor Kain said that from hearing what people were saying about hands being tied, he would suggest that there was a need to find a way of postponing this in some way. If hands were tied then this would just set a trail of continued population decline in Argyll and Bute which would be more significant in rural areas. He said that we could not just rely on tourism and that there was a need for young people. A planning process for the unborn children of communities was required. He said he was all in favour of the natural environment but without people it would become stale and unattractive.

Councillor Forrest said there was no presumption of not allowing development or commercial development anywhere. It was this particular site because of the OSPA. It was not the case that development in Argyll was not wanted.

Councillor Blair said he took exception to what Councillor Kain had said. He advised that everything he had said, he could turn around and reference it to protect the natural environment. That was the opposing dilemma the Committee had. He advised that the protection of the natural environment at this point in history was important and also at this point the other opportunities the Applicant has and that he would be fully supportive of that too.

Councillor Wallace said there was a need to have sympathetic development that enhanced an area and enhanced people's appreciation of the natural environment.

Councillor Hampsey advised that in light of what she had heard today she would be minded at this point to put forward a Motion in support of the application based on the representations in the report and what she has heard today that there was a wider benefit to the community, which has been adequately demonstrated, which in turn would allow for a departure from the OSPA provision to be overwritten. She advised that she felt that an OSPA should be valued, however, she did not believe that this application would set a precedent going forward as all applications are decided upon on their own merits. She said she was not clear if this development would have an excessive impact on the visual amenity of the site and that she did think there was an economic benefit for the local community in terms of the creation of jobs. She said she thought it may be possible to approve the application and proposed that the hearing be continued to allow her to seek advice on-preparing a competent Motion to approve this application.

### Motion

To agree to continue consideration of this application to a future meeting of the PPSL Committee to allow time to seek advice from Officers on preparing a competent Motion to approve the application.

Moved by Councillor Amanda Hampsey, seconded by Councillor John Armour.

Amendment

To accept the planning recommendation to refuse the application.

Moved by Councillor Graham Hardie, seconded by Councillor Mark Irvine.

A vote was taken by calling the role.

Motion

Amendment

Councillor Armour	Councillor Blair
Councillor Brown	Councillor Forrest
Councillor Hampsey	Councillor Green
Councillor Kain	Councillor Hardie
Councillor McCabe	Councillor Irvine
Councillor Philand	Councillor Martin
Councillor Wallace	

The Motion was carried by 7 votes to 6 and the Committee resolved accordingly.

**DECISION**

The Committee agreed to continue consideration of this application to a future meeting to allow time to seek advice from Officers on preparing a competent Motion to approve the application.

(Reference: Report by Head of Development and Economic Growth dated 5 September 2023 and supplementary report number 1 dated 29 January 2024, submitted)

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Argyll and Bute Council  
Development and Infrastructure

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

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**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

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**SUPPLEMENTARY REPORT NO. 1**

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**(A) INTRODUCTION**

This application was first presented to the Planning, Protective Services and Licensing (PPSL) Committee on 20 September 2023 at which time Members agreed to its continuation to a Pre-Determination Public Hearing on 30 January 2024.

The purpose of this Supplementary Report is to bring the planning file up to date to include details of the late neutral representation submitted from Councillor Julie McKenzie prior to the application being presented to the September PPSL meeting and also an error in the original Report of Handling, details of which were presented verbally to Members at the beginning of the presentation to the Committee on 20 September 2023.

The Supplementary Report also provides details of the withdrawal of an expression of support and the submission of a late representation.

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**(B) REPRESENTATIONS**

**Representation from Councillor Julie McKenzie**

As presented verbally to Members at the September meeting of the PPSL, a late neutral representation was received on the 18 September 2023 from Councillor Julie McKenzie noting her support for the Applicant in his request to Members to have the application determined at a Pre-Determination Public Hearing.

A further representation from Councillor McKenzie was received on the 19 September 2023 confirming her support for the proposed development.

In summary, Councillor McKenzie questioned whether the site can genuinely be considered a valuable open space, as it is overgrown and fairly inaccessible to the public and therefore, in her view, has little visible or practical amenity to the wider local community.

Councillor McKenzie further noted that it is her opinion that the application has mitigated the policy presumption against development on the site with a community backed plan which will bring benefits for the residents of Connel and further afield, whilst enhancing a

currently inaccessible open space which is in keeping with the overall vision for Argyll and Bute set out in the LDP being:

*“one of an economically successful, outward looking and highly adaptable area, which enjoys an outstanding natural and historic environment, where all people, working together, are able to meet their full potential and essential needs, locally as far as practicable, without prejudicing the quality of life of future generations”*

Councillor McKenzie concluded by acknowledging that Members have a duty to set policy to protect our environment but that this needs to be balanced with the vision and ambition of residents within the communities in which they live and earn a living.

### **Withdrawal of Support**

Ms Claire Hampson contacted the Planning Authority to advise that she did not submit the expression of support dated 21/04/23 which appears on the planning file and is referenced in the original Report of Handling. Ms Hampson requested that her name be removed from the list of supporters and her details removed from the file in order to avoid receiving any further communication regarding the application.

### **Late Representation**

A late representation to the application has been received from Mr Ross Wilson, Achaleven Road, Connel on 24 January 2024. In summary, the points raised in the representation relate to the Open Space Protection Area; the impact on wildlife and biodiversity; and the existence of the planning permission by the Applicant on another site within the village.

The representation does not raise any new matters that have not already been addressed in the original Report of Handling before Members.

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### **(C) Error in Report of Handling**

Members should note an error in the original Report of Handling at Section F and Appendix B which provides details of the representations submitted to the application. These sections state that 66 pro-forma slips of support to the application were submitted to the Applicant during a Community Council Meeting in May 2022.

It should be clarified that this was not a Community Council Meeting but an independent meeting arranged by the Applicant.

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### **(D) RECOMMENDATION**

That Members note the content of this report which does not introduce any new information that has not already been addressed in the original Report of Handling.

The recommendation of the Planning Authority remains that planning permission be refused subject to the reasons appended to the original Report of Handling which have also been appended to this Supplementary Report.

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**Author of Report:** Fiona Scott

**Date:** 29/01/24

**Reviewing Officer:** Peter Bain

**Date:** 29/01/24

**Fergus Murray**  
**Head of Development and Economic Growth**

**REASONS FRO REFUSAL RELATIVE TO APPLICATION REFERENCE 21/01583/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.

**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

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**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.

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**(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 1<sup>st</sup> 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.

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## **(D) HISTORY:**

### 03/01550/DET

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

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## **(E) PUBLICITY:**

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

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## **(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.*

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**(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

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**(H) PLANNING OBLIGATIONS**

**Is a Section 75 agreement required:**  Yes  No

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**(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 \(Adopted 13<sup>th</sup> February 2023\)](#)**

**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 (13<sup>th</sup> 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

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**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

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

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

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

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

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**(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:

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- 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.

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

- Open Space Protection Area

## **(P)(ii) Soils**

[Agricultural Land Classification:](#)

Unclassified Land

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

Class 1

Class 2

- Class 3
- N/A
- N/A

Peat Depth Classification:

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

**(P)(iii) Woodland**

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

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

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

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

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

**ABC LDP 2015 Allocations/PDAs/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.

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

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**(R) Reasons why Planning Permission should be Refused**

See reasons for refusal below.

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

N/A

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

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**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.

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

## 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 1<sup>st</sup> 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.

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

<b>OBJECTION</b>		
<b>Contributor Name</b>	<b>Contributor Address</b>	<b>Date Received</b>
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

<b>SUPPORT</b>		
<b>Contributor Name</b>	<b>Contributor Address</b>	<b>Date Received</b>
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.

<b>Contributor Name</b>	<b>Contributor Address</b>
<b>Scott Sinclair</b>	<b>6 Ferryfield Road, Connel</b>
Caitlen Fowler	Rockfield Road, Oban
Paul Addison	15/7 Sloan Street, Edinburgh, EH6 8PL
G. MacFarlane	Darach Lodge, Inverawe
C. MacFarlane	Beachglade, Soroba, Oban
<b>Duncan Baird</b>	<b>Leven House, Connel, PA37 1PE</b>
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
<b>Lucy Stewart</b>	<b>Keepers Cottage, Benderloch, PA37 1WS</b>
Hamish Buchanan	Cregan, Benderloch
Karen Baird	Leven House, Achaleven, Connel
<b>Connor Kerr</b>	<b>Carnoch, Connel, PA37 1PH</b>
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
<b>Fiona Ferguson</b>	<b>Morar House, Connel, PA37 1PA</b>
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
<b>Dr Garret MacFarlane</b>	<b>Caerthann House, Grosvenor Crescent, Connel, PA37 1PQ</b>
Fiona MacFarlane	Darach Lodge, Taynuilt
<b>Steve Hill</b>	<b>Mo Dhachaidh, Connel</b>
<b>Christine Hill</b>	<b>Mo Dhachaidh, Connel</b>
Sarah Hill	Mo Dhachaidh, Connel
<b>Archie Campbell</b>	<b>An Daroch, Connel</b>
Katie Sims	Dalrannoch Farm, Barcaldine
Nigel Taylor	12 Powell Place, Connel, PA37 1AE
<b>Barbara MacFarlane</b>	<b>Caerthann House, Grosvenor Crescent, Connel, PA77 1PQ</b>
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.

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



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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**

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**Reference No:** 21/01037/PPP  
**Planning Hierarchy:** Local  
**Applicant:** Ms Sheena Ferrand  
**Proposal:** Site for the erection of 10 dwellinghouses (as amended 23.09.2022)  
**Site Address:** Land North Of Achnagaradh Craighouse Isle Of Jura

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**DECISION ROUTE**

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

**(A) THE APPLICATION**

- (i) Development Requiring Express Planning Permission**
- Site for the erection of 10 dwellinghouses
  - Formation of vehicle access and associated parking and turning (in principle)
- (ii) Other specified operations**
- Connection to services
- 

**(B) RECOMMENDATION:**

Recommend that planning permission in principle be granted subject to the conditions and reasons attached.

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**(C) CONSULTATIONS:**

Area Roads replied 29.07.2021, with no objection subject to conditions.

Scottish Water replied 13.07.2021, noting that there may be capacity for both waste and fresh water from the Burnside plant.

NatureScot replied 17.11.2022 and updated 03.04.2023 withdrawing the original objection and stating that the proposal will have significant adverse effects on the special qualities of the Jura National Scenic Area, however after further consideration they do not feel that the objectives of the designation and overall integrity of the designation will be compromised. They advise there is capacity for

up to 3-4 carefully sited houses that are designed to minimise landscape and visual effects. Fuller commentary is given in Appendix A to this report.

Scottish Environmental Protection Agency replied 15.07.2021 with a holding objection. SEPA updated their response to no objection on 08.01.2024 on the basis that the revised confirm that all development on the site would be limited to land which is already higher than 3.96m AOD

West Of Scotland Archaeologist Service replied 10.09.2021 and updated 20.10.2022 with no objection subject to a written scheme of investigation condition.

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**(D) HISTORY:**

20/00755/PPP Site for the erection of 24 dwellinghouses, withdrawn 21.08.2020

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**(E) PUBLICITY:**

Regulation 20 advert Oban Times expired 12.08.2021.

Neighbourhood notification

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**(F) REPRESENTATIONS:**

**(i) Representations received from:**

**Objection**

- Gwen Boardman No Address Given 30.07.2021
- Rose Cochrane Forest Cottage Craighouse Isle Of Jura 24.08.2021
- Mrs Wendy Dix 8 Woodside Craighouse Isle Of Jura 11.08.2021
- Mrs Alison Fleming 1 Burnside Craighouse Isle Of Jura 13.10.2021
- Jo Gillespie 17 Armadale Street 17 Armadale Street Glasgow G31 2QT 26.07.2021
- Mrs Sheena Gow Ard Craig Craighouse Isle Of Jura 11.08.2021
- Felicity Johnson Achnagaradh Craighouse Isle Of Jura 26.07.2021 and 16.10.2021
- Jura Residents No Address Given 12.08.2021
- Miss Winnifred MacDonald 3 Cilearnan Place Craighouse Isle Of Jura 11.08.2021
- Martin McCallum The Old Mill Craighouse Isle Of Jura 27.07.2021
- Joan Moran 6 Woodside Craighouse Isle Of Jura 27.07.2021
- Louise Muir No Address Given 27.07.2021
- Dan Ozmec Carraig Craighouse Isle Of Jura 27.07.2021
- Sam Robb Bishops Well Kiels Jura PA60 7XP 26.07.2021
- Christine Sandilands Mulindry Craighouse Isle Of Jura 12.08.2021
- Ms Moira Stirling 10 Burnside Craighouse Isle Of Jura 07.08.2021
- Mr Duane Willison 4 Croft Park Craighouse Isle Of Jura 04.08.2021

**Support**

- Dr Abigail Beastall Keills Croft Keills Craighouse Isle Of Jura 04.08.2021
- Dr Martin Beastall Keills Croft Keills Craighouse Isle Of Jura Argyll And Bute 04.08.2021
- Mrs S Ferrand 1 Cilearnan Place Craighouse Isle Of Jura 27.07.2021. Applicant.



- Mrs Alison Lindsay Solas Knockrome Craighouse Isle Of Jura 04.08.2021
- Mr Terry Roberts 1 Cilearnan Place Craighouse Isle Of Jura 08.08.2021
- Flora Shaw No Address Provided 18.11.2022.
- Mr Stuart Campbell 14 Burnside A846 Through Craighouse From The Manse To The Coastguard Station Craighouse Isle Of Jura 17.11.2022

## **Representation**

- Peter Davison Whyte & Mackay Ltd 29.07.2022. Noted

Subsequent to the majority of the above representations, revised plans have been secured which have reduced the number of dwellings proposed from 16 to 10.

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

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

## Location and Nature of Proposed Development

- The details of the proposal do not give enough information to consider whether the scale of the proposal is appropriate for the site.
- It is not a small development but a housing estate which is not consistent with the character and grain of the wider settlement, and the coastline. It would extend the village boundaries further along the shoreline, having a significant visual impact on the island.
- Recent developments have focussed on land behind the main village of Craighouse, this reducing visual impact; particularly important given the proposed size of the development.
- The LDP has already identified a suitable area of development set back from the main frontage which would not have the same visual impact as the proposed development.
- The proposal is overdevelopment and not in keeping with the surrounding development, including density or orientation or scale and would not create a quality living environment.
- The scale will impinge on the natural wilderness of the island and be detrimental to climate targets.
- The proposed development is in close proximity to the primary school.
- The proposed 16 dwellings is of a very significant scale in a small community of around 250 people.
- The rocks at the entrance are of historic and geological importance.

*Comment: The proposal has been subject to discussions with planning officers to reduce the scale of housing within the site, resulting in the submission of revised plans. In relation to concerns regarding the level of information submitted; the current proposal seeks planning permission in principle only, with the detailed design and landscaping of the development reserved for later consideration. In terms of the effect of the proposal on the landscape and character and appearance of the area, this matter is considered in more detail further on in this Report of Handling, where in no harmful effect is envisaged in this regard. It is considered that the scale of the proposed development would meet the definition of 'medium scale' as required by LDP Policy DM1. Although a primary school is further south of the site, no material planning harm would arise as a result.*

## Croft Land

- The small settlements are croft based and this land should have a small scale housing arrangement consistent with crofting.
- The loss of croft land will disrupt a principle land use and settlement pattern of the island.
- The loss of privately owned Croft land will set a precedent.
- The site is crofting land.

*Comment: The above comments are noted. Matters related to Croft Land are further addressed in Appendix A.*

## Housing Need

- There is not enough information regarding the types and tenure that the housing may have.
- There is not enough information regarding the socio economic, employment, demand and supply ratios associated with the proposal.
- There is no need for the proposed housing.

- Pre-existing approvals and projects may negate the need for this development.
- There is a danger of the houses becoming short term lets or holiday homes.
- The land should be donated to a community trust to oversee suitable housing for the communities. Without such safeguards, there is a danger new housing would become holiday homes.
- Not clear what types or tenure of homes would be built.
- Conditions should be attached to any approval preventing the sell on of designated affordable housing.
- Jura does not have a declining population.
- The building costs for island development, infrastructure materials, landscaping etc; would suggest that none of these houses could be classed as affordable.

*Comment: In relation to concerns regarding the level of information submitted; the current proposal seeks planning permission in principle only; the types and tenure of housing proposed would be subject to agreement at a later stage through a detailed application. The applicant has confirmed the intention to provide affordable housing on the entire site, and a minimum of 25% affordable housing provision could be secured by way of a suitably worded planning condition. Such a condition would also prevent a proportion of the proposed homes being occupied as short term lets or holiday homes, and where necessary, a further restrictive condition could be imposed to any further approval of matters specified in condition submission. In terms of need, the Council have recently declared a 'housing emergency' which this proposed development would help address.*

## **Ecology**

- The Otter Survey seems to have been unfortunately timed as otters are seen regularly in the evening.
- This area has a diversity of species which must be unnecessarily displaced by the proposal and harm habitats. These include flora as well as fauna and particularly trees and low growing insect habitats.
- Concerns about the effect the proposal would have on wildlife, with no environmental impact study undertaken, in terms of loss of habitat and effect of the proposal in terms of surface water and outfall of sewerage treatment on marine wildlife.

*Comment: The effect of the proposal in ecological terms is considered further at Appendix A.*

## **Landscape, character and appearance**

- A development of this scale will detract from the natural landscape, wildness of Jura, heritage and designated protected areas especially the National Scenic Area (NSA).
- The proposal site is outwith the settlement boundary, extending the village further along the coastline and would have a negative effect on the surrounding area and the NSA.
- The proposed development would detract from the NSA by removing the gentle breaking down of farmland to inhabited land by development to the north of Craighouse.
- It is contrary to the findings of the Jura Landscape Capacity for Housing document.

*Comment: The effect of the proposal on landscape, character and appearance is considered further at Appendix A.*

## **Flood Risk**

- The site is low lying and given climate change predictions is likely to be affected by flooding in the future.
- The site and the road are subject to flooding.
- The introduction of hard surfaces and roof run off may exacerbate known flooding issues.
- The site is part of the raised beach formation which is important in landscape and habitat terms.
- The amount of land for parking in addition to the housing may exacerbate the flooding issues.

*Comment: Whilst the application site is outside any defined flood risk, SEPA initially raised an objection to the application, requesting that topographic evidence was submitted to demonstrate that the site would be limited to land which is higher than 3.96m AOD. Following the submission of revised plans with site levels, SEPA no longer object to the proposed development. On this basis, it is considered that withholding planning permission in principle on the basis of flood risk would not be justified. The application is for planning permission in principle, with matters of detailed design (such as parking layout) and surface water drainage arrangements to be assessed as part of the 'approval of matters specified in condition' stage.*

## **Water Supply**

- Concern that this level of development can be supplied without creating water shortage issues on the island.
- The ten houses already being built at the other side of the settlement are likely to constrain additional service supplies.
- Services are already stretched to the limit on the island and this proposal may hamper existing residents from moving from personal to public supplies.
- There will be extra strain on the sewage system.
- Concerned the proposal could jeopardise the potential for existing properties to connect to the mains water supply.

*Comment: Scottish Water have been consulted and have indicated that there may be sufficient supply for fresh and foul water. An application would be required to obtain direct permission to connect. Planning conditions in relation water supply and private waste water treatment arrangements are set out below.*

## **Woodland**

- The loss of deciduous trees is unacceptable as they are rare on the island.

*Comment: The retention of the main trees is accepted as a positive regarding habitats and biodiversity. Additionally they would be anchors for landscaping and the boundaries creation. It is noted that a small number of trees are present at the site. The application seeks planning permission in principle, as such the detailed design of the proposed development (including proposed site layout) would be assessed further at the detailed design stage. It is considered that retention of the existing trees could be secured where possible and that the site presents an opportunity to secure additional tree planting through the submission of a landscape scheme.*

## **Roads Network**

- Concerns regarding road and pedestrian safety.
- Any access from the main road may create danger for other road users.

- This is a double bend and is dangerous for all roads users at present.
- Improvements would be required for the road, passing lay-bys and parking places.
- The current road is in poor repair and the additional traffic will be detrimental to the amenity of existing residents.
- Where would visitors park?
- Parking displacement to the unsuitable main road may occur.
- Concerns about pedestrian safety. There should be proposals for pedestrian safety for this scale of development in the form of new and/or upgraded.
- Concerns regarding the cumulative effect the proposed development and other development in the area would have on the wider road and ferry network, including on the single track road.
- The provision for a bus stop is mentioned in the Roads report but there does not appear to be a suitable site.
- The additional traffic may affect existing fuel supplies, local transport and ferry transport.

*Comment: The Council's Road's department have been consulted and have raised no objection to the proposed development, subject to planning conditions. Sufficient parking provision would also be secured by planning condition. The provision of a bus stop is required by the Roads Department, who have raised no concerns in relation to identifying a suitable site for a bus stop. The effect of the proposal on fuel supplies is not considered a determinative planning consideration.*

- The increase in traffic during the lengthy construction phase involving a single track road with no footpath or cycle path is of concern, particularly the safety of children walking or cycling to and from school.
- The construction phase if piecemeal will form a lengthy period of disruption to the island's traffic.

*Comment: Conditions requiring the submission of construction and traffic movement plans could be attached to any approval to help address these concerns.*

### **Other concerns**

- Formation of an access will disturb a historic rock formation.

*Comment: It is intended that the development will be on the higher central ground of the therefore minimising ground levelling. The proposed development would not alter rock formations to east of the site.*

- The proposal would undermine the enthusiasm and ability of local groups to deliver a planned cycle path.
- The current ferry cannot cope with the additional traffic.

*Comment: Based on the available evidence, it is considered that withholding planning permission on the basis of ferry capacity and any planned cycle path would be unjustified.*

- Headlights from traffic movements, noise and smell from vehicles will be a loss of amenity for neighbours.

*Comment: It is considered that traffic movements associated with ten houses along the local road network are unlikely to materially harm the health or living conditions of surrounding occupants.*

- The proposed works would result in pollution of the soil due to excavations and required infrastructure works.

*Comment: No substantive evidence has been submitted to demonstrate that the proposed would pollute soil nor polluted soil be exposed as part of the proposed development. More generally, a standard planning condition would ensure that soil management at the site is undertaken in accordance with established best practice to meet the requirements of NPF4 Policy 5A.*

- Concerns regarding public consultation. There has been no opportunity for wider consultation since the previous application was withdrawn.

*Comment: Neighbour notification and an advert in a local newspaper has been undertaken in association with the planning application as required by planning regulation.*

- The capacity of the local school and travel capacity to the high school require to be addressed.

*Comment: Noted. As this is permission in principle the demographics of future residents are not available at this time.*

- There will be a loss of amenity due to potential overlooking of neighbouring properties.

*Comment: Officers have no concerns regarding the principle of housing development at the site in relation to the potential for the loss of neighbouring privacy. This would be dependent on the satisfactory siting, design and orientation of the proposed houses, matters that would be considered as part of any subsequent detailed design submission.*

- The site of the proposal would create an isolated community and not strengthen the existing communities.

*Comment: The proposed development would be sited adjacent to and would afford future occupants access to Craighouse. As such, officers consider future occupants of the proposed development would be able to contribute to existing communities in the area and not become an isolated community as asserted.*

- The associated increase in population (including cumulatively with other approved development) will negatively impact the island environmentally and socially.
- The proposal would undermine why people want to live and visit Jura.
- The proposal would increase unemployment at the Island.
- Consider that 4-6 houses would be suitable for the location without compromising the surrounding areas.
- Concerns that the proposal would set a precedent for the scale of development.
- 

*Comment: The Council has declared a housing emergency which this proposed development would help address. No substantive evidence has been submitted to demonstrate that the proposed development would negatively impact the island in environmental and/or social terms or as a place where people want to live and visit. With regards to precedent and the site being considered suitable for a smaller number of homes; the planning authority must determine each application on its own merits.*

## **Infrastructure**

- Concerns in relation to water supply issues in the area, sewerage capacity, road maintenance, schools, community shop, mail delivery, waste collection, health and social care services, and that the effects on local infrastructure have not been taken into account.

*Comment: No substantive evidence has been submitted to demonstrate that local infrastructure is unable to accommodate the proposed development. It is noted that an additional 10 dwellings represent in comparative terms an appreciable increase in occupants residing at Craighouse. However, based on the available evidence, the proposed development could be accommodated by existing infrastructure provision. As noted above, the detailed design stage would give a greater understanding of the demographics of future occupants. If necessary and where justifiable, a contribution towards appropriate schooling provision could be sought from the applicant.*

### **Support**

- The island does not have the required range and tenure of accommodation to sustain the required populations.

*Comment: Noted.*

- The new architect and team is engaging with all relevant actors and consultees.

*Comment: Noted.*

- The location is well placed to access the main services on the island.

*Comment: Noted.*

- The site lends itself to development without excessive land preparation.

*Comment: The level of preparation will be controlled by consultation with the council officers with the intention of minimising habitats and landform disruption.*

- There were few objections to other recent developments of similar density on the island.

*Comment: Noted.*

- Recent population increases are welcomed but there is little scope for young adults to access the existing market and outbid new islanders.

*Comment: Noted.*

- The infrastructure improvements of the development are to be welcomed and current services are generally sufficient to accommodate new housing.

*Comment: Noted.*

- Additional services including digital infrastructure are to be welcomed.

*Comment: Noted.*



**(G) SUPPORTING INFORMATION**

Has the application been the subject of:

- (i) **Environmental Impact Assessment Report:**  Yes  No (if Yes insert EIAR topics below)
- (ii) **An Appropriate Assessment under the Conservation (Natural Habitats) Regulations 1994:**  Yes  No (if Yes attach as an appendix)
- (iii) **A Design or Design/Access statement:**  Yes  No (if Yes insert summary of key issues below)
- Descriptions and commentaries on: site details, phase 1 habitats report, topography, history, ownership, Jura landscape capacity study for housing, settlements/landscape character and change, housing demand, design principles, public involvement and design solutions.
- (iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:**  Yes  No (if Yes list supporting documents below)

An otter survey was undertaken by the applicant and will be referenced in the appendix to the report.

**(H) PLANNING OBLIGATIONS**

- Is a Section 75 agreement required:**  Yes  No (if Yes insert details of the terms and heads of agreement and grounds for refusal if not completed within 4 months below)
- The application is for permission in principle and therefore an agreement regarding contributions towards a minimum of two affordable homes (20%) and attendant infrastructure for this proposal is required should permission in principle be approved.

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

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

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

[National Planning Framework 4 \(Adopted 13<sup>th</sup> February 2023\)](#)



## **Part 2 – National Planning Policy**

### **Sustainable Places**

- NPF4 Policy 01 – Tackling the Climate and Nature Crises
- NPF4 Policy 02 – Climate Mitigation and Adaption
- NPF4 Policy 03 – Biodiversity
- NPF4 Policy 04 – Natural Places
- NPF4 Policy 05 – Soils
- NPF4 Policy 06 – Forestry, Woodland and Trees
- NPF4 Policy 07 – Historic assets and places
- NPF4 Policy 09 – Brownfield, Vacant and Derelict Land and Empty Buildings  
*(includes provisions relevant to Greenfield Sites)*
- NPF4 Policy 12 – Zero Waste
- NPF4 Policy 13 – Sustainable Transport

### **Liveable Places**

- NPF4 Policy 14 – Design, Quality and Place
- NPF4 Policy 15 – Local Living and 20 Minute Neighbourhoods
- NPF4 Policy 16 – Quality Homes
- NPF4 Policy 17 – Rural Homes
- NPF4 Policy 18 – Infrastructure First
- NPF4 Policy 20 – Blue and Green Infrastructure
- NPF4 Policy 22 – Flood Risk and Water Management

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

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

Local Development Plan Schedules

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

### **Natural Environment**

- SG LDP ENV 1 – Impact on Habitats, Species and our Biodiversity
- SG LDP ENV 6 – Impact on Trees / Woodland
- SG LDP ENV 7 – Water Quality and the Environment (riparian)
- SG LDP ENV 11 – Protection of Soil and Peat Resources

### **Landscape and Design**

- SG LDP ENV 12 – Impact on National Scenic Areas (NSAs)
- SG LDP ENV 14 – Landscape

### **General Housing Development**

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

SG LDP HOU 2 - Special Needs Access Provision in Housing Developments

## **Sustainable Siting and Design**

SG LDP Sustainable – Sustainable Siting and Design Principles

## **Resources and Consumption**

SG LDP SERV 2 – Incorporation of Natural Features / SuDS

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

SG LDP SERV 9 – Safeguarding Better Quality Agricultural Land

## **Addressing Climate Change**

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

## **Transport (Including Core Paths)**

SG LDP TRAN 3 – Special Needs Access Provision

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

SG LDP TRAN 6 – Vehicle Parking Provision

SG LDP PG 1 – Planning Gain

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

- Third Party Representations
- Consultation Responses
- Planning History
- [ABC Technical Note 1 – Masterplanning \(June 2016\)](#)
- [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 (13<sup>th</sup> 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**

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- Policy 05 – Design and Placemaking
- Policy 06 – Green Infrastructure
- Policy 08 – Sustainable Siting
- Policy 09 – Sustainable Design
- Policy 10 – Design – All Development

**Connected Places**

- Policy 34 – Electric Vehicle Charging Points
- Policy 35 – Design of New and Existing, Public Roads and Private Access Regimes
- Policy 36 – New Private Accesses
- Policy 38 – Construction Standards for Public Roads
- Policy 39 – Construction Standards for Private Accesses
- Policy 40 – Vehicle Parking Provision

**Sustainable Communities**

- Policy 55 – Flooding
- Policy 61 – Sustainable Urban Drainage Systems (SUDS)
- Policy 63 – Waste Related Development and Waste Management

**Homes for People**

- Policy 66 – New Residential Development on Non-Allocated Housing Sites within Settlement Areas
- Policy 67 – Provision of Housing to Meet Local Needs Including Affordable Housing
- Policy 68 – Housing Greenspace

**High Quality Environment**

- Policy 70 – Development Impact on National Scenic Areas (NSA's)
- Policy 77 – Forestry, Woodland and Trees
- Policy 78 – Woodland Removal
- Policy 79 – Protection of Soil and Peat Resources
- Policy 83 – Safeguarding Agricultural and Croft Land

Local Development Plan 2 Schedules

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

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

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**(M) Has a Sustainability Checklist been submitted:** Yes No (if Yes provide detail below)

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**(N) Does the Council have an interest in the site:** Yes No (if Yes provide detail below)

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

It is acknowledged that the number of objections received is notable comparative to the size of Craighouse. However, this is a 'local' application that accords with the development plan, and it is considered that the proposal does not raise complex or novel issues that require discussion by way of hearing. As such, it is considered unlikely that a pre-determination hearing would add significant value to the decision making process.

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

- Jura National Scenic Area
- SEPA flood zones (River and Coastal)
- WoSAS archaeological trigger

**(P)(ii) Soils**

Agricultural Land Classification:

Class 5.10 Improved Grassland. This refers mainly to the northerly section of the site.

Peatland/Carbon Rich Soils Classification:

- Class 1  
Class 2  
Class 3  
N/A

Peat Depth Classification:

N/A

Does the development relate to croft land?

Yes No

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

Yes No N/A

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

Yes No N/A

**(P)(iii) Woodland**

Will the proposal result in loss of trees/woodland?  
 (If yes, detail in summary assessment)

Yes  
No

Does the proposal include any replacement or compensatory planting?

Yes  
No details to be secured by condition  
N/A

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

Status of Land within the Application

- 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**

*Background*

The application was originally submitted for the erection of 16 dwelling houses. Subsequent to the majority of the above representations, revised plans have been secured which have reduced the scale of development to 10 dwellings. It is on this basis that the proposed development has been assessed.

*Assessment overview*

Of relevance, NPF4 Policy 9 sets out that proposals on greenfield sites will not be supported unless the site is explicitly supported by policies in the LDP. NPF4 Policy 17c) sets out that new homes in remote rural areas will be supported where it supports and sustains existing fragile communities, supports identified local housing outcomes and is suitable in terms of location, access and environmental impact.

NPF4 Policy 16f) sets out that new homes on land not allocated for housing in the LDP will only be supported in limited specified circumstances, which of relevance includes where there is an agreed timescale for build out; where the proposal is consistent with the plan spatial strategy and policies such as local living, and where the proposal is consistent with policy on rural homes. The concept of Local Living is further detailed in NPF4 Policy 15.

The development is located within the Key Rural Settlement of Craighouse/Keils as defined in the LDP wherein Policy DM 1 sets out encouragement for up to medium scale sustainable forms of development on appropriate sites. The application site remains within the settlement boundary of Craighouse/Keils in LDP2.

SG LDP Policy HOU 1 defines 'medium-scale' as housing development not exceeding 30 dwelling units. As such, subject to an agreed build out timescale secured by a planning condition, the proposal would meet the requirements of NPF4 Policy 16f).

It is considered that the medium scale of the proposed development and its location would reasonably comply with policies 2a), 15 and 17c) of NPF4 given its compliance with the existing settlement pattern and the level and quality of interconnectivity of the proposed development with the surrounding area where people can reasonably meet the majority of their daily needs within a reasonable distance of their home and support the community. This is underpinned by the broad settlement strategy policy contained within Policy LDP DM 1, LDP 8, LDP 10 and LDP 11 of the LDP.

Drawing the above together, the principle of residential development at the site is considered acceptable in principle, subject to acceptability of the detailed matters assessed further in Appendix A to this report, which includes commentary with regards to relevant policies.

Although within the settlement boundary, there have been concerns regarding over development of the site raised in representations as summarised above. In the context of Jura and Craighouse, it is noted that the ten proposed dwellings would be a notable increase in built form and in terms of its associated population increase. However, for the reasons set out in Appendix A, officers are of the view that there are no significant land use related impediments to granting planning permission in principle for the proposed development. This includes in relation to the effect of the proposed development on the National Scenic Area, which, notwithstanding the concerns raised, has not been met with by an objection from NatureScot. This matter is assessed in further detail at Appendix A.

Based on the available evidence, the proposed development would be located on croft land. However, for the reasons set out in Appendix A, as the proposed development would not conflict with development plan policies related to croft land, it is not considered the loss of croft land is a determinative issue in this case

SEPA requested further information regarding the layout of the proposed site to ascertain its relationship with the flood risk area. The submission of a revised site plan incorporating a topographical survey has allayed the initial concerns of SEPA, who no longer object to the proposed development.

However, securing a high quality design and landscaping scheme, alongside an appropriate scale, mass, and layout for the proposed development will be critical to the acceptability of the proposed development at the detailed design stage. Noting that land to the immediate north of the site is within the applicant's ownership, it is considered that further space exists to deliver a high quality strategic landscape scheme to help further consolidate the built form of the proposed development with Craighouse and ease the transition to the wider countryside. Such matters could be sufficiently controlled by planning conditions.

The applicant has indicated that the intention is for all ten houses to be affordable which is in excess of that required by development plan policies. In line with planning policy, 25% of the total units proposed could be secured as affordable housing by way of planning condition, which would not preclude delivery above this requirement.

In ecological terms, the site is near to a number of protected sites and the planning application has been accompanied by Preliminary Ecological Appraisal and Otter Survey. However, NatureScot have raised no objection to the proposed development on ecological grounds whilst the noted supporting information does not raise any issue that could not be addressed by suitably worded planning

conditions, noting that matters of site layout and design are reserved for later consideration.

The roads department have raised no objection to the proposed development, subject to planning conditions, which are appended to this report.

Overall, subject to appropriately worded planning conditions, the proposed development would be consistent with the relevant provisions of the development plan. As such, it is recommended that planning permission in principle is granted for the proposed development.

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

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

The proposal is considered to be consistent with the relevant provisions of the Development Plan, and there are no other material considerations of sufficient significance to indicate that it would be appropriate to withhold planning permission having regard to s25 of the Act.

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

None

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

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**Author of Report:** Derek Wilson **Date:** 01.02.2024

**Reviewing Officer:** Bryn Bowker **Date:** 09.02.2024

**Fergus Murray**  
**Head of Development & Economic Growth**

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 21/01037/PPP****Standard Time Limit Condition** (as defined by Regulation)**Standard Condition on Soil Management During Construction****Additional Conditions****1 PPP - Approved Details & Standard Notes – Non EIA Development**

Plans and particulars of the matters specified in conditions 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 below shall be submitted by way of application(s) for Approval of Matters Specified in Conditions in accordance with the timescales and other limitations in Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended. Thereafter the development shall be completed wholly in accordance with the approved details.

Reason: To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended.

**2. PPP - Approved Details & Standard Notes – Non EIA Development**

The development shall be implemented in accordance with the details specified on the application form dated 12.05.2021, supporting information and, the approved drawings listed in the table below unless the prior written approval of the planning authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Plan Title.	Plan Ref. No.	Version	Date Received
Location maps and croft plan	599/01		04.10.2023
Site Survey Plan	599/03		29.09.2023
Revised floor levels houses 9 and 10		1 of 2	19.01.2024

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

**3 PPP - Provision of Adoptable Standard Service Road**

Pursuant to Condition 1. – no development shall commence until details of the proposed service road and connection with the existing public road have been submitted to and approved by the Planning Authority. Such details shall incorporate:

- i) A vehicular access layout providing a Road over which the public has a right of access in terms of the Roads (Scotland) Act 1984;
- ii) A junction with the existing public road formed with visibility splays of 2.40 metres to point X by 75 metres to point Y formed from the centre line of the junction;
- iii) A bus bay to be incorporated into the junction design with hardstanding on constructed opposite the junction to provide for a bus drop off point;



- iv) The junction of adoptable standard development road is to be sited no closer than 25 metres from the nearest existing junction;
- v) The development road is to have either 2.00 metre wide footways or 2.00 metre wide service strips;
- vi) The development road is to be no less than 5.50 metres wide;
- vii) A turning head for the public service vehicle at the end of the adoptable standard road;
- viii) Roads design to incorporate Sustainable Urban Drainage (SuDS);
- ix) Hardstanding for the provision of two grit bins;
- x) Details for the provision of two village gateway signs to erected on the public road;
- xi) Details for the provision of pedestrian on road signage to be provided and erected between the development site;
- xii) Details for the provision of the existing public road verge to be widened out to provide safe step offs for pedestrians between the development and Craighouse School;
- xiii) Details for the provision of road name signs.

Prior to work starting on site, the junction with the existing public road shall be fully formed and surfaced and the visibility splays shall be cleared of all obstructions such that nothing shall disrupt visibility from a point 1.05 metres above the junction at point X to a point 0.6 metres above the public road carriageway at point Y. The visibility splays shall be maintained clear of all obstructions thereafter.

All access roads, footways and step offs granted consent shall be constructed to at least base course level prior to any work starting on the erection of the buildings which they are intended to serve and the final wearing surface of the roads, footways and step offs shall be applied concurrently with the construction of the final building.

Reason: In the interests of road safety and to ensure the timely provision of a service road commensurate to the scale of the overall development and having regard to the status of the proposed access as a residential service road.

Note to Applicant:

Road Construction Consent under the Roads (Scotland) Act 1984 must be obtained from the Council's Roads Engineers and a Road Bond provided prior to the formation of the access within the development site.

#### 4. **PPP – Access/Parking/Turning for Multiple Buildings served by an Adoptable Road**

Pursuant to Condition 1 – no development shall be commenced in respect of any individual building until plans and particulars of the means of vehicular access and

parking/turning arrangements to serve that building have been submitted to and approved by the Planning Authority. Such details shall incorporate:

- i) Means of vehicular access to that building from the service road shall be formed with junctions of 90 degrees with visibility splays of 2.40 metres to point X by 25 metres to point Y formed from the centre line of the junction or provision of 2.5m by 5m parking bays located behind any footway/service strip;
- ii) The provision of parking and turning in accordance with the requirements of policy LP TRAN 6 and Appendix C of the Argyll and Bute Local Development Plan 2015.

The approved means of vehicular access to the building shall be implemented in full prior to the commencement of construction of the development which the access is intended to serve and the visibility splays shall be cleared of all obstructions such that nothing shall disrupt visibility from a point 1.05 metres above the junction at point X to a point 0.6 metres above the public road carriageway at point Y. The visibility splays shall be maintained clear of all obstructions thereafter.

The approved parking and turning layout to serve the building shall be implemented in full prior to that building first being occupied and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

Reason: In the interests of road safety.

Note to Applicant:

Any parking bays provide will not be adopted.

## 5. **PPP BUILDING SITING, DESIGN & FINISHES – MULTIPLE BUILDINGS**

Pursuant to Condition 1 – no development shall commence until plans and particulars of the site layout, design and external finishes of the development for up to 10 dwellings within that plot have been submitted to and approved by the Planning Authority. These details shall incorporate:

- i) A statement addressing the Action Checklist for developing design contained within the Argyll and Bute Sustainable Design Guide 2006;
- ii) A statement addressing how the proposed development has been designed to be consistent with the six qualities of successful places, as defined within Policy 14 of NPF4;
- iii) Local vernacular design;
- iv) Maximum of 1.5 storeys in design;
- v) Rectangular footprint no greater than 100 square metres;
- vi) External building span no greater than 15 metres;
- vii) Symmetrically pitched roof angled between 37 and 42 degrees finished in natural slate or good quality artificial slate;
- viii) External walls finished in natural stone or wet dash render or, a mixture of both;
- ix) Details of finished ground floor levels relative to an identifiable fixed datum located outwith the application site;
- x) Windows to have a vertical and symmetrical orientation.

xi) A design and site layout that reflects the findings of survey work associated with condition no 11 below, relating to reptile, amphibians, and bat roost(s), including biodiversity enhancement measures.

Reason: To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended, and in order to integrate the proposed dwellinghouse with its surrounds.

Note to applicant: The application lies with an NSA wherein the ability to achieve a development that respects this designation is dependent on a comprehensive and coherent high quality layout and design for the site as a whole. This should be reflected in any submission to meet the terms of this AMSC, with pre-submission discussions with planning officers strongly encourage to help achieve this objective.

## 6. PPP – Full Landscaping Scheme

Pursuant to Condition 1 – no development shall commence until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved by the Planning Authority. The scheme shall comprise a planting plan and schedule which shall include details of:

- i) Existing and proposed ground levels in relation to an identified fixed datum;
- ii) Existing landscaping features and vegetation to be retained;
- iii) Location design and materials of proposed walls, fences and gates;
- iv) Proposed soft and hard landscaping works including the location, species and size of every tree/shrub to be planted;
- v) A biodiversity statement demonstrating how the proposal will contribute to conservation/restoration/enhancement of biodiversity, and how these benefits will be maintained for the lifetime of the development;
- vi) A programme for the timing, method of implementation, completion and subsequent on-going maintenance.
- vii) Identified areas of strategic landscaping with details of proposed management arrangements; to include areas to the eastern section of the site and land to the north of the application site as a minimum.

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

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

The biodiversity statement should refer to [Developing with Nature guidance | NatureScot](#) as appropriate.

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

Note to applicant: The application lies with an NSA wherein the ability to achieve a development that respects this designation is dependent on a comprehensive and

strategic high quality landscaping scheme with management arrangements. This should be reflected in any submission to meet the terms of this AMSC with pre-submission discussions with planning officers strongly encourage to help achieve this objective.

**7. PPP – Surface Water Drainage – Further detail required**

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

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

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

**8. PPP – Archaeological Watching Brief**

Pursuant to Condition 1 - no development or ground breaking works shall commence until a method statement for an archaeological scheme of investigation has been submitted to and approved by the Planning Authority in consultation with the West of Scotland Archaeology Service. The method statement shall be prepared by a suitably qualified person and shall provide for the recording, recovery and reporting of items of interest or finds within the application site. Thereafter the development shall be implemented in accordance with the duly approved details with the suitably qualified person being afforded access at all reasonable times during ground disturbance works.

Reason: In order to protect archaeological resources.

**9 PPP - AFFORDABLE HOUSING**

Pursuant to Condition 1. - no development shall commence until a scheme for the provision of affordable housing (as defined below) has been submitted to and approved by the Planning Authority. The scheme shall:

- a) Provide that a minimum of 25% of the approved dwellings are affordable homes;
- b) Define those properties to be used as affordable homes;
- c) Establish the timing of their provision relative to the phasing of the development, which shall ensure that the last 25% of the dwellings within the development are not commenced until the affordable housing phase has been completed for occupation;
- d) Establish the arrangements to ensure the affordability of the affordable homes for both initial and subsequent occupiers (including any discount rate applicable in terms of (ii) below);

For the purposes of this condition 'affordable homes' are defined as being either:

- i) Social housing (rented or shared ownership or shared equity) managed by a registered social landlord (a body registered under part 3 chapter 1 of the Housing (Scotland) Act 2001, or any equivalent provision in the event of the revocation and re-enactment thereof, with or without modification);
- ii) Discounted low cost sale housing (subject to a burden under the Title Conditions (Scotland) Act 2003), or any equivalent provision in the event of the revocation and re-enactment thereof, with or without modification).
- iii) Housing for sale or rent without subsidy, which is designed to be affordable and to meet the housing needs of the majority of those households identified as in housing need in the Local Housing Strategy or Housing Market Study i.e. one or two person households on average income, with conditions attached to their missives to prevent further extension, thereby helping to ensure that they are likely to remain affordable to subsequent purchasers.

The development shall be implemented and occupied thereafter in accordance with the duly approved scheme for affordable housing.

Reason: To accord with the provisions of the development plan in respect of affordable housing provision.

- 10 Prior to the commencement of development, a pre-construction survey shall be carried out in respect of otters to checks for any new holts or resting places that may have become occupied after the original survey. This pre-construction survey should be completed as close to the construction period as possible and no more than 3 months before the start of work. Full details of the pre-construction survey shall be submitted to and approved in writing by the planning authority prior to the commencement of development.

**11 PPP– Pre-commencement Survey**

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

Reason: In the interests of protected species and nature conservation.

- 12 No construction works shall be commenced until a Construction Environmental Management Plan (CEMP) and a Site Waste Management Plan (SWMP) have been submitted to and approved in writing by the Planning. The CEMP shall inform the production of construction method statements, and shall specify the siting of working areas, management practices and measures to prevent pollution of the water environment. The CEMP shall also include a project specific Surface Water Management Plan with appropriate protocols in place for the prevention of pollution entering the sea during construction.

The SWMP shall identify all waste streams arising from construction and proposals for their mitigation, including materials excavated on site and shall also provide details of the proposed arrangements for the storage, segregation, collection and recycling of waste arising during the operational phase of the development. The

CEMP shall also include otter mitigation as detailed in section 5.0 of the Otter Survey Report undertaken 26<sup>th</sup> July 2021 and provision for pre-start walk overs to check for ground nesting birds.

Reason: In the interests of pollution prevention, sustainable waste management and protected species.

- 13 No development shall commence until full details of a scheme for the eradication of Rhododendron Ponticum has been submitted to and approved in writing by the Planning Authority. The scheme shall include a timetable for implementation and clearly identify the extent of the Rhododendron Ponticum on a scaled plan.

The scheme shall be implemented in accordance with duly approved details, and prior to the commencement of development, a validation report confirming details of the remediation treatment that has been carried out and that the site is free of Rhododendron Ponticum shall be submitted to and approved in writing by the Planning Authority.

Reason: To eradicate Rhododendron Ponticum from the development site and to prevent the spread of this non-native invasive species through development works.

- 14 **PPP – Timescale to be Agreed for Completion**

Pursuant to Condition 1. – no development shall commence until details of the proposed timescale for completion of the approved development have been submitted to and approved by the Planning Authority. Thereafter, the development shall be implemented in accordance with the duly approved timescale for completion unless an alternative timescale for completion is otherwise agreed in writing with the Planning Authority.

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

- 15 **PPP – Tree Retention and Protection**

No development shall commence until a scheme for the retention and safeguarding of trees during construction has been submitted to and approved by the Planning Authority. The scheme shall comprise:

- i) Details of all trees to be removed and the location and canopy spread of trees to be retained as part of the development;
- ii) A programme of measures for the protection of trees during construction works which shall include fencing at least one metre beyond the canopy spread of each tree in accordance with BS 5837:2005 “Trees in Relation to Construction”.

Tree protection measures shall be implemented for the full duration of construction works in accordance with the duly approved scheme. No trees shall be lopped, topped or felled other than in accordance with the details of the approved scheme unless otherwise approved in writing by the Planning Authority.

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

**16 PPP – Availability of Connection to Public Water Supply**

No development shall commence on site until authorisation has been given by Scottish Water for connection to the public water supply. Confirmation of authorisation to connect shall be provided in writing to the Planning Authority before commencement of development.

Reason: To ensure that the development is adequately served by a public water supply.

Note to Applicant:

In the event that a public water supply connection cannot be obtained an alternative private water supply would constitute a material amendment requiring the submission of a further planning application.

**17 PPP – Details of New Private Foul Drainage System**

Pursuant to Condition 1 – no development shall commence until details of the proposed means of private foul drainage to serve the development have been submitted to and approved by the Planning Authority.

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

Reason: To ensure that an adequate means of foul drainage is available to serve the development.

Note to Applicant:

Private drainage arrangements are also subject to separate regulation by Building Standards and SEPA.

**NOTE TO APPLICANT (Copy Informative Notes to Uniform Decision Tab)**

- Regard should be had to the West of Scotland Archaeology Service's consultation comments in respect of the proposed development.
- A Road Opening Permit under the Roads (Scotland) Act 1984 must be obtained from the Council's Roads Engineers prior to the formation/alteration of a junction with the public road.
- The access shall be constructed and drained to ensure that no surface water is discharged onto the public road.
- Road Construction Consent under the Roads (Scotland) Act 1984 must be obtained from the Council's Roads Engineers and a Road Bond provided prior to the formation of the access within the development site.
- All proposed developments require to submit a Pre-Development Enquiry (PDE) Form to be submitted directly to Scottish Water via their Customer Portal prior to any formal Technical Application being submitted. This will allow us to fully appraise the proposals. Where it is confirmed through the PDE process that mitigation works are necessary to support a development, the cost of these works is to be met by the developer, which Scottish Water can contribute towards through Reasonable Cost Contribution regulations.



<b>COMMITTEE REPORT</b>	
<b>APPENDIX A – RELATIVE TO APPLICATION NUMBER:</b>	21/01037/PPP
<b>PLANNING LAND USE AND POLICY ASSESSMENT</b>	

## 1. Principle

- 1.1. Planning permission in principle is sought for 10 dwellings on open land to the north of Craighouse. The site is approximately 0.82 hectares in size, surrounded by an open field to the immediate north, detached dwellings to the south, a raised woodland belt to the immediate west, and the sea to the east, intervened by the A846.
- 1.2. Of relevance, NPF4 Policy 09 sets out that proposals on greenfield sites will not be supported unless the site is explicitly supported by policies in the LDP. For planning purposes, the site is located within the settlement boundary of Craighouse, defined as a Key Rural Settlement by the Local Development Plan (LDP Policy DM1). The site remains located within the settlement area of Craighouse, with reference to LDP2, which, given its advanced stage (see Section J of the report above), represents a material consideration of significant weight.
- 1.3. Policy DM 1 sets out encouragement for sustainable forms of development, including for up and including medium scale development on appropriate sites. SG LDP Policy HOU 1 defines 'medium-scale' as housing development between 6 and 30 dwelling units. Although the site is not specifically for housing, the 10 dwelling units as proposed would fall into the definition 'medium-scale'.
- 1.4. It is considered that the small scale of the proposed development and its location would reasonably comply with policies 02a, 15 and 17c) of NPF4 given its compliance with the existing settlement pattern and the level and quality of interconnectivity of the proposed development with the surrounding area where people can reasonably meet the majority of their daily needs within a reasonable distance of their home and support the community. This is underpinned by the broad settlement strategy policy contained within Policy LDP DM1, LDP 8, LDP 10 and LDP 11 of the LDP.
- 1.5. NPF4 Policy 16f) sets out that new homes on land not allocated for housing in the LDP will only be supported in limited circumstances, which of relevance includes where there is an agreed timescale for build out; where the proposal is consistent with the plan spatial strategy and policies such as local living, and where the proposal is consistent with policy on rural homes. Based on the preceding paragraphs, the proposed development is consistent with the plan spatial strategy whilst an agreed timescale for build out can be secured by an appropriately worded planning condition.
- 1.6. The site is located on croft land (Crofting Commission Reference A0495) and of relevance NPF4 Policy 5b) seeks to ensure that land that is culturally important for priority use, as identified by the LDP, will only be supported where it meets exceptions it sets from criteria i) to iv). SG LDP SERV 9 is also of relevance which seeks to ensure new development proposals minimise the loss of better quality agricultural land including croft land. This policy goes onto state that development will not be supported where it would result in the loss of better agricultural land; the fragmentation of field systems and the loss of access to better quality agricultural land. Should development fail to meet this criteria, the policy does onto set out that the applicant would need to adequately demonstrate that there exists a proven and justified significant economic, environmental or social wider community interest to allow the development to proceed; and there is no alternative viable

land outwith the croft land for the development to proceed. Emerging LDP2 Policy 83 broadly reflects the requirements of SG LDP SERV 9.

- 1.7. In response, the applicant has set out that the main croft comprises an area of approximately 11.8ha and that the proposed site is roughly 0.8ha, consisting of rocky, uneven and overgrown scrubland. Due to the historical and current condition of the site, the applicant states that it has never been used for any crofting or agricultural use and would have no adverse effect on the croft. As the site is part of a larger field which is accessed separately, the applicant considers that the proposal would not result in the fragmentation of field systems nor loss of access to field systems. Taking into account the condition of the site, comprising vegetated Marsh land and the points raised by the applicant, officers consider that an acceptable case has been put forward to demonstrate that the proposal would not result in the loss of functional croft land nor conflict with the above noted planning policies.
- 1.8. Drawing the above together, the principle of residential development at the site is considered acceptable in principle, subject to acceptability of the detailed matters set out below.

## **2. Landscape character and appearance**

- 2.1 The site is located within the Jura National Scenic Area (NSA) in recognition of its nationally important scenic value. As such SG LDP Policy ENV 12 and NPF4 Policy 4c) apply, which combined broadly seek to resist development that would have an adverse effect on the integrity of the designation or that would undermine its Special Qualities.
- 2.2 Concerns have been raised by interested parties regarding the effect of the proposal on the NSA. In addition, NatureScot have issued a revised consultation response to the application which, although withdraws a previous objection, raises concern that the proposal would have a significant adverse effect on the Special Qualities of the NSA: albeit they note that the objectives and overall integrity of the designation would not be compromised.
- 2.3. In reaching this view, two Special Qualities of the NSA are identified, namely SQ 2 (Human settlement on the margins of a vast moorland terrain) and SQ 3 (A continually varying coast). NatureScot do not raise any concerns in respect of the other Special Qualities, and officers have no substantive reasons to consider the other Special Qualities are live issues in this case.
- 2.4. The site is open and vegetated with bracken and marshy grassland with some trees, which combined visibly distinguishes it from the open grass fields to the north of the site. The site itself terminates the linear pattern of development that characterises Craighouse. Of relevance, the Island of Jura Landscape Capacity Study for Housing (undertaken by Alison Grant, Landscape Architect), sets out that the approach to Craighouse from the north is characterised by travelling round a subtle promontory of land which defines the extent of the settlement, revealing the extent of the village, where buildings are orientated east towards the bay. The study identifies the site as comprising improved grassland fields, along with fields to the immediate north of the site. It also identifies the site as forming part of a constraints area, setting out that development which continues northwards will elongate the settlement beyond the subtle promontory with outlying houses feeling remote from the village centre, with further expansion encroaching upon the setting of the manse and other buildings groups.
- 2.5. Development in Craighouse is predominantly one property in depth (although examples of plots with greater number of property depth exist) which follows a lower land level

corridor running north alongside this section of the eastern coast of Jura. Properties are mostly single storey in height, although two storey dormer detached properties are within the site vicinity. Further north of the site, development is significantly spaced apart and set back from the A846.

- 2.6. It is considered that the site contributes positively to the transition of the built form from Craighouse to the open countryside, appreciable in approaches north and south bound along this stretch of the road. The proposal will bring the built form of Craighouse further north and closer to Bishop Well and The Manse, and would be noticeable before the gentle turn of the A846 into Craighouse when travelling south bound. However, as noted above, the site's marshy and vegetated appearance serves to visually distinguish it from the open fields/improved grassland to the north of the site (identified by the Landscape Capacity Study), and which characterise this part of the countryside. As such, in landscape terms, the proposed development would not result in the harmful loss of a feature that typifies the landscape character of the surrounding area. Furthermore, the site occupies a relatively sheltered location below raised land to the west, and would be seen against the backdrop of, and as an extension to, the existing built form of Craighouse. On this basis, the effect of the proposal in landscape terms is considered to be localised and of no material significance to the wider NSA.
- 2.7. Based on the submitted layout, the depth of built form would be broadly perceived as three blocks, orientated in a variety of ways, facing east, north and south, bounded and contained by existing landscape features comprising an existing woods, burn and farmland. It is considered that any detailed design proposal would be able to have a design which maintains roof ridge lines below the bounding tree lines thus reducing its wider visibility. The design of the access and shared road also allows for the full reveal of the proposal once within the site as the positioning and orientation will allow only moderate reveals of each building passing by.
- 2.8. The proposed depth and layout of built form would not be out of character with the pattern of development at Croft Park further south at Craighouse. In addition, the proposal, including parking and other ancillary works, would be set back into the plot; particularly at the northern portion of the site frontage (in response to flood risk related concerns raised by SEPA). As the applicant owns land to the immediate north of the site, a comprehensive landscaping scheme could be secured to help further define the northern edge of the settlement, which alongside the remaining fields to the north, would ensure that the setting of the manse and buildings groups are not unduly encroached. Owing to these factors, it is considered that the proposed development could be accommodated in a way that retains a successful transition of Craighouse into the countryside to the north.
- 2.9 Keils Conservation area is about 400m from the proposal site and around 15m in elevation above it. There is a low ridge which has been identified in a housing capacity study as obscuring Craighouse from Keils and vice versa. This ridge has a mature tree plantation. Under NPF4 policy, adverse effects on native woodlands of high biodiversity value are resisted. However, there is no intention in this proposal to remove or impact on these trees.
- 2.10 The ridge and its approaches ensures that long views from Keils to the coast and the small Isles are maintained and not interrupted. The scale and massing of the proposed development would not alter or intrude on these views. It is accepted by officers that development should avoid breaching the prominent wooded ridge (raised beach) which provides well defined containment to this western edge of the settlement, as well as providing visual separation from Keils.

- 2.11 However, officers are of the view that the scale, form, layout and overall design quality of the proposed dwellings and public realm would need to be of a sufficient high quality and be contextually aware, to respect the sensitive location of the site and to ensure that the proposal does not represent overdevelopment or become overly prominent, as it is essential to provide a 'soft' edge to the northern extent to Craighouse. In combination with a comprehensive landscape scheme, it is considered that the proposed development, subject to its design and layout, would not have an adverse effect on the National Scenic Area or the character and appearance of the surrounding area.
- 2.12 Subject to planning conditions, the proposal would be consistent with NPF4 policies 4, 5, 14 and LDP policies 3 and 9, SG LDP policies ENV 12, ENV 14, ENV 17 and SG LDP Sustainable.

### **3. Biodiversity**

- 3.1. The site is not subject to any biodiversity designations, but a Special Area of Conservation (SAC) (Inner Hebrides and the Minches) is to the east of the site which comprises part of the Sound of Jura. Consultation has been undertaken with NatureScot who have raised no objections to the proposed development on biodiversity grounds.
- 3.2 A Preliminary Ecological Appraisal was submitted with the application which identified that the main habitats found within the site boundary include marshy grassland and continuous bracken, assessed as having moderate conservation value with the potential to support a number of protected species. *Rhododendron ponticum* (an Invasive Non-Native Species) was noted at the site, and as such the appraisal recommends a management plan is undertaken. It is considered a suitably worded planning condition would ensure that a management plan is submitted. The appraisal notes that due to the presence of important habitats and habitats which could support protected species, it advises that a ground level Preliminary Bat Roost Assessment on trees and structures in the proposed site and within 30m of its boundary and a detailed reptile and amphibian survey are carried out as soon as practicably possible, noting the reptile and amphibian survey should be carried out prior to works commencing. Given that planning permission in principle is sought, it is considered that the noted assessment and survey could be secured by suitably worded planning conditions. However, timing of this work is important, as such the planning conditions would seek to ensure that the layout and design of the proposed would follow and be informed by the noted assessment and survey.
- 3.3 The appraisal also identified the habitat as having the potential to support nesting birds and advises that any vegetation clearance should be avoided during the main breeding season. This again could be secured by way of planning condition. Compensatory habitat measures are also recommended, whilst owing to signs of otters within 150m of the site, avoidance and mitigation measures are advised alongside a pre-construction otter survey. The appraisal notes that harbour porpoise is a qualifying species of the SAC which is sensitive to contaminants. As such the appraisal recommends that a pollution prevention plan is in place prior to the construction of the proposed development to mitigate any potential contaminants reaching the SAC. It is considered that a planning condition would ensure that such a plan is submitted. The appraisal also notes that the Jura, Scarba and Garvellachs Special Protection Area is roughly 0.6km west of the site, the qualifying species for which is the Golden eagle. It goes onto note that it is possible Golden eagles use the woodland adjacent to the site, and as such it is recommended that development of the woodland adjacent to the site is avoided. Given that planning permission in principle is sought at this stage, officers consider that sufficient control exists to ensure that any proposed layout does not harm this identified woodland.

- 3.4 The Otter Survey examined suitable habitats within 200m of the site and the survey, including a stretch of the burn to the north, both banks, and the coastal section within 200m of the site which were inspected for activity. In summary, with the incorporation of mitigation measures identified in the survey, the survey concludes that the proposed development is considered unlikely to compromise the viability and integrity of the otter population. These mitigation measures relate to the construction process, otter proof fencing, and the need for a pre-construction otter survey to be completed as close as possible to the construction period as possible. Officers consider such matters could be suitably controlled by planning condition.
- 3.5 Overall, based on the available evidence, withholding planning permission on the basis of biodiversity grounds would not be justified. Similarly, no substantive evidence has been submitted to challenge the findings and recommendation of the submitted Otter Survey Report undertaken by a qualified and professional ecologist.
- 3.6. The proposal does not include any detail of proposed biodiversity enhancements that would be delivered by the development. However it is considered that this could be secured by a planning condition. Similarly a condition requiring appropriate soil management practices would also be appropriate for any approval in light of the level of ground movement required to prepare the site. The proposal in principle may then be considered to be consistent with the relevant provisions of NPF4 Policies 03, 04 and 05A, and ABC LDP Policies LDP 3, SG LDP ENV 1, ENV 2, ENV 4 and ENV 11.

#### **4. Archaeology**

- 4.1 No Scheduled Monuments are at the site nor in the surrounding area. However, based on the consultation response received by the West of Scotland Archaeology Service, it is considered necessary to include a planning condition to secure the implementation of archaeological works, to reflect the potential for archaeological issues to be raised by the proposed development. This is required to comply with policies LDP 3, SG LDP ENV 20 and policy 07 of NPF4.

#### **5. Flood Risk**

- 5.1. The eastern most section of the site application redline boundary reaches to the sea via a high risk coastal flood area to allow space for the outfall of a private drainage system. In addition, a high risk coastal flood area is to the east of the site following the bay, whilst there is a river flood risk area to the north of the site. SEPA initially raised a holding objection on the basis of flood risk concerns. However, following the submission of a revised site plan which included site levels, SEPA no longer object to the application on the basis that development on the site would be limited to land which is already higher than 3.96m AOD. In the context of SEPA's comments and noting design and site layout are reserved for later consideration, it is considered that the proposal raises no flood risk related concerns. A condition would ensure that adequate surface water drainage provision delivered as part of the development proposal. As such, subject to planning conditions, the proposal would meet the requirements of policies LDP 10, SERV 2, SERV 7, and NPF4 Policy 22.

#### **6. Affordable Housing**

- 6.1. The applicant proposes that all 10 proposed dwellings would intended to be affordable, which would be in excess of that required by SG LDP HOU 1 and emerging LDP 2 Policy 67 which would require 25% of the total units to be affordable. The provision of affordable housing could be secured by an appropriately worded planning condition to



ensure that affordable housing meets the noted planning policy requirements as a minimum, allowing scope for further provision where possible. Colleagues from Development Plan Policy have confirmed that there is a need for housing in the area and that affordability is an issue. The types and tenures of affordable homes proposed would be subject to further assessment at the detailed design stage.

## **7. Road Network, Parking and Associated Transport Matters.**

7.1. Roads and Amenity Services have raised no objections to the proposed development, subject to a number of planning conditions. This includes conditions requiring the provision adequate visibility splays, of an adoptable standard road, a bus bay, parking and turning provision in accordance with planning policy, and improvements to existing public verges between the site and Craighouse Primary School, which are included as a planning condition. It is noted that any off site requirements to meet the condition requested by Roads would be within the road verge and therefore within land under their control.

7.1. The main road adjacent to the site is also core path C051(f) - Keils and Cill Earnabail. However, at this stage planning permission in principle is sought, with design details reserved for later consideration. As such, it is not envisaged that the proposal would have an adverse effect on this right of way.

## **8. Infrastructure**

8.1. The proposed development intends to connect to the public water supply and utilise a private sewerage treatment system. In response to the planning application, Scottish Water are unable to confirm capacity for water supply or for waste water treatment until the applicant has submitted a Pre Development Enquiry (PDE). However, it is noted Scottish Water have raised no objection to the proposed development. It is considered that details of confirmation of an available water supply and the proposed private sewerage treatment system can be secured by planning conditions.

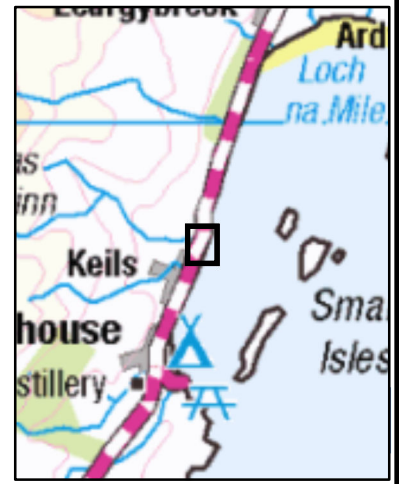
8.2. It is noted that the electricity line runs along the westerly side of the site and therefore if the application is approved in principle, any detailed application should consider the siting and design of any proposed houses in relation to the line.

## **9. Other Matters**

9.1 The proposal at this stage does not require detail regarding refuse collection. However, the site has ample space to accommodate refuse collection bins to meet household collection requirements in line with the Council's Waste Strategy and as to be consistent with NPF4 Policy 12C, and ABC LDP Policy LDP 10 and SG LDP SERV 5(b). As this is an application in principle an AMSC or detailed proposal would require the detail of storage, separation and collection to be consistent with the provisions of NPF4 Policy 9C.

### **9.2 Matters Raised by Proposed Local Development Plan 2 (as modified by Examination**

Proposed Local Development Plan 2 as recommended to be modified by the Examination Report is now a significant material consideration. In this instance it is considered that this application does not give rise to any fundamental conflict with the relevant policies of PLDP2



**Location Plan Relative to Planning Application: 21/01037/PPP**



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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**

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**Reference No:** 22/01986/PPP  
**Planning Hierarchy:** Local Development  
**Applicant:** Beaton And McMurchy Architects Ltd  
**Proposal:** Site for the erection of dwellinghouse  
**Site Address:** Land North of Lynburn, Rowan Road, Oban

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**DECISION ROUTE**

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

**(A) THE APPLICATION**

- (i) Development Requiring Express Planning Permission**
- Site for the erection of dwellinghouse
  - Formation of vehicular access
- (ii) Other specified operations**
- Connection to public water supply
  - Connection to public drainage network
- 

**(B) RECOMMENDATION:**

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission in principle be granted subject to the satisfactory conclusion of a section 75 agreement, and the conditions and reasons appended to this report.

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**(C) CONSULTATIONS:**

Argyll and Bute Council - Roads Authority

Report dated 14.11.2022 advising of a deferred decision until the applicant demonstrates that the required improvements to the private road can be achieved within land in the control of the applicant. The applicant subsequently submitted a Transportation Advisory Note and a further response was received from the Roads Authority via email dated 03.02.2023, advising of no further comment to make. The applicant submitted a Road Improvement Proposals plan, and following further consultation, the Roads Authority responded in a report dated 12.10.2023, with a recommendation of refusal, stating that the required upgrade at the junction with the

public road as well as the footpath requirement at its connection with the public road cannot be achieved due to the physical constraints within the private road corridor. Following the submission of amended drawings from the applicant, detailing the proposed upgrade of the private road at its junction with the public road and the scheme for the private road improvements, the Roads Authority were re-consulted and, in a response dated 09.02.2024, advised of no objections subject to conditions.

Scottish Water

Letter dated 18.10.2023 advising of no objections to the application and confirming that there is sufficient capacity in the Water Treatment Works and the Waste Water Treatment Works to service the proposed development. Scottish Water further advised that further investigations may be required once a formal application had been submitted to Scottish Water.

Transport Scotland

Response dated 24.10.2023 advising of no objections to the application. Further email responses, dated 25.10.2022 and 31.10.2022, were received, providing additional comment.

Local Biodiversity Officer

Response dated 17.04.2023 advising of no objections subject to conditions to secure the provision of a bird survey and a landscaping scheme prior to the commencement of development.

The above represents a summary of the issues raised. Full details of the consultation responses are available to view via the [Public Access](#) section of the Council's website.

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**(D) HISTORY:**

99/01006/OUT  
Proposed dwelling  
Appeal refused on 17.02.2000

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**(E) PUBLICITY:**

The proposal has been advertised in terms of Regulation 20 and Neighbour Notification procedures, overall closing date 18.04.2023.

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**(F) REPRESENTATIONS:**

**(i) Representations received from:**

**25 objections, 2 representations and 2 expressions of support have been received to the application.**

**OBJECTIONS**

Mr Colin Crawford, Cairnmore, Rowan Road, Oban, PA34 5TY (24.10.2022)  
Mr William Ronald McNiven, Carron, Rowan Road, Oban, PA34 5TQ (25.10.2022)  
Derek Crooks, Belmont, Rowan Road, Oban, PA34 5TY – by email only (27.10.2022)  
Mr Gordon McNiven, Toriskay, Rowan Road, Oban, PA34 5TY (28.10.2022)

Graham Fraser, Whinbank, Rowan Road, Oban, PA34 5TY – by email only (31.10.2022 & 06.11.2023)  
Graham Anderson, Rowanhill, Rowan Road, Oban – by email only (01.11.2022)  
Mrs Anne Schofield, High Acres, Rowan Road, Oban, PA34 5TY (01.11.2022 and 26.01.2024)  
Philip Wilson, Laroach, Rowan Road, Oban – by email only (01.11.2022)  
Caroline Wilson, Laroach, Rowan Road, Oban – by email only (01.11.2022)  
David Gray, The Rowans, Dunollie Road, Oban, PA34 5TX – by email only (01.11.2022)  
Pamela Gray, The Rowans, Dunollie Road, Oban, PA34 5TX – by email only (01.11.2022)  
Frank Walton, Mossilee, Rowan Road, Oban, PA34 5TY – by email only (01.11.2022 & 30.11.2023)  
Keith Johnston, Chelan, Rowan Road, Oban, PA34 5TY – by email only (02.11.2022)  
Mrs Jennifer S Andreee, Ste Agathe, Rowan Road, Oban – by email only (02.11.2022)  
Anne M Fraser, Whinbank, Rowan Road, Oban, PA34 5TY – by email only (01.11.2022)  
Mr Caroline McNiven, Carron, Rowan Road, Oban, PA34 5TQ (04.11.2022)  
Mrs Theresa Bain, Lynburn, Rowan Road, Oban, PA34 5TY (07.11.2022)  
Mrs Elizabeth Crawford, Cairnmore, Rowan Road, Oban, PA34 5TY (07.11.2022)  
Miss Emma Beaton, 7B Millpark Terrace, Soroba Road, Oban, PA34 4JH (07.11.2022)  
Mr Jude Bain, Lynburn, Rowan Road, Oban, PA34 5TY (07.11.2022 & 27.11.2023)  
Mr Peter Bain, Lynburn, Rowan Road, Oban, PA34 5TY (07.11.2022 & 27.11.2023)  
Allan Macaskill, 5 Ferryfield Road, Connel, PA37 1SR – by email only (03.11.2022)

## **REPRESENTATIONS**

Allan Macaskill, 5 Ferryfield Road, Connel, PA37 1SR – by email only (07.03.2023)  
Colin Crawford, Cairnmore, Rowan Road, Oban, PA34 5TY – by email only (16.10.2023)

## **SUPPORT**

Mr Tom Kennedy, 39 Pulpit Drive, Oban, PA34 4LE (31.10.2022)  
Councillor Jim Lynch – by email only (08.02.2024)

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

## **OBJECTION**

### Private access road

- Development on this site was previously refused and the appeal was upheld. There has been no upgrade since this time. The road is steep, twists sharply, is restricted in width, is unlit and has poor visibility.
- The road is in poor condition and construction vehicles will cause more damage. The additional usage would cause expensive repairs to be required and paid for by current residents.
- There is no option to widen the road, or add passing places, pavements and street lights. This could become a health and safety issue.

- The junction where the private road meets the public road is at maximum capacity and has poor visibility.
- The road is shared by both vehicles and pedestrians. There are no refuge areas for pedestrians or adequate turning areas for service vehicles. HGVs have to reverse the full length of the road.
- The road has become busier with tourists and there have been recent near miss incidents. Pedestrians are forced to stand on uneven grass verges.
- The increase in traffic for both construction or by the addition of a new dwellinghouse would be detrimental to the road, road users, and is a safety concern.
- Modern cars and vehicles are wider and the opportunity for vehicles to pass each other is restricted.
- The road is already under pressure from the volume of traffic.
- The development would be contrary to the supplementary guidance relating to private accesses.
- The private road has already reached and exceeded its safe capacity.
- The applicant has no control over the adjoining land and therefore cannot carry out any improvements to the standard of the road.
- Any increase in the number of dwellinghouses served by the road would be unacceptable without commensurate improvements.
- All residents have responsibility for maintaining the private road and have not been approached by the applicant to seek agreement.
- The submitted plans indicate a further notional house plot, making three at least three possible new development sites.
- The drawings of the proposed roads improvements are inaccurate and misrepresentative, showing roadway and passing places on driveways.
- The proposed turning area will create an additional hazard as it would sit where two roads spur, on a blind rise.
- The splitting of the existing property is not designed to build only one additional property. Additional dwellinghouses would significantly increase dangers for residents and lead to significant costs for residents having to take shared responsibility for the road.

**Officer Comment:** *The Council's Roads Authority deferred their decision on the application until it could be demonstrated, in plan form, whether or not the required improvements to the private access could be achieved within land in the control of the applicant.*

*The applicant sought to evidence that the existing road network serving the proposed development site would not have an unacceptably adverse or severe effect on highway safety. The Council's Roads Authority did not seek to provide further comment on the additional submitted information. Following the submission of a scheme of road improvement proposals by the applicant, the Council's Roads Authority were re-consulted and recommended refusal as the required upgrade to the junction of the private road, as well as the footpath requirement, at its connection with the public road could not be achieved due to the physical constraints within the private road corridor. The applicant subsequently submitted a revised plan illustrating the required upgrades at the junction of the private road with the public road, as per Operational Services Drawing SD08/002a. Whilst this would be reliant on land under the ownership of a third party, a Section 75 Agreement would secure the required land to facilitate the necessary upgrades within the private road corridor. The Area Roads Authority, in a final response dated 09.02.2024, advised of no objections to the proposed development, subject to appropriate conditions to secure the necessary upgrades to the private access at its junction with the public road, and to secure the appropriate commensurate improvements to the private access road.*

*This application seeks consent for planning permission in principle for a single dwellinghouse. The agent has confirmed that the proposed notional house plot refers to the site the subject of this current application. Each planning application is assessed on its own merits, taking into account relevant policies and supplementary guidance. Any application which would further intensify the use of the access would be assessed in line with relevant policies and supplementary guidance.*

#### Water supply and drainage

- Water pressure is poor and further demand will worsen this. The sewage system is not up to current standards, with problems of blockages and bursts, causing health hazards. Further pressure on the sewage system and runoff water will cause additional problems.
- The sewage system for the properties is routed through neighbouring properties. The infrastructure is not sufficient to cope with the existing properties let alone an increase.
- Properties would have to incur the expense of installing water pumps.

**Officer Comment:** *Scottish Water have been consulted on the application and raised no objection to the proposed development, confirming that the proposed development would be serviced by the Tullich Water Treatment Works. Notwithstanding this, a suitable condition would secure authorisation from Scottish Water for connection to the public water supply prior to the commencement of development at the site.*

#### Access onto the A85

- Access onto the A85 can be difficult for traffic turning into Rowan Road.

- The access onto the A85 is where two steep hills join at right angles. The A85 is one of the major trunk roads and the access is at the point of entry to Oban, serving local residents, the island populations, and tourists.
- It is not possible for two average sized cars to pass at the junction of Rowan Road with the A85 trunk road. This causes obstruction on the A85, presenting a dangerous hazard.
- It is difficult for pedestrians to cross the main road as it is very exposed.

**Officer Comment:** *Transport Scotland have been consulted on the application and, within their consultation response, advised of no objections to the application. At the request of the Planning Authority, Transport Scotland submitted additional comments on the proposed development, acknowledging that whilst the existing junction with the trunk road does not meet current standards, Transport Scotland considered that the existing junction is of an acceptable standard to be able to cope with the additional trips associated with a single additional property, in addition to the existing use of the junction. Transport Scotland highlight that the assessment and consultation response relate solely to the implications of the application in terms of the A85 trunk road.*

## Proposed Use

- The information submitted with the application does not specify whether the application relates to a dwelling for commercial letting purposes. This would not be in keeping with the established residential area.
- The amenity of the neighbouring properties would be adversely impacted and house values would decrease if it was to be more than one family in residence.

**Officer Comment:** *The proposal the subject of this planning application is seeking to secure planning permission in principle for the erection of a dwellinghouse. The Planning Authority is satisfied that the proposed site has the potential to successfully accommodate one suitably sited, scaled and designed dwellinghouse which would relate to the settlement pattern of the surrounding area. It is considered that subject to suitable siting and design, there would be no adverse impact upon neighbour amenity.*

## Suitability of the Site

- There is a chance of land slippage resulting from digging into the hill to facilitate the proposed development.

**Officer Comment:** *The site the subject of the application is sloping in nature. The Planning Authority sought additional information from the applicant to address concerns relating to the sloping site levels. The additional information submitted with the application indicates a dwellinghouse that would be set into the slope of the plot, designed to address the sloping nature of the site without the need for excessive underbuilding or excavation works.*

## **REPRESENTATION**

### Access



- The Transportation Advisory Note does not address the comments made by the Road Engineer of Argyll and Bute Council. The report does not show how the required improvements can be achieved within land in the control of the applicant.
- Other applications have had to provide additional passing places before consent was given.
- The plans show an additional notional house plot.
- The submitted roads details are inaccurate. The private section of the road is 2.6 metres in width except where householders have extended tarmac into their grounds.
- The proposed widening and footpath provision would extend into residents grounds and cover the existing drainage culvert.
- The area shown as a turning area is a section of access.
- The proposed new turning area and footpath would be sited upon an area of ground which hosts water pumps for three dwellinghouses.

**Officer Comment: Officer Comment:** *The Council's Roads Authority deferred their decision on the application until it could be demonstrated, in plan form, whether the required improvements to the private access could be achieved within land in the control of the applicant.*

*The applicant sought to evidence that the existing road network serving the proposed development site would not have an unacceptably adverse or severe effect on highway safety. The Council's Roads Authority did not seek to provide further comment on the additional submitted information. Following the submission of a scheme of road improvement proposals by the applicant, the Council's Roads Authority were re-consulted and recommended refusal as the required upgrade to the junction of the private road, as well as the footpath requirement, at its connection with the public road could not be achieved due to the physical constraints within the private road corridor. The applicant subsequently submitted a revised plan illustrating the required upgrades at the junction of the private road with the public road, as per Operational Services Drawing SD09/002a. Whilst this would be reliant on land under the ownership of a third party, a Section 75 Agreement would secure the required land to facilitate the necessary upgrades within the private road corridor. In a final response dated 09.02.2024, the Council's Roads Authority advised of no objections subject to conditions.*

*This application seeks consent for planning permission in principle for a single dwellinghouse. The agent has confirmed that the proposed notional house plot refers to the site the subject of this current application. Each planning application is assessed on its own merits, taking into account relevant policies and supplementary guidance. Any application which would further intensify the use of the access would be assessed in line with relevant policies and supplementary guidance.*

## **SUPPORT**

- Additional housing is needed within Oban.

**Officer Comment:** *The expression of support is noted by the Planning Authority.*

**(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 with the application.

At the request of the Planning Authority, a Statement of Compliance with NPF4 has also been submitted.

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

A Transportation Advisory Note has been submitted with the application.

**(H) PLANNING OBLIGATIONS**

**Is a Section 75 agreement required:**  Yes  No A Section 75 Agreement is required to secure an area of land from a third party within the private road corridor at the junction with the public road. The Section 75 Agreement is required to ensure that the required upgrades to the private access road at its junction with the public road can be achieved within land under the control of the applicant.

In the event that a S75 Agreement is not concluded within 3 months from the date of PPSL determination then the reason for refusing planning permission shall be cited as follows:



NPF4 Policy 13 as underpinned by Local Development Policy LDP 11 and supplementary guidance SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Development Plan' 2015, and Policy 37 of the proposed Local Development Plan 2, state that further development that utilises an existing private road will only be accepted if that access is either safe and appropriate in its current form or else is capable of commensurate improvements considered by the Roads Authority to be appropriate to the scale and nature of the proposed new development and that takes into account the current access issues (informed by an assessment of usage); and the applicant can: secure ownership of the private road to allow for commensurate improvements to be made to the satisfaction of the Planning Authority; or demonstrate that an appropriate agreement has been concluded with the existing owner to allow for commensurate improvements to be made to the satisfaction of the Planning Authority

The existing access onto the public road is substandard. The proposed development would result in the intensification in vehicular use of a substandard private access where, in the absence of a S75 being concluded, it has not been demonstrated that the private access is capable of the minimum requirement for commensurate improvements appropriate to the scale and nature of the proposed development on land under the ownership or otherwise within the control of the applicant.

In this regard, the proposal is considered contrary to the provisions of NPF4 Policy 13 as underpinned by Policy LDP 11 and supplementary SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Development Plan' 2015, and Policy 37 of the proposed Local Development Plan 2.

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**(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 \(Adopted 13<sup>th</sup> February 2023\)](#)**

**Part 2 – National Planning Policy**

**Sustainable Places**

NPF4 Policy 1 – Tackling the Climate and Nature Crises

NPF4 Policy 2 – Climate Mitigation and Adaption

NPF4 Policy 3 – Biodiversity

NPF4 Policy 4 – Natural Places

NPF4 Policy 5 – Soils

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

NPF4 Policy 12 – Zero Waste

NPF4 Policy 13 – Sustainable Transport

**Liveable Places**

NPF4 Policy 14 – Design, Quality and Place

NPF4 Policy 15 – Local Living and 20 Minute Neighbourhoods

NPF4 Policy 16 – Quality Homes

NPF4 Policy 17 – Rural Homes

NPF4 Policy 18 – Infrastructure First

NPF4 Policy 22 – Flood Risk and Water Management

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

LDP STRAT 1 – Sustainable Development

LDP DM 1 – Development within the Development Management Zones

LDP 3 – Supporting the Protection Conservation and Enhancement of our

LDP 8 – Supporting the Strength of our Communities

LDP 9 – Development Setting, Layout and Design

LDP 10 – Maximising our Resources and Reducing our Consumption

LDP 11 – Improving our Connectivity and Infrastructure

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

**Natural Environment**

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

SG LDP ENV 11 – Protection of Soil and Peat Resources

**Landscape and Design**

SG LDP ENV 14 – Landscape

**General Housing Development**

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

**Sustainable Siting and Design**

SG LDP Sustainable – Sustainable Siting and Design Principles

**Resources and Consumption**

SG LDP SERV 2 – Incorporation of Natural Features / SuDS

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

**Addressing Climate Change**

SG LDP Sust Check – Sustainability Checklist

**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 5 – Off-site Highway Improvements  
SG LDP TRAN 6 – Vehicle Parking Provision

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

- Third Party Representations
- Consultation Responses
- Planning History
- Argyll and Bute Sustainable Design Guidance, 2006
- [ABC Technical Note – Biodiversity \(Feb 2017\)](#)
- [ABC draft Technical Note – Argyll and Bute Windows \(April 2018\)](#)

[Argyll and Bute proposed Local Development Plan 2 \(November 2019\)](#) – The Examination by Scottish Government Reporters to the Argyll and Bute Local Development Plan 2 has now concluded and the [Examination Report](#) has been published (13<sup>th</sup> 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

### **Connected Places**

Policy 35 – Design of New and Existing, Public Roads and Private Access Regimes  
Policy 36 – New Private Accesses  
Policy 37 – Development Utilising an Existing Private Access or Existing Private Road  
Policy 39 – Construction Standards for Private Accesses  
Policy 40 – Vehicle Parking Provision  
Policy 41 – Off Site Highway Improvements

### **Sustainable Communities**

Policy 61 – Sustainable Urban Drainage Systems (SUDS)  
Policy 63 – Waste Related Development and Waste Management

### **Homes for People**

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

**High Quality Environment**

Policy 73 – Development Impact on Habitats, Species and Biodiversity

Policy 79 – Protection of Soil and Peat Resources

**(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

Whilst there has been considerable objection raised, primarily from residents in the immediate locality of the development, it is noted that the representations relate largely to the suitability of the access to serve the proposed development; the Officer’s recommendation is aligned with both the consultation responses from Transport Scotland and from the Council’s Roads Authority and as such it is not considered that a pre-determination hearing would add significant value to the decision making process.

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

- None

**(P)(ii) Soils**

[Agricultural Land Classification:](#)

Unclassified Land

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

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

[Peat Depth Classification:](#)

N/A

Does the development relate to croft land? Yes No

Would the development restrict access to croft or better quality agricultural land? Yes No N/A

Would the development result in fragmentation of croft / better quality agricultural land? Yes No N/A

**(P)(iii) Woodland**

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

Does the proposal include any replacement or compensatory planting?  Yes  
 No details to be secured by condition  
 N/A

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

Status of Land within the Application

Brownfield  
 Brownfield Reclaimed by Nature  
 Greenfield

**ABC LDP 2015 Settlement Strategy**  
LDP DM 1

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

**ABC LDP 2015 Allocations/PDAs/AFAs etc:**

N/A

**ABC pLDP2 Settlement Strategy**

Settlement Area  
 Countryside Area  
 Remote Countryside Area  
 Helensburgh & Lomond Greenbelt

**ABC pLDP2 Allocations/PDAs/AFAs etc:**

N/A

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

The proposal the subject of this planning application is seeking to secure planning permission in principle for the erection of a dwellinghouse.

In terms of the Settlement Strategy set out in the adopted LDP, the application site is situated within the defined Main Town Settlement Zone of Oban where Policies LDP STRAT 1 and LDP DM 1 give general encouragement, up to and including large scale, on appropriate sites. These main policy considerations are underpinned by the supplementary guidance contained in SG LDP HOU 1 and SG LDP ENV 14 which offer further support to appropriate scales of residential development where such development would have no significant adverse impact upon the character of the landscape and where there is no unacceptable environmental, servicing or access impact.

The application site comprises an irregular plot of sloping land situated off the private road which extends from Rowan Road. The application site lies within an existing cluster of dwellinghouses, bounded to the south by the property of 'Lynburn', with the properties of 'Toriskay' and 'Carron' bounding the site to the north and northwest. The existing private road bounds the site to the southeast. The property of 'Neaveton' adjoins the western boundary of the site. The site is currently vacant rough ground, vegetated with bracken, grass species and regenerated trees.

The proposal is seeking to secure planning permission in principle for the erection of a dwellinghouse at the site and the formation of a vehicular access. The application has been submitted with indicative details of the footprint of the dwelling and its siting within the plot. The purpose of this application is to establish the principle of development with the matters of layout and design to be addressed by way of future application(s) for approval of matters specified in conditions.

The Planning Authority is satisfied that the proposed site has the potential to successfully accommodate one suitably sited and designed dwellinghouse within the defined settlement zone of Oban which would relate to the settlement pattern of the surrounding area.

Whilst the site is within the defined settlement zone of Oban where Policy LDP DM 1 and supplementary guidance SG LDP HOU 1 of the adopted 'Argyll and Bute Local Development Plan' 2015 give encouragement to housing developments, this is on the basis that there is no unacceptable environmental, servicing or access impact.

Access to the site forms a critical part of this application for planning permission in principle and whilst the engineering/construction details of any such access might be subject to a further application for approval of details pursuant to any planning permission in principle, the fundamental suitability (or otherwise) of the proposed means of access is a matter which must be resolved at this stage.

During the processing of the application, the Council's Roads Authority initially deferred their decision until such a time that the applicant submitted further information to demonstrate, in plan form, whether the required improvements to the private access could be achieved within land in the control of the applicant. The applicant subsequently submitted a Transportation Advisory Note, stating that the site access and approach roads would provide a safe and suitable access to serve the proposed development site. The Council's Roads Authority were re-consulted on the application following the submission of the additional information and provided no further comment. The applicant submitted a scheme of road improvement proposals, and following a further consultation, the Council's Roads Authority recommended refusal as the required upgrade to the junction of the private road, as well as the footpath requirement, at its connection with the public road could not be achieved due to the physical constraints within the private road corridor. The applicant subsequently submitted a revised plan illustrating the required upgrades at the junction of the private road with the public road, to the specification as set out within Operational Services Drawing SD08/002a. Whilst the required upgrades would be reliant upon a section of land under the ownership of a third party, a Section 75 Agreement would secure the required land to facilitate the necessary upgrades within the private road corridor. The Council's Roads Authority were re-consulted on the amended access proposals and in a final response, advised of no objections subject to conditions.

The proposal has 25 objections, 2 representations and 2 expressions of support. The main thrust of the objections relate to the access and associated safety issues.

Accordingly, the site could successfully accommodate a suitably sited and designed dwellinghouse, and it has been demonstrated that, subject to the necessary Section 75 Agreement, the required upgrades to the private road could be undertaken within land under the control of the applicant and it is therefore recommended that the application be approved.

A full report is provided in Appendix A.

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

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

The proposal is considered to be consistent with the relevant provisions of the Development Plan and National Planning Framework 4 and there are no other material considerations of sufficient significance, including issues raised by third parties, to indicate that it would be appropriate to withhold planning permission having regard to Section 25 of the Act.

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

N/A

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

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**Author of Report:** Emma Shaw **Date:** 09.02.2024

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

**Fergus Murray**  
**Head of Development & Economic Growth**

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 22/01986/PPP**

**Standard Time Limit Condition** (as defined by Regulation)

## Standard Condition on Soil Management During Construction

### Additional Conditions

#### 1. PPP – Matters Requiring AMSC Submission

Plans and particulars of the matters specified in Conditions 3, 4, 5, 7, 8 and 9 below shall be submitted by way of application(s) for Approval of Matters Specified in Conditions in accordance with the timescales and other limitations in Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended. Thereafter the development shall be completed wholly in accordance with the approved details.

Reason: In accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended).

#### 2. PPP - Approved Details

The development shall be implemented in accordance with the details specified on the application form dated 30.09.2022 supporting information and, the approved drawings listed in the table below.

Plan Title.	Plan Ref. No.	Version	Date Received
Site Plan & Section	2034 02	B	13.10.2022
Site & Location Plans	2034 03	B	13.10.2022
Cross Sections	2034 04		01.12.2022
Site & Location Plans Road Improvements Proposals	2034 07	A	06.02.2024
Junction Site Plan as Proposed	2034 11		06.02.2024

Reason: To accord with Regulation 28 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.

#### 3. Timescale to be Agreed for Completion

Pursuant to condition 1 - no development shall commence until details of the proposed timescale for completion of the approved development have been submitted to and approved by the Planning Authority. Thereafter, the development shall be implemented in accordance with the duly approved timescale for completion unless an alternative timescale for completion is otherwise agreed in writing with the Planning Authority.

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



#### 4. **Vehicular Access, Parking and Turning**

Pursuant to Condition 1 – no development shall commence until plans and particulars of the means of vehicular access and parking/turning arrangements to serve the development have been submitted to and approved by the Planning Authority. Such details shall incorporate:

- i) The upgrade of the existing access at the connection with the public road in accordance with the Council's Roads Standard Detail Drawing SD08/002a with visibility splays measuring 2.4 metres to point X by 25 metres to point Y;
- ii) The provision of a parking and turning area in accordance with the requirements of Policy LDP 11 and Supplementary Guidance SG LDP TRAN 6 of the adopted 'Argyll and Bute Local Development Plan' 2015;
- iii) The provision of a footway to be provided over the total length of the private road;
- iv) A road carriageway with a minimum width of 3 metres;
- v) The provision of passing places in accordance with Operational Services Drawing 08/003a at locations approximately 50m, 90m and 180m from the junction with the public road;
- vi) The provision of a turning head in accordance with Figure 18 of The Roads Development Guide to be provided at the location where the private road separates to serve the dwellings leading to 'Toriskay' and the dwellings leading to 'High Acres' / 'Rowan Hill', with a bin storage area to the rear of the turning head;
- vii) The provision of street lighting ducting to be installed from the junction with the public road to the location where the private road separates to serve the dwellings leading to 'Toriskay' and the dwellings leading to 'High Acres' / 'Rowan Hill';

Prior to work starting on site, the approved scheme of works shall be completed, and the visibility splays shall be cleared of all obstructions such that nothing shall disrupt visibility from a point 0.6m above the road carriageway at point Y and the visibility splays shall be maintained clear of all obstructions thereafter.

Reason: In the interests of road safety.

Note to applicant:

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

#### 5. **PPP – Availability of Connection to Public Water Supply**

Pursuant to Condition 1 - no development shall commence on site until authorisation has been given by Scottish Water for connection to the public water supply. Confirmation of authorisation to connect shall be provided in writing to the Planning Authority before commencement of development.

Reason: To ensure that the development is adequately served by a public water supply.

Note to Applicant:

- In the event that a public water supply connection cannot be obtained an alternative private water supply would constitute a material amendment requiring the submission of a further planning application.

## 6. Sustainable Drainage System

Notwithstanding the provisions of Condition 2, the development shall incorporate a surface water drainage system which is consistent with the principles of Sustainable urban Drainage Systems (SuDS) compliant with the guidance set out in CIRIA's SuDS Manual C753. The requisite surface water drainage shall be operational prior to the development being brought into use and shall be maintained as such thereafter.

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

Note to Applicant:

- Further advice on SuDS can be found in SEPA's Standing Advice for Small Scale Development – [www.sepa.org.uk](http://www.sepa.org.uk) .

## 7. Design and Finishes

Pursuant to Condition 1 – no development shall commence until plans and particulars of the site layout, design and external finishes of the dwellinghouse has been submitted to and approved by the Planning Authority. These details shall incorporate:

- i) A statement addressing the Action Checklist for developing design contained within the Argyll and Bute Sustainable Design Guide 2006;
- ii) A statement addressing how the proposed development has been designed to be consistent with the six qualities of successful places, as defined within Policy 14 of NPF4;
- iii) Local vernacular design;
- iv) Maximum of one and three quarter storey in design;
- v) Rectangular footprint with traditional gable ends;
- vi) Symmetrically pitched roof angled between 35 and 42 degrees finished in natural slate or good quality artificial slate;

- vii) External walls finished in white wet dash roughcast, white smooth render, natural stone, timber cladding or a mixture of these finishes;
- viii) Details of finished ground floor levels relative to an identifiable fixed datum located outwith the application site, along with details of the existing and proposed site levels shown in the form of section drawings, contour plans, site level surveys, or a combination of these;
- ix) Windows with a vertical emphasis; and
- x) Details of an area within the application site for the placement of refuse/recycling bins.

Reason: To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended, and in order to integrate the proposed dwellinghouse with its surroundings.

## 8. Landscaping and Biodiversity Enhancement

Pursuant to Condition 1 - no development shall commence until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved by the Planning Authority. The scheme shall include details of:

- i) Location, design and materials of proposed walls, fences and gates;
- ii) Surface treatment of proposed means of access and hardstanding areas;
- iii) Any proposed re-contouring of the site by means of existing and proposed ground levels;
- iv) Proposed hard and soft landscape works; and
- v) A biodiversity statement demonstrating how the proposal will contribute to conservation/restoration/enhancement of biodiversity, and how these benefits will be maintained for the lifetime of the development.

The development shall not be occupied until such time as the physical biodiversity enhancement measures (bird nesting boxes, 'swift bricks', wildlife ponds, bat and insect boxes, hedgehog homes etc), the boundary treatment, surface treatment and any re-contouring works have been completed in accordance with the duly approved scheme.

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

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme during the first planting season following the commencement of the development, unless otherwise agreed in writing by the Planning Authority.

The biodiversity statement should refer to [Developing with Nature guidance | NatureScot](#) as appropriate.

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

9. **Pre-commencement Survey**

Pursuant to Condition 1 - no development or other work shall be carried out on the site until a pre-commencement survey for the presence of nesting birds has been carried out by an appropriately qualified person and has been submitted for the written approval of the Planning Authority. In circumstances where species of interest are identified as being present, or at risk from construction works, the survey shall further provide suggested avoidance and or mitigation measures, including timing constraints, to address such presence or risk. The development shall be implemented in accordance with the measures identified in the duly approved scheme.

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

<b>COMMITTEE REPORT</b>	
<b>APPENDIX A – RELATIVE TO APPLICATION NUMBER:</b>	<b>22/01986/PPP</b>
<b>PLANNING LAND USE AND POLICY ASSESSMENT</b>	

## 1. Introduction

- 1.1. The proposal the subject of this application is seeking to secure planning permission in principle for the erection of a dwellinghouse.

## 2. Location of Proposed Development

- 2.1. The application site comprises an irregular plot of land situated off the private road which extends from Rowan Road within the Main Town Settlement Zone of Oban.

The site is located amongst a cluster of existing dwellinghouses, bounded to the south by the property of 'Lynbrun'. The properties of 'Toriskay' and 'Carron' bound the site to the north and northwest. The existing private road bounds the site to the southeast. The property of 'Neaveton' adjoins the western boundary of the site.

The site is currently vacant, sloping rough ground, vegetated with bracken, grass species and regenerated trees.

## 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 Main Town Settlement Zone of Oban where Policies LDP STRAT 1 and LDP DM 1 give general encouragement, up to and including large scale, on appropriate sites. These main policy considerations are underpinned by the supplementary guidance contained SG LDP HOU 1 and SG LDP ENV 14 which offer further support to appropriate scales of residential development where such development would have no significant adverse impact upon the character of the landscape and where there is no unacceptable environmental, servicing or access impact.

In terms of the proposed Local Development Plan 2, the site is identified as being within a 'Settlement Area' where Policy 01 provides general encouragement to development where the proposal is considered acceptable in relation to the overall land supply for the proposed use; is compatible with surrounding uses; is of an appropriate scale and fit for the size of the settlement; respects the character and appearance of the surrounding townscape; and complies with all relevant Local Development Plan 2 policies. In this instance, the proposal for planning permission in principle for a single dwellinghouse is on a site which is of an appropriate scale and fit for the settlement. The scale, siting and indicative design of a dwellinghouse on the site would not raise any issues with regard to Policy 01 in terms of compatibility, and the proposed access would respect the context of the site and the surrounding uses, where it has been demonstrated that the required commensurate improvements can be achieved on land under the control of the applicant.

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. Suitability of an existing private access regime to serve the development.
- 3.1.3. Any other material considerations.

#### 4. Proposal

- 4.1. The proposal is seeking to secure planning permission in principle for the erection of a dwellinghouse at the site. The application has been submitted with indicative details of the footprint and design of the dwellinghouse and its siting within the plot. The purpose of this application is to establish the principle of development with the matters of layout and design to be addressed by way of future application(s) for approval of matters specified in conditions.

The Indicative plans submitted with the application show a dwellinghouse with a modest footprint set into the slope of the plot with the parking and turning area to be sited between the proposed dwellinghouse and the private access road.

#### 5. Compliance with National Policy

##### 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.

**In this case, given the small scale nature of the development proposed and its alignment with all other relevant policies in NPF4 and those supporting policies in the Local Development Plan, it is considered that the development proposed would be in accordance with the broad aims of NPF4 Policy 1 as underpinned by Local Development Plan Policies STRAT 1, LDP DM 1 and the adopted Sustainability Checklist.**

##### 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 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.

**It is considered that the proposed development would be consistent with Policy 2 of NPF4 having had due regard to the specifics of the development proposed and to the overarching planning policy strategy outlined within the adopted Local Development Plan, notably policies STRAT 1, LDP DM 1, LDP 10, the adopted Sustainability Checklist, and Policies 04 and 09 of the proposed Local Development Plan 2.**

##### 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.

In the case of the development proposed by this application, it is considered that there are no issues of compliance with NPF4 Policy 3. The Council's Biodiversity Officer has been consulted on the application due to the presence of vegetation across the site. The Council's Biodiversity Officer advised that the site is covered by bracken, grass species and regenerated trees. As a result of the vegetation present, it would be necessary to attach a condition requiring the provision of a pre-commencement bird survey to be submitted by way of future application(s) for approval of matters specified in conditions. No material biodiversity impacts have been identified in the assessment of this application by the Planning Authority and whilst no specific proposals for biodiversity improvements have been submitted it is considered that adequate and proportionate measures for biodiversity enhancement and protection could be delivered by planning condition.

**Subject to such conditions, the proposed development is considered to be in compliance with NPF4 Policy 3 as underpinned by Local Development Plan Policy LDP 3, supplementary guidance SG LDP ENV 1, and Policy 73 of the proposed Local Development Plan 2.**

#### **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 development proposed by the current planning application is considered appropriate in terms of its type, location and scale, such that it would have no unacceptable impact on the natural environment. 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 site designated as a local nature conservation site or landscape area or within an area identified as wild land.

**The proposed development is therefore considered to be in accordance with NPF4 Policy 4 as underpinned by Local Development Plan Policy LDP 3 and supplementary guidance SG LDP ENV 1.**

#### **5.5. NPF4 Policy 5 – Soils**

NPF4 Policy 5 seeks to protect carbon-rich soils, to restore peatlands and to minimise disturbance to soils from development.

The development proposed by the current planning permission in principle application seeks to develop a sloping area of vacant, rough ground. The site has no agricultural land classification and is not within an identified area of peatland, carbon-rich soils or priority peatland habitat.

**The development proposed is therefore considered to be in accordance with NPF4 Policy 5 as underpinned by Local Development Plan Policy LDP 3, supplementary guidance SG LDP ENV 11, and Policy 79 of the proposed Local Development Plan 2.**

#### **5.6. NPF4 Policy 9 – Brownfield, Vacant and Derelict Land and Empty Buildings**



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

Whilst the development proposed by this planning application is on a greenfield site, it is within the Main Town Settlement Zone of Oban where Policies LDP STRAT 1 and LDP DM 1 give general encouragement, up to and including large scale, on appropriate sites. These main policy considerations are underpinned by the supplementary guidance contained within SG LDP HOU 1 and SG LDP ENV 14 which offer further support to appropriate scales of residential development where such development would have no significant adverse impact upon the character of the landscape and where there is no unacceptable environmental, servicing or access impact.

With regard to the proposed Local Development Plan 2, the site lies within the Settlement Area, where development is supported subject to the proposal being compatible with the surrounding uses and being of an appropriate scale and fit for the settlement within which it is to be sited. It is considered that the proposed siting of the dwellinghouse would integrate appropriately with the character and appearance of the wider surroundings in terms of layout, siting, pattern of development, and plot density.

**Policy 9(b) of NPF4 aligns with the settlement strategy of the Local Development Plan and the current development proposal raises no issue of conflict.**

#### **5.7. NPF4 Policy 12 – Zero Waste**

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

The development the subject of this planning application seeks to establish the principle of a new single dwellinghouse. Whilst this is a development likely to generate waste when operational, it would benefit from regular waste uplifts by the Council and will be expected to comply with our adopted and enforced recycling and reuse strategy.

**In this regard, the proposed development is considered to be in compliance with NPF 4 Policy 12(c) as underpinned by Local Development Plan Policy LDP 10, supplementary guidance SG LDP SERV 5(b), and Policy 63 of the proposed Local Development Plan 2.**

#### **5.8. NPF4 Policy 13 – Sustainable Transport**

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

The application proposes to utilise the existing private access road which is situated off the UC001 Rowan Road. The access to Rowan Road is situated off the A85 trunk road.

Transport Scotland have been consulted on the application, and within their consultation response, advised of no objections to the application. At the request of the Planning Authority, Transport Scotland submitted additional comments on the proposed development, acknowledging that whilst the existing junction of Rowan Road with the A85 trunk road does not meet current standards, Transport Scotland considered that the existing junction is of an acceptable standard to be able to cope with the additional trips associated with a single additional property, in addition to the existing use of the junction.



Transport Scotland highlight that the assessment and consultation response relates solely to the implications of the application in terms of the A85 trunk road.

Policy LDP 11 and supplementary guidance SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Development Plan' 2015, along with Policy 37 of the proposed Local Development Plan 2, state that further development that utilises an existing private road will only be accepted if:

- i) The access is capable of commensurate improvements considered by the Roads Authority to be appropriate to the scale and nature of the proposed new development and that takes into account the current access issues (informed by an assessment of usage); AND the applicant can:
- ii) Secure ownership of the private road or access to allow for commensurate improvements to be made to the satisfaction of the Planning Authority; OR
- iii) Demonstrate that an appropriate agreement has been concluded with the existing owner to allow for commensurate improvements to be made to the satisfaction of the Planning Authority.

The primary objective of the above policy and supplementary guidance is the safety of all road users including pedestrian, cycle and motorised vehicles, achieved within a well-designed street environment.

Access to the site forms a critical part of this application for planning permission in principle and whilst the engineering/construction details of any such access might be subject to a further application for approval of details pursuant to any planning permission in principle, the fundamental suitability (or otherwise) of the proposed means of access is a matter which must be resolved at this stage.

During the processing of the application, the Council's Roads Authority initially deferred their decision until such a time that the applicant submitted further information to demonstrate, in plan form, that the required improvements to the private road could be achieved within land in the control of the applicant. The applicant subsequently submitted a Transportation Advisory Note, stating that the site access and approach roads would provide a safe and suitable access to serve the proposed development site. The Council's Roads Authority were re-consulted on the application following the submission of the additional information and provided no further comment. The applicant submitted two subsequent schemes of road improvement proposals, and following a further consultation, the Council's Roads Authority recommended refusal as the required upgrade to the junction of the private road, as well as the footpath requirement, at its connection with the public road could not be achieved due to the physical constraints within the private road corridor. The applicant subsequently submitted a revised plan illustrating the required upgrades at the junction of the private road with the public road, to the specification as set out within Operational Services Drawing SD08/002a. Whilst the required upgrades would be reliant upon a section of land under the ownership of a third party, a Section 75 Agreement would secure the required land to facilitate the necessary upgrades within the private road corridor.

The Transportation Advisory Note submitted by the applicant originally sought to provide comment on the suitability of the surrounding road network to provide access to and from the proposed development site. This additional information sought to evidence that the proposed development, utilising the existing access to the site, would not have an unacceptably adverse or severe effect on highway safety. The Council's Roads Authority were consulted on the additional information submitted by the applicant and provided no further comment. Subsequently, the applicant submitted a scheme of road improvements proposals. This first of such drawings stated that the private access road at its existing

junction with the UC001 Rowan Road already achieved the geometry of the Operational Services Drawing Number SD08/002a. The road improvement proposals included the provision of two passing places, and the provision of a section of a 1 metre wide footway. Following this, further additional road improvement proposals were submitted by the applicant. This drawing also stated that the private access road at its existing junction with the UC001 Rowan Road already achieved the geometry of the Operational Services Drawing Number SD08/002a. The road improvement proposals included the provision of three passing places, the provision of a 2 metre wide footway (except for a 13 metre section at the junction of the private road with the public road), the provision of a turning head and bin storage area, a carriageway width of 3 metres, a section of street lighting, as well as a parking and turning area within the site boundary and a system of surface water drainage. Following a further consultation, the Council's Roads Authority have recommended refusal as the required upgrade to the junction of the private road, as well as the footpath requirement, at its connection with the public road could not be achieved due to the physical constraints within the private road corridor. Subsequently, the applicant submitted a revised plan illustrating the required upgrades at the junction of the private road with the public road, to the specification as set out within Operational Services Drawing SD08/002a. Whilst the required upgrades would be reliant upon a section of land under the ownership of a third party, a Section 75 Agreement would secure the required land to facilitate the necessary upgrades within the private road corridor. The information submitted has satisfactorily demonstrated that, subject to the aforementioned Section 75 Agreement, the access at the junction of the private road with the public road can be upgraded to the required standard in conjunction with the provision of a suitable footway.

It is a key requirement for private roads, where they join the public road network, to provide for adequate visibility splays to be maintained, and to be constructed in such a manner to not cause undue safety issues.

In this instance, the latest consultation response received from the Council's Roads Authority advised of no objections subject to the required upgrade works to the junction of the existing private road at the connection with the public road in accordance with Operational Services Drawing Number SD08/002a and subject to the associated access improvement works within the private road corridor. The information submitted with the application has adequately demonstrated that, subject to a legal agreement to secure the required land, the required upgrade to the private road at its junction with the public road could be undertaken within land under the control of the applicant. The junction of the private road with the public road would be upgraded within the private road corridor in such a way that it would allow for sufficient pedestrian refuge provision at this point of the private road.

In situations where development aims to utilise an existing private road, as is the case of the development proposed within this application, the proposed development requires an informed assessment of the issues related to the proposed additional development and the current situation on the private road, to include any capacity for improvement. In this instance, the Council's Roads Authority reviewed the existing access conditions, the scale and nature of the proposed development, and the scale and nature of the existing development served by the private road. The applicant is proposing a range of improvements to the private access road, and it has been satisfactorily demonstrated that, subject to a Section 75 Agreement, the required upgrade to the private access road at the junction with the public road could be upgraded within land under the control of the applicant. It has therefore been demonstrated that the private access road is capable of the required commensurate improvements on land under the control of the applicant.

**In this regard the proposal is considered to be in accordance with the provisions of NPF4 Policy 13 as underpinned by Local Development Plan Policy LDP 11,**

**supplementary guidance SG LDP TRAN 4, and Policy 37 of the proposed Local Development Plan 2.**

**5.9. NPF4 Policy 14 – Design, Quality and Place**

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

As this application seeks planning permission in principle, only limited indicative details have been submitted regarding the proposed dwellinghouse. The indicative details submitted show a dwellinghouse with a modest footprint set back into the plot, respecting the established settlement pattern and plot density that characterises this part of Oban. The indicative site sections show a one and three quarter storey dwellinghouse that would incorporate traditional features including dual-pitched roofs and gable ends, and would be finished with render and slate roof tiles. The siting of an appropriately scaled dwellinghouse at the site would accord with the settlement pattern, reflecting the existing plot densities, and would have no adverse impact on the wider townscape character of the area.

The Planning Authority is satisfied that the proposed site has the potential to successfully accommodate a suitably sited and designed dwellinghouse within the defined settlement zone of Oban which would relate to the settlement pattern of the surrounding area.

**It is considered that the necessary future application for the approval of the details of the proposed development would be expected to comply with the 'place principle' as set out in NPF4 Policy 14 and planning conditions attached to the permission in principle would ensure that the development would be designed to an appropriate standard. 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 Local Development Policy LDP 9, supplementary guidance SG LDP Sustainable Siting and Design Principles, and Local Development Plan 2 Policies 05, 08 and 10.**

**5.10. NPF4 Policy 15 – Local Living and 20 Minute Neighbourhoods**

NPF4 Policy 15 seeks to encourage, promote and facilitate the application of the Place Principle and create connected and compact neighbourhoods where people can meet the majority of their daily needs within a reasonable distance of their home.

In terms of the adopted settlement strategy, the site of the proposed development is within the Main Town Settlement Zone of Oban where Policies LDP STRAT 1 and LDP DM 1 give general encouragement, up to and including large scale, on appropriate sites. These main policy considerations are underpinned by the supplementary guidance contained SG LDP HOU 1 and SG LDP ENV 14 which offer further support to appropriate scales of residential development where such development would have no significant adverse impact upon the character of the landscape and where there is no unacceptable environmental, servicing or access impact.

**It is considered that the small scale nature of the proposed development and its setting within the settlement of Oban would reasonably comply with Policy 15 of NPF4 given the existing dispersed geographical scale of the wider environment within which the development is to be located, and given its compliance with the existing settlement pattern and the level and quality of interconnectivity of the proposed development with the surrounding area where people can reasonably**

**meet the majority of their daily needs within a reasonable distance of their home. This is underpinned by the broad settlement strategy policy contained within Policies LDP DM 1, LDP 8, LDP 10 and LDP 11 of the Local Development Plan.**

#### **5.11. NPF4 Policy 16 – Quality Homes**

NPF4 Policy 16 seeks to encourage, promote and facilitate the delivery of more high quality, affordable and sustainable homes in the right locations and providing choice of tenure to meet diverse housing needs.

NPF4 Policy 16 supports development proposals for new homes that improve choice, including at Policy 16(c) 'self-provided homes'. It is considered that this application to establish the principle of a single dwelling would accord with the broad policy aims of NPF4 Policy 16 and would be in a location underpinned by the adopted settlement strategy policies. The need in Policy 16(f) to ensure that development proposals for an agreed timescale for build-out will be covered through the use of a planning condition.

Whilst the development proposed by this planning application is on land not actively allocated for housing in the LDP, it would wholly accord with the adopted settlement strategy and would accord with the principles of 'local living' and '20 minute neighbourhoods'.

**The proposed development is therefore deemed consistent with NPF4 Policy 16 as underpinned by Local Development Plan Policies LDP DM 1 and LDP 8 and supplementary guidance SG LDP HOU 1, and Policy 66 of the proposed Local Development Plan 2.**

#### **5.12. NPF4 Policy 17 – Rural Homes**

NPF4 Policy 17 seeks to encourage, promote and facilitate the delivery of more high quality, affordable and sustainable rural homes in the right locations.

The development the subject of this planning application is located within a defined 'remote rural area' where Policy 17(c) offers support where such proposals:

- i) Support and sustain existing fragile communities;
- ii) Support identified local housing outcomes; and
- iii) Are suitable in terms of location, access and environmental impact.

The proposed development seeks the introduction of a single dwellinghouse which would accord with the Council's key planning policies aims of supporting and sustaining fragile rural communities by contributing to actions to reverse our falling rural populations and supporting the local economy.

**The development proposed would accord with the policy aims of Policy 17 and would comply with the specific policy requirements of NPF4 Policy 17(c) as underpinned by LDP Policies LDP DM 1, supplementary guidance SG LDP HOU 1, and Policy 66 of the proposed Local Development Plan 2.**

#### **5.13. NPF4 Policy 18 – Infrastructure First**

NPF4 Policy 18 seeks to encourage, promote and facilitate an infrastructure first approach to land use planning.

The development the subject of this planning application proposes a connection to the public water supply network and public drainage network. Scottish Water have been consulted on the application and raised no objection to the application, confirming that the development would be serviced by the Oban Waste Water Treatment Works. Scottish Water advised that further investigations may be required once a formal application had been made to Scottish Water.

**The proposal is considered to be consistent with the broad aims of NPF4 Policy 18 as underpinned by Local Development Plan Policy LDP 11.**

#### **5.14. 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.

The development the subject of this planning application proposes a connection to the public water supply network and public drainage network. Scottish Water have been consulted on the application and raised no objection to the application, confirming that the development would be serviced by the Tullich Water Treatment Works. Scottish Water advised that further investigations may be required once a formal application had been made to Scottish Water.

Representations received on the application raise concern regarding the impact of the proposed development upon the water supply to the neighbouring residential properties. In this instance, a suitable condition is therefore required to secure authorisation from Scottish Water for connection to the public water supply.

**Subject to the inclusion of such a condition, the proposal is considered to be consistent with the broad aims of NPF4 Policy 22 as underpinned by Local Development Plan Policy LDP 11.**

### **6. Other Considerations**

#### **6.1. Public Representation**

The application has been subject to 25 objections, 2 representations and 2 expressions of support.

The determining factor in the assessment of this application is whether the development of the site the subject of this application with a dwellinghouse is consistent with the provisions of the adopted National Planning Policy as underpinned by the LDP and whether the issues raised by third parties raise material considerations of sufficient significance to withhold planning permission.

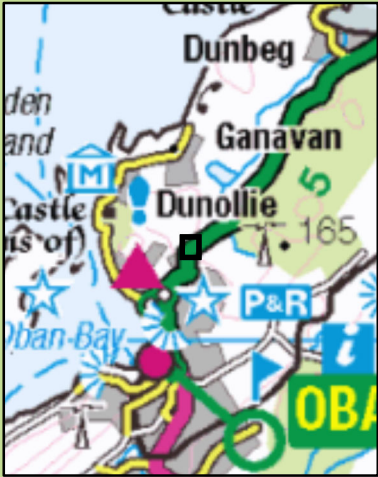
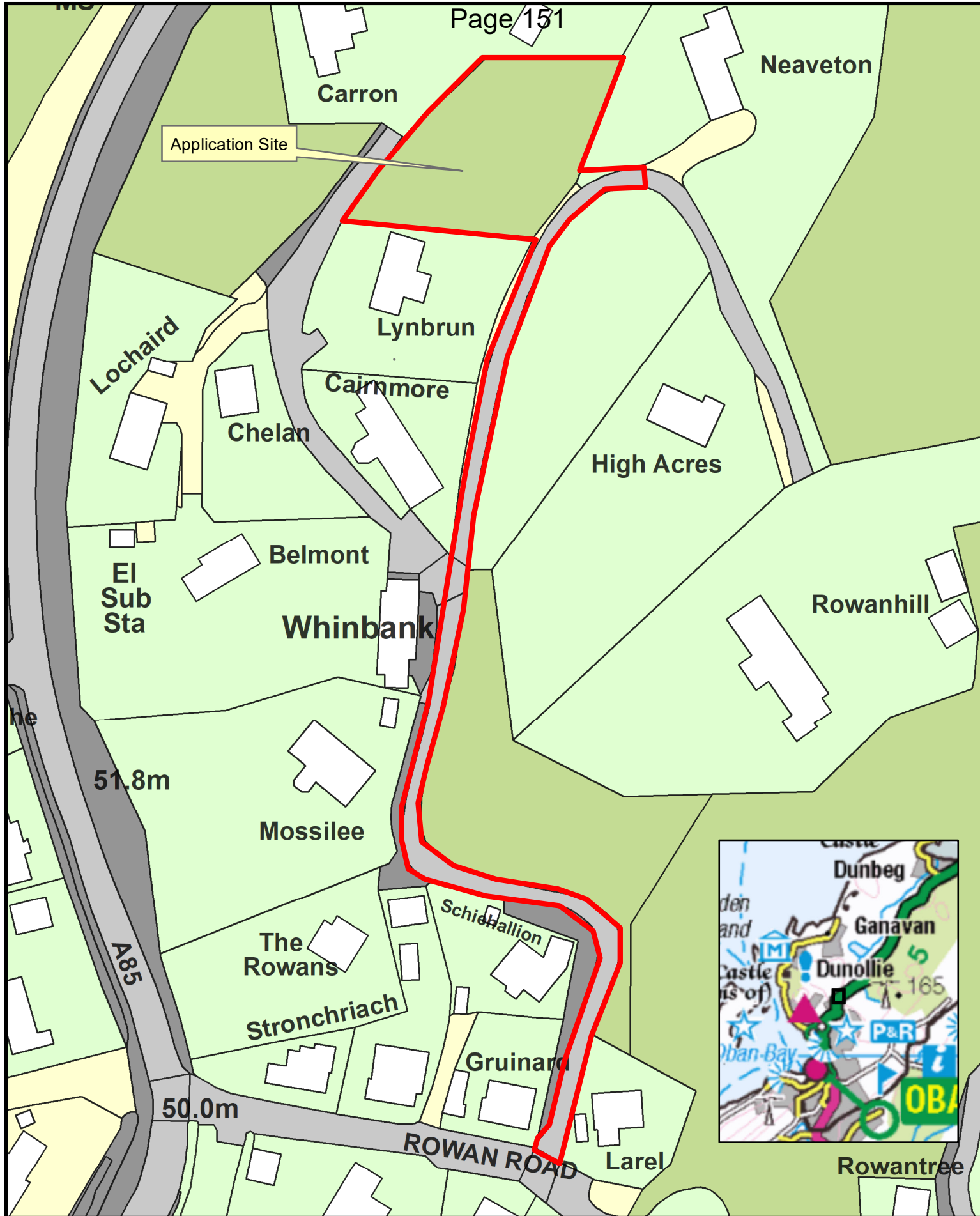
In this instance, as detailed above, there is a clear requirement set out in LDP Policy 11 and supplementary guidance SG LDP TRAN 4 of the adopted Local Development Plan, and Policy 37 of the proposed development Plan 2, for development utilising an existing private road to only be acceptable where the access is capable of commensurate improvements and where such improvements can be made within land under the control of the applicant. In this instance, the applicant is proposing a range of improvements to the existing private road, and it has been satisfactorily demonstrated that, subject to a Section 75 Agreement to secure the required land, the upgrade requirements, being the upgrade to the private road at the junction with the public road, would be achievable on land under the control of the applicant. The private road at its junction with the public road would be suitably upgraded and provision made for commensurate improvements such

that the proposed development would meet the aims of LDP Policy LDP 11 and supplementary guidance SG LDP TRAN 4, which seek to prioritise the safety of all road users.

## **7. Conclusion**

- 7.1. Subject to the required Section 75 Agreement and appropriate conditions to secure the necessary upgrade to the existing private road at the junction with the public road and the associated commensurate improvements to the existing private access, the proposal is considered to be consistent with the provisions of the adopted National Policy as underpinned by the LDP with the issues raised by third parties not amounting to material planning considerations that have not been addressed through the processing of the planning application. Accordingly, the application is recommended for approval subject to conditions.





**Location Plan Relative to Planning Application: 22/01986/PPP**



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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

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**Reference No:** 22/02090/PP  
**Planning hierarchy:** Local  
**Applicant:** Mr Dougie Craig  
**Development:** Alterations and Extension of Maisonette to Create a Self-Contained Two-Bedroom Flat at First Floor and a Three-Bedroom Flat at Second Floor  
**Site Address:** Flat 1, 11 Battery Place, Rothesay, Isle of Bute

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### 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

- Subdivision of maisonette to create a self-contained two-bedroom flat at first floor and a three-bedroom flat at second floor
- Alterations and extension to roof

#### (ii) Other specified operations

- Internal alterations
- 

### (B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that Planning Permission be **granted as a minor departure** to the Local Development Plan 2015 and Proposed Local Development Plan 2 (as intended for adoption) subject to the conditions, reasons and informative notes set out below.

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### (C) CONSULTATIONS:

**Area Roads Engineer** (report dated 17<sup>th</sup> July 2023)

Recommendation of refusal on the following grounds:

- The parking provision does not meet the minimum requirements for housing and flatted dwellings as set out in Supplementary Guidance policy SG LDP TRAN 6 of the Council's Local Development Plan.
- The proposal does not include any provision for off-street parking and the on-street parking does not have the capacity for further intensification.

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**(D) HISTORY:**

Planning Permission (ref: 413/83) was granted on 11<sup>th</sup> July 1983 for the conversion of a dwellinghouse into two flats at the property to which the current application relates.

Retrospective Planning Permission (ref: 96/00575/DET) was granted on 22<sup>nd</sup> July 1996 for the installation of replacement windows on the side and rear elevation of the first floor flat at the property to which the current application relates.

An application for Listed Building Consent (ref: 22/01946/LIB) is currently under consideration for the proposed works at the subject property.

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**(E) PUBLICITY:**

Subject of Neighbour Notification (closing date 9<sup>th</sup> November 2022) and advertised as development in a Conservation Area (closing date: 18<sup>th</sup> November 2022).

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**(F) REPRESENTATIONS:**

No representations have been received.

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**(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

Prepared by the agent, Marek Wiszniewski. Summarised in the assessment contained in Appendix A below. It explains that the intention of the proposed alteration and adaptation of this important listed building is to emulate and enhance the current overall aesthetic, both from the street and aquatic perspectives, and to extend its beneficial use and life expectancy.

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

Statement on parking prepared by the agent, Marek Wiszniewski. Referred to in the assessment contained in Appendix A below.

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**(H) PLANNING OBLIGATIONS**

Is a Section 75 obligation required: Yes No

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

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

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

**National Planning Framework 4 (Adopted 13<sup>th</sup> 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 7 – Historic Assets and Places  
NPF4 Policy 9 – Brownfield, Vacant and Derelict Land and Empty Buildings  
NPF4 Policy 13 – Sustainable Transport

**Liveable Places**

NPF4 Policy 14 – Design, Quality and Place  
NPF4 Policy 16 – Quality Homes  
NPF4 Policy 17 – Rural Homes

**Argyll and Bute Local Development Plan (Adopted March 2015)**

LDP STRAT 1 – Sustainable Development  
LDP DM 1 – Development within the Development Management Zones  
LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment  
LDP 9 – Development Setting, Layout and Design  
LDP 11 – Improving our Connectivity and Infrastructure

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

SG LDP ENV 1 – Impact on Habitats, Species and our Biodiversity  
SG LDP ENV 13 – Development Impact on Areas of Panoramic Quality (APQs)  
SG LDP ENV 17 – Development in Conservation Areas and Special Built Environment Areas  
SG LDP HOU 1 – General Housing Development Including Affordable Housing Provision  
SG LDP Sustainable Siting and Design Principles  
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.**

Argyll and Bute Sustainable Design Guidance 2006  
Historic Environment Policy Statement 2019  
Historic Environment Scotland – *‘Managing Change in the Historic Environment’*  
Publications

**Argyll and Bute Proposed Local Development Plan 2**

The Examination by Scottish Government Reporters into the Argyll and Bute Proposed Local Development Plan 2 (PLDP2) has now concluded and the Examination Report has been published. The Examination Report; the PLDP2 as recommended to be modified by the Examination Report; and the published Non Notifiable Modifications are material considerations in the determination of all planning and related applications.

PLDP2 Policies (as intended for adoption) relevant to the current application are as follows:

**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 10 – Design – All Development  
Policy 15 – Supporting the Protection, Conservation and Enhancement of our Historic Built Environment  
Policy 17 – Conservation Areas

**Connected Places**

Policy 40 – Vehicle Parking Provision

**Homes for People**

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

**High Quality Environment**

Policy 71 – Development Impact on Local Landscape Area (LLA)  
Policy 73 – Development Impact on Habitats, Species and Biodiversity

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

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

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

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

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

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

Area of Panoramic Quality (Local Development Plan 2015)  
 Local Landscape Area (Proposed Local Development Plan 2)  
 Conservation Area  
 Category C Listed Building

**(ii) Soils**

**Agricultural Land Classification:** Built-up Area/Unclassified Land

**Peatland/Carbon Rich Soils Classification:** Class 1  
Class 2  
Class 3  
N/A

**Peat Depth Classification:** N/A

Does the development relate to croft land? Yes No

Would the development restrict access to croft or better quality agricultural land? Yes No

Would the development result in fragmentation of croft / better quality agricultural land? Yes No

**(iii) Woodland**

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

Does the proposal include any replacement or compensatory planting?  Yes  No – details to be secured by condition  Not applicable

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

Status of Land within the Application  Brownfield  Brownfield Reclaimed by Nature  Greenfield

**LDP Settlement Strategy**

**ABC LDP 2015 Settlement Strategy**

**ABC PLDP2 Settlement Strategy**

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

Settlement Area  Countryside Area  Remote Countryside Area  Helensburgh & Lomond Greenbelt

**ABC LDP 2015 Allocations / PDAs / AFAs etc.:**

**ABC PLDP2 Allocations / PDAs / AFA etc.:**

N/A

N/A

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

Planning Permission is sought for the subdivision of an existing five-bedroomed maisonette at 11 Battery Place, Rothesay, Isle of Bute into a self-contained two-bedroom flat at first floor and a three-bedroom flat at second floor. Externally, the roof space is to be increased through the removal of the existing dormer window on the front slope and its replacement with a mansard-type construction. The existing extended roof on the rear slope is to be refurbished by a new external finish and replacement windows.

Principle of Development

The application relates to the subdivision of an existing flatted dwelling that is within the main town of Rothesay on the Isle of Bute. The proposal would address the structural issues present in the building and would result in the creation of two smaller flatted units that would provide the size of accommodation needed on Bute. As such, the principle of the proposal accords with the Settlement Strategy as contained in the existing and emerging Local Development Plan.

Impact on the Built Environment

The subject property, which dates from the early 19th century, is a Category C Listed Building that is in a prominent seafront location in the Rothesay Conservation Area. The agent has advised that modifications carried out in the 1980s to form

accommodation within the roof space are of neither a structural nor environmental standard to satisfy modern requirements. The roof structure and the external finishes are badly weathered allowing water ingress which, coupled with a lack of insulation, is having a detrimental effect on the main fabric of the building.

In addition to providing a more robust roof, the proposal seeks to provide a self-contained flat within the attic by expanding the useable space on the front elevation. In following Historic Environment Scotland's document titled '*Guidance on the Principles of Listed Building Consent*', the works seek to avoid affecting the most significant features of interest on the building and it is considered that the Design Statement provides a cogent justification for the proposal.

Having regard to all of the above, the proposal is considered to be acceptable and to preserve the character and appearance of the site in question and this part of the Rothesay Conservation Area.

### Impact on the Natural Environment

No material biodiversity impacts have been identified in the assessment of this application by the Planning Authority and the site for the proposed development is not covered by any national or European designations.

The site is located in an Area of Panoramic Quality (LDP 2015) and a Local Landscape Area (PLDP2) and these designations are a recognition of locally important physical landforms that are of scenic value.

The relevant policies in both the LDP and PLDP2 (as intended for adoption) seek to resist development in, or affecting, an Area of Panoramic Quality (APQ)/Local Landscape Area (LLA) where its scale, location or design would have a significant adverse impact on the character of the landscape.

No formal landscape and visual impact assessment is necessary and, given the '*householder*' type of development; the minor nature of the works; and the relatively localised impact that they would have, it is considered that the proposal would have a '*neutral*' effect upon the visual qualities of the wider APQ/LLA.

### Impact on Parking and the Local Road Network

In using the parking standards contained in the existing and emerging Argyll and Bute Local Development Plans, the proposed creation of a two-bedroomed and a three-bedroomed flat from a subdivided four-bedroomed maisonette would result in a notional shortfall of one parking space.

The application does not include any provision for off-street parking and the Area Roads Engineer considers that the on-street parking in this location does not have the capacity for further intensification. As such, they have recommended refusal on the grounds that the parking provision does not meet the minimum requirements for housing and flatted dwellings contained in the Local Development Plan.

There are a number of factors to consider in this part of the assessment:

- NPF4 Policy 13 generally 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 property is located 450 metres from the ferry terminal (approximately 5 minutes on foot) and 30 metres to the south of the nearest unmarked bus stop so it has relatively good public transport and pedestrian links.
- There are practicalities involved in providing off-street parking in relation to the proposed development (even if it were only to fill the perceived shortfall of one space). There is a lack of depth in the front curtilage of the property in terms of accommodating a vehicle(s); the front boundary wall would need to be removed and this is protected as part of the listing of the building; and the front curtilage is within the ownership of the ground floor flat.
- It is recognised (as confirmed by the agent) that there is a greater need on Bute for two and three bedroom properties than the five bedroom maisonette that exists at the moment. The creation of two smaller residences would play a modest role in addressing the issues that are present in the island's housing market.

Whilst it is acknowledged that the proposal does not fully meet the provisions of the relevant Policies and Supplementary Guidance in terms of off-street parking, the mitigating factors detailed in the paragraphs above are of sufficient materiality for the application to be approved as a minor departure to the Development Plan.

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

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**(R) Reasons why Planning Permission should be granted**

See Section (S) below.

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

Supplementary Guidance policy SG LDP TRAN 6 of the Council's Local Development Plan 2015 and Policy 40 of PLDP2 (as intended for adoption) both advocate that off-street car and vehicle parking should be provided for a proposed development on the basis of prescribed standards thereby ensuring that vehicles are not parked on the road where they may impede traffic flow or cause a hazard.

One of the minimum requirements is that two off-street parking spaces should be provided in association with a dwelling that contains either two or three bedrooms or three off-street parking spaces should be provided in association with a dwelling that contains four or more bedrooms. The proposal therefore requires a total of four off-street parking spaces. In this particular case, the existing maisonette has four bedrooms, which would notionally have three parking spaces associated with it although there is no existing off-street parking and, as such, vehicles park on the public road.

In using the parking standards referred to in Policy 40 and SG LDP TRAN 6 above, the two proposed flatted units should notionally each have two parking spaces



associated with them and, therefore, their creation would result in demand for an additional parking space in comparison with the existing situation.

There are relatively few properties in this part of Rothesay that have off-street parking so there is a considerable level of on-street parking and the current application is not proposing the creation of dedicated off-street parking spaces.

Both LDP 2015 and PLDP2 (as intended for adoption) refer to the limited categories of development that will not be expected to provide off-street car parking on development sites in identified town centre zones and these include small scale (i.e. up to five) flatted units. This zero parking provision does not apply in this case as the site is not within the identified town centre.

Notwithstanding the out-of-town-centre location, Supplementary Guidance SG LDP TRAN 6 refers to situations where a degree of flexibility might be available in terms of parking provision by taking into account specific criteria:

- It can be shown by the applicant that the parking requirement can be met by existing car parks and that the demand for parking in connection with the development will not coincide with the peak demand from the other land uses in the area
- The development is a straight replacement that can use the existing parking provision. It should be noted that there may also be a requirement to provide additional parking spaces if there was a shortfall in the original provision
- The development is adjacent to, and well served by, good public transport and pedestrian links
- The development, due to special characteristics, is likely to generate a significantly lower demand for parking than the standards would imply
- Environmental considerations are of prime importance e.g. the development is proposed within a Conservation Area

In looking at how the above criteria might be applicable in the context of the current proposal, the following points are relevant:

- The property is located 450 metres from the ferry terminal (approximately 5 minutes on foot) and 30 metres to the south of the nearest unmarked bus stop so it has relatively good public transport and pedestrian links
- There are practicalities involved in providing off-street parking in relation to the proposed development (even if it were only to fill the perceived shortfall of one space). There is a lack of depth in the front curtilage of the property in terms of accommodating a vehicle(s); the front boundary wall would need to be removed and this is protected as part of the listing of the building; and the front curtilage is within the ownership of the ground floor flat

In addition to the above factors, it is recognised (as confirmed by the agent) that there is a greater need on Bute for two and three bedroom properties than the five bedroom maisonette that exists at the moment. The creation of two smaller residences would play a modest role in addressing the issues that are present in the island's housing market.

Finally, it is of significance to reiterate the aspirations inherent in NPF4 Policy 13, which highlight the importance of walking, cycling and proximity to public transport links. The agent has advised that accommodation for bicycles will be provided within the rear garden and this can be achieved by condition.

Whilst it is recognised that the proposal does not fully meet the provisions of the relevant Policies and Supplementary Guidance in terms of off-street parking, the mitigating factors detailed in the paragraphs above are of sufficient materiality for the application to be approved as a minor departure to the Development Plan.

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

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**Author of Report:** Steven Gove

**Date:** 5<sup>th</sup> February 2024

**Reviewing Officer:** Kirsty Sweeney

**Date:** 6<sup>th</sup> February 2024

**Fergus Murray**  
**Head of Development and Economic Growth**

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 22/02090/PP****Standard Time Limit Condition for Planning Permission (as defined by Regulation)****Standard Condition on Soil Management During Construction****Additional Conditions**

1. Unless otherwise directed by any of the conditions below, the development shall be implemented in accordance with the details specified on the application form dated 17<sup>th</sup> October 2022; supporting information; and the approved drawings listed in the table below unless the prior written approval of the Planning Authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

<b>Plan Title.</b>	<b>Plan Ref. No.</b>	<b>Version</b>	<b>Date Received</b>
Existing	Drawing No. 2207/001A	A	19.10.2022
Proposed	Drawing No. 2207/002A	A	18.10.2022
Proposed First Floor	Drawing No. 2207/003	-	18.10.2022
Prop. Second Floor Plan	Drawing No. 2207/004	-	18.10.2022
Prop. Section B – B	Drawing No. 2207/005		18.10.2022
Prop. Section C – C	Drawing No. 2207/006		18.10.2022

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

2. Prior to the commencement of the development, full details of the external finish of the new roofs and the new windows in the front and rear roofs shall be submitted to and approved in writing by the Planning Authority. Unless otherwise agreed in writing with the Planning Authority, the new roofs and windows shall be installed in accordance with the approved details.

Reason: In order to successfully integrate the development with the existing Listed Building and the wider Conservation Area and for the avoidance of doubt.

3. A facility for the storage of cycles, the details of which shall have been previously submitted to and agreed in writing with the Planning Authority, shall be provided within the rear curtilage of the application site prior to the occupation of the first of the flatted dwellings hereby approved. Unless otherwise agreed in writing with the Planning Authority, the approved cycle storage shall be retained in perpetuity for this dedicated purpose.

Reason: In the interests of facilitating the use of cycles by the occupants of the flatted dwellings hereby approved in accordance with the provisions of National Planning Framework 4 Policy 13 '*Sustainable Transport*' and Supplementary Guidance policy

SG LDP TRAN 2 '*Development and Public Transport Accessibility*' of the Argyll and Bute Local Development Plan 2015.

## APPENDIX A – RELATIVE TO APPLICATION NUMBER: 22/02090/PP

### PLANNING LAND USE AND POLICY ASSESSMENT

Planning Permission is sought for the subdivision of an existing five-bedroomed maisonette at 11 Battery Place, Rothesay, Isle of Bute into a self-contained two-bedroom flat at first floor and a three-bedroom flat at second floor. Externally, the roof space is to be increased through the removal of the existing dormer window on the front slope and its replacement with a mansard-type construction. The existing extended roof on the rear slope is to be refurbished by a new external finish and replacement windows.

#### National Planning Framework 4

The assessment of the issues in this section of the report pay due regard to the overarching **NPF4 Policy 1**, which seeks to prioritise the climate and nature crises in all decisions. 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 for or against a proposal on the basis of its positive or negative contribution to climate and nature crises.

The key issues for consideration are:

- Principle of Development
- Impact on the Built Environment
- Impact on the Natural Environment
- Impact on Parking and the Local Road Network

#### **A. Principle of Development**

**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.

**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.

**NPF4 Policy 16** seeks to encourage, promote and facilitate the delivery of more high quality, affordable and sustainable homes, in the right locations, providing choice across tenures that meet the diverse housing needs of people and communities across Scotland.

**NPF4 Policy 17** generally seeks to “*encourage, promote and facilitate the delivery of more high quality, affordable and sustainable rural homes in the right locations.*”

The application site is located within a defined ‘*remote rural area*’ and Policy 17 covers rural areas generally and part (a) supports development that is suitably scaled, sited and designed in keeping with the character of the area and the development meets one of the criteria. Part (c) that makes specific reference to remote rural areas and requires proposals to support and sustains existing fragile communities and meet local housing outcomes.

## Assessment

In terms of the Settlement Strategy set out in the adopted Argyll and Bute Local Development Plan (LDP) 2015, the application site is situated within the defined Main Town of Rothesay where Policies LDP STRAT 1 and LDP DM 1 give general encouragement for sustainable developments, up to and including large scale, on appropriate sites.

As regards PLDP2 (as intended for adoption), the site is identified as being within a 'Settlement Area' where Policy 01 presumes in favour of redevelopment of brownfield sites where the proposed development is compatible with surrounding uses; is of an appropriate scale and fit for the size of settlement in which it is proposed; respects the character and appearance of the surrounding townscape in terms of density, scale, massing, design, external finishes and access arrangements; and is in compliance with all other relevant PLDP2 policies.

The application relates to the subdivision of an existing flatted dwelling (a brownfield site) that is within the main settlement on the Isle of Bute. The proposal would address the structural issues present in the building and would result in the creation of two smaller flatted units that would provide the size of accommodation needed on Bute.

As will be explored in more detail later in this report, the proposed external alterations to the building are considered to be appropriate in terms of their effect on the character of the Rothesay Conservation Area and to have no materially detrimental impact on parking in this part of Battery Place.

On the basis of the foregoing, **the principle of the proposed development is considered to accord with those Policies and Supplementary Guidance that are referred to in the paragraphs above.**

### **B. Impact on the Built Environment**

**NPF4 Policy 7** seeks to protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places.

**Policy 7(d)** only supports development proposals in or affecting Conservation Areas where they would preserve or enhance the character and appearance of the designated area and its setting. Relevant considerations include the architectural and historic character of the area; the existing density, built form and layout; and the context and siting, quality of design and suitable materials.

**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.*"

**Policies 14(a) and 14(b)** seek to improve the quality of an area irrespective of location and advocate the adoption of the six qualities of successful places in the formulation of developments. Three of these qualities are '*pleasantness*' (attractive natural and built spaces); '*distinctiveness*' (supporting attention to detail of local architectural styles to be interpreted into designs to reinforce identity); and '*sustainability*' (the efficient use of resources that will allow people to live, play, work and stay in their area).

The above NPF4 Policies are underpinned in the Argyll and Bute Local Development Plan 2015 by Policies LDP 3 and LDP 9 and Supplementary Guidance policies SG LDP ENV 17 and SG LDP *Sustainable Siting and Design Principles* and in PLDP2 (as intended for adoption) by Policy 04; Policy 05; Policy 08; Policy 10; Policy 15; and Policy 17.

## Assessment

The subject property is a Category C Listed Building that is in a prominent seafront location in the Rothesay Conservation Area approximately 0.4 km to the north-east of the town centre. In the listing description provided by Historic Environment Scotland at the time of the designation in November 1997, it is stated that the building was constructed in the early 19th century (possibly the 1820s) and flatted later in the 1980s.

It is described as an *“asymmetrical, 2-storey with attic, 3-bay plain classical style house; entered at front and rear”* and the architectural detailing on the front elevation is also covered.

Reference is made to the *“modern slate-hung dormer off-set to right of centre”* and that there is *“replacement glazing throughout.”*

*The ‘Statement of Special Interest’ mentions that this is a “simple flatted house with some interesting detailing - in particular, the cast-iron columns, full-height bow and original fanlight. The 1896 Ordnance Survey map depicts this house without its front bow, thus implying it to have been a later addition.”*

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states that *“In the exercise, with respect to any buildings or other land in a conservation area... special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”*.

The assessment of the proposal in relation to its designation as a Listed Building will principally be undertaken in the report on the application for Listed Building Consent (ref: 22/01946/LIB). However, it is considered appropriate to refer to the qualities of the building in determining the impact of the proposal on the character of the wider Conservation Area.

In this regard, the following statements are made in Historic Environment Scotland's document titled *‘Guidance on the Principles of Listed Building Consent’*:

- The majority of Listed Buildings are adaptable and have met the needs of successive generations while retaining their character. Change should, therefore, be managed to protect a building's special interest while enabling it to remain in active use. Each case must be judged on its own merits but, in general terms, listing rarely prevents adaptation to modern requirements but ensures that work is done in a sensitive and informed manner.
- Listed Buildings will, like other buildings, require alteration and adaptation from time to time if they are to remain in beneficial use, and will be at risk if such alteration and adaptation is unduly constrained. In most cases, such change, if approached carefully, can be managed without adversely affecting the special interest of the building.
- Where a proposal involves alteration or adaptation which will sustain or enhance the beneficial use of the building and does not adversely affect the special interest of the building, consent should normally be granted.

The agent, Marek Wiszniewski, has submitted a Design Statement in support of the application and the key points can be summarised as follows:

- The modifications that were carried out prior to the listing of the building to form accommodation within the roof space are of neither a structural nor environmental standard to satisfy modern requirements. The roof structure and the external finishes

are badly weathered allowing water ingress which, coupled with a lack of insulation, is having a detrimental effect on the main fabric of the building. The applicant wishes to improve both situations and increase the potential life expectancy of the building.

- The size of the floor areas of the existing first and second floor (attic) are such as to afford the opportunity of forming a third self-contained flat within the building at the second-floor level thereby strengthening the existing roof; reducing the building's carbon footprint; and providing valuable additional accommodation on the island.
- The original roof structure was substantially modified during the earlier alterations and it is recognised that the special interest of the building lies with the decorative appearance of the front (northwest-facing) elevation. In order to maximise the potential of the upper flat to suit modern living, expansion of the usable floor area into the loft is a logical progression and would ensure full maintenance and protection of the main structure.
- Historically, many buildings in the area have been modified with a '*mansard*'-type extension and the adjacent Commodore Hotel at 12 Battery Place is one such. The proposed alterations to the roof are designed to follow the same eaves line of the property at number 12. To avoid affecting the adjacent structure, the extended roof on the front elevation will '*mirror*' the footprint of the existing rear extended roof, maintaining a serviceable gap between the two buildings. This gap will be reflected on the Southwest gable, maintaining symmetry.
- To retain the massing effect of the roof in relation to the main building, new window dimensions will reflect the proportions of the lower windows, with the colour of the frames matching the main roof colour. The frames will be UPVC and the windows will be full height glazed with '*tilt-and-turn*' opening. As the windows can be opened inwards for cleaning, clear glass balustrade panels will be fitted externally.
- To enhance the weather protective façade of the vertical faces of the mansard, it is proposed to clad the timber-framed structure with anthracite grey-coloured, horizontally hung composite cladding. This will be a modern, environmentally appropriate alternative to emulate the existing pitch of the worn slates.
- The new roof (to be sheeted in an EPDM) will fall towards the rear of the building thereby concealing it from the view from the front and rainwater drainage will be connected to the existing at the rear of the building.
- The current complicated surface fixed drainage pipe system will be rationalised to improve the general external appearance and satisfy current standards.

Based on the information provided by the agent, the upper parts of the building are in a state of disrepair and the proposal would arrest the ingress of water together with providing a more robust roof. In line with guidance from Historic Environment Scotland, the works seek to avoid affecting the most significant features of interest on the building and it is considered that the Design Statement provides a cogent justification for the proposal.

Having regard to all of the above, the proposal is considered to be acceptable and to preserve the character and appearance of the site in question and this part of the Rothesay Conservation Area.

On the basis of the foregoing, and subject to suitably-worded conditions requiring the approval of external finishes and fenestration, **the proposed development is considered to accord**



**with those Policies and Supplementary Guidance that are referred to in the paragraphs above.**

### **C. Impact on the Natural Environment**

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

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

The above NPF4 Policies are underpinned in the Argyll and Bute Local Development Plan 2015 by Policy LDP 3 and Supplementary Guidance policies SG LDP ENV 1; SG LDP ENV 11; and SG LDP ENV 13 and in PLDP2 (as intended for adoption) by Policy 04; Policy 71; and Policy 73.

#### Assessment

No material biodiversity impacts have been identified in the assessment of this application by the Planning Authority and, in the particular circumstances of the proposal, no conditions relating to specific measures for biodiversity enhancement and protection are considered to be necessary.

The site for the proposed development is not within any of the following: a designated European site of natural environment conservation or protection; a National Scenic Area; a SSSI or RAMSAR site; a National Nature Reserve; or a Local Nature Conservation Site.

The site is located in an Area of Panoramic Quality (LDP 2015) and a Local Landscape Area (PLDP2) and these designations are a recognition of locally important physical landforms that are of scenic value.

The relevant policies in both the LDP and PLDP2 (as intended for adoption) seek to resist development in, or affecting, an Area of Panoramic Quality (APQ)/Local Landscape Area (LLA) where its scale, location or design would have a significant adverse impact on the character of the landscape and one of the requirements contained in PLDP2 Policy 71 is that an application for development within an LLA should be supported by a landscape and visual impact assessment.

No formal landscape and visual impact assessment has been submitted with the current application; however, it is considered that the submitted plans and drawings provide sufficient information to allow an appropriate form of assessment to be carried out. Given the 'householder' type of development; the minor nature of the works; and the relatively localised impact that they would have, it is considered that the proposal would have a 'neutral' effect upon the visual qualities of the wider APQ/LLA.

On the basis of the foregoing, **the proposed development is considered to accord with those Policies and Supplementary Guidance that are referred to in the paragraphs above.**

### **D. Impact on Parking and the Local Road Network**

NPF4 Policy 13 generally 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".

More specifically, NPF4 Policy 13(b) supports developments where it can be demonstrated that the transport requirements generated have been considered in line with the sustainable travel and investment hierarchies and where appropriate they, *inter alia*:

- Provide direct, easy, segregated and safe links to local facilities via walking, wheeling and cycling networks before occupation.
- Will be accessible by public transport, ideally supporting the use of existing services.

In the Argyll and Bute Local Development Plan 2015, Policy LDP 11 and Supplementary Guidance policy SG LDP TRAN 6 are applicable whilst Policy 40 is relevant in the PLDP2 (as intended for adoption).

## Assessment

Policy 40 of PLDP2 (as intended for adoption) states that off-street car and vehicle parking shall be provided for development in accordance with the car parking standards set out in Table 5 on Pages 67 and 68 of the plan.

The main principle of Supplementary Guidance policy SG LDP TRAN 6 '*Vehicle Parking Provision*' of the Council's Local Development Plan 2015 is that off-street car and vehicle parking should be provided for a proposed development on the basis of the prescribed '*Access and Car Parking Standards*' thereby ensuring that vehicles are not parked on the road where they may impede traffic flow or cause a hazard.

One of the minimum requirements is that two off-street parking spaces should be provided in association with a dwelling that contains either two or three bedrooms or three off-street parking spaces should be provided in association with a dwelling that contains four or more bedrooms. In this particular case, the existing maisonette has four bedrooms, which would notionally have three parking spaces associated with it although there is no existing off-street parking and, as such, vehicles park on the public road.

In using the parking standards referred to in Policy 40 and SG LDP TRAN 6 above, the two proposed flatted units should notionally each have two parking spaces associated with them and, therefore, their creation would result in demand for an additional parking space in comparison with the existing situation. Therefore, the total number of off-street parking spaces required by the parking standards is four.

There are relatively few properties in this part of Rothesay that have off-street parking so there is a considerable level of on-street parking and the current application is not proposing the creation of dedicated off-street parking spaces.

The Area Roads Engineer has recommended refusal on the grounds that the application does not include any provision for off-street parking and the on-street parking does not have the capacity for further intensification with the consequence that the parking provision does not meet the minimum requirements for housing and flatted dwellings as set out in SG LDP TRAN 6.

In the narrative associated with Policy 40, Paragraph 6.24 states that, "*in the Main Towns, there is an acceptance that zero parking provision can be appropriate for certain categories of developments. This is justified on the basis that some types of development are able to function effectively within these central areas without requiring on-site parking, relying instead on central area public car parking provision and the availability of public transport services.*"

As a follow-on from the above, both LDP 2015 and PLDP2 (as intended for adoption) refer to the limited categories of development that will not be expected to provide off-street car parking on development sites in identified town centre zones and these include small scale (i.e. up to five) flatted units. This zero parking provision does not apply in this case as the site is not within the identified town centre, although it is considered edge of town centre.

Supplementary Guidance SG LDP TRAN 6 refers to those situations where a degree of flexibility might be available in terms of parking provision by taking into account the following criteria:

- *It can be shown by the applicant that the parking requirement can be met by existing car parks and that the demand for parking in connection with the development will not coincide with the peak demand from the other land uses in the area.*
- *The development is a straight replacement that can use the existing parking provision. It should be noted that there may also be a requirement to provide additional parking spaces if there was a shortfall in the original provision.*
- *The development is adjacent to, and well served by, good public transport and pedestrian links.*
- *The development, due to special characteristics, is likely to generate a significantly lower demand for parking than the standards would imply.*
- *Environmental considerations are of prime importance e.g. the development is proposed within a Conservation Area.*

In looking at how the above criteria might be applicable in the context of the current proposal, the following points are relevant:

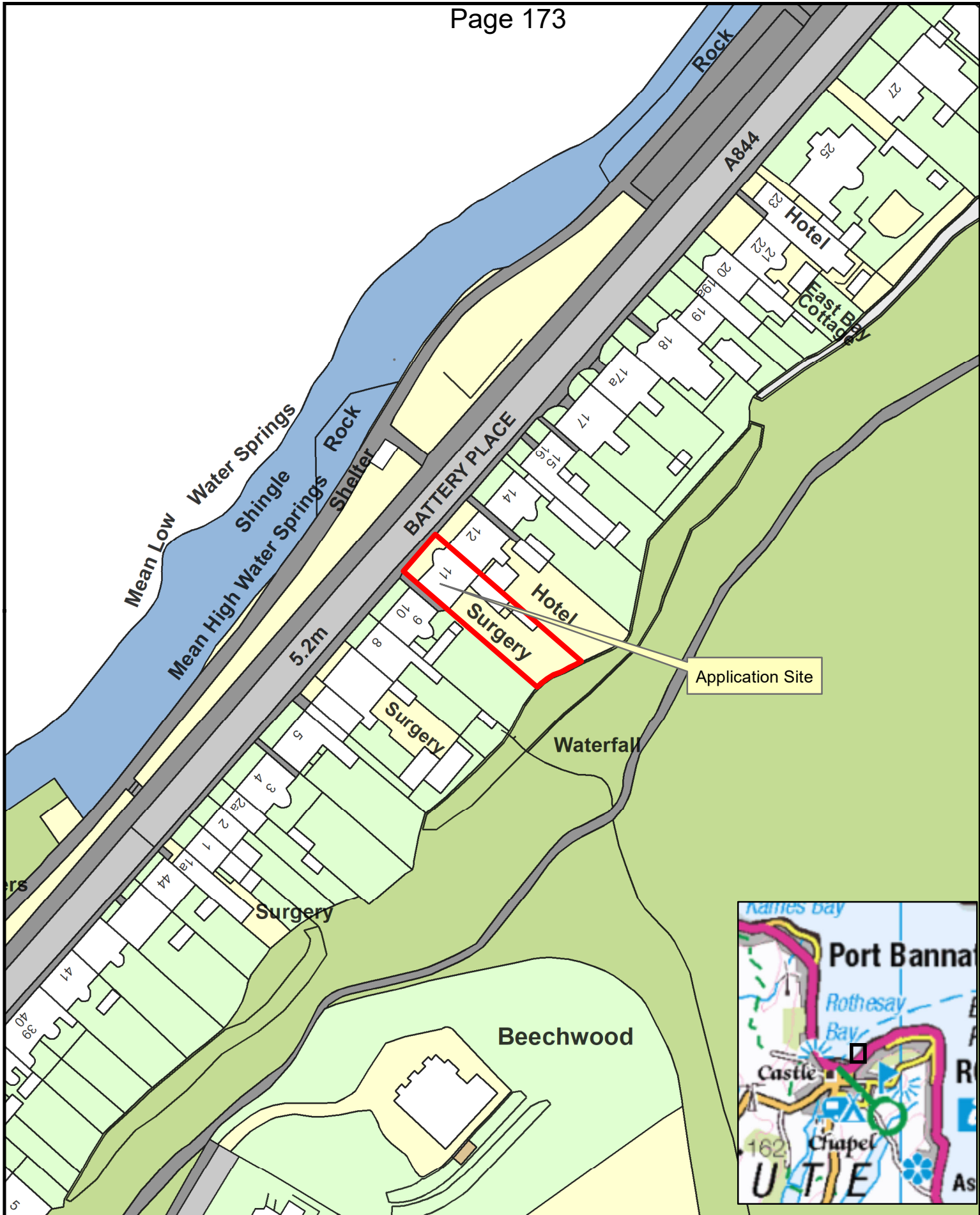
- The property is located 450 metres from the ferry terminal (approximately 5 minutes on foot) and 30 metres to the south of the nearest unmarked bus stop so it has relatively good public transport and pedestrian links.
- There are practicalities involved in providing off-street parking in relation to the proposed development (even if it were only to fill the perceived shortfall of one space). There is a lack of depth in the front curtilage of the property in terms of accommodating a vehicle(s); the front boundary wall would need to be removed and this is protected as part of the listing of the building; and the front curtilage is within the ownership of the ground floor flat.

In addition to the above factors, it is recognised (as confirmed by the agent) that there is a greater need on Bute for two and three bedroom properties than the five bedroom maisonette that exists at the moment. The creation of two smaller residences would play a modest role in addressing the issues that are present in the island's housing market.

Finally, it is of significance to reiterate the aspirations inherent in NPF4 Policy 13, which highlight the importance of walking, cycling and proximity to public transport links. The agent has advised that accommodation for bicycles will be provided within the rear garden and this can be achieved by condition.

Whilst it is recognised that the proposal does not fully meet the provisions of the relevant Policies and Supplementary Guidance in terms of off-street parking, the mitigating factors

detailed in the paragraphs above are of sufficient materiality for **the application to be approved as a minor departure to the Development Plan.**



**Location Plan Relative to Planning Application: 22/02090/PP**



1:1,250

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Argyll and Bute Council  
Development & Economic Growth

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

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Reference No: 23/00395/PP  
Planning hierarchy: Local  
Applicant: Mrs Kirsteen MacDonald  
Development: Formation of Vehicular Access and Parking Space and Removal of Wall, Railings and Gate  
Site Address: 4A Argyle Place, Rothesay, Isle of Bute

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### DECISION ROUTE

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

### (A) THE APPLICATION

#### (i) Development Requiring Express Planning Permission

- Formation of vehicular access
- Use of existing hardstanding area as parking space
- Removal of wall, railings and gate

#### (ii) Other specified operations

- Dropped kerb
- 

### (B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that Planning Permission be **granted as a minor departure** to the Local Development Plan 2015 and Proposed Local Development Plan 2 (as intended for adoption) subject to the conditions, reasons and informative notes set out below.

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### (C) CONSULTATIONS:

**Area Roads Engineer** (report dated 21<sup>st</sup> August 2023)

Recommendation of refusal on the following grounds:

- In-curtilage turning cannot be achieved
- Vehicles may have to reverse onto public road, which is unacceptable
- Visibility splay cannot be achieved

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**(D) HISTORY:**

There is none pertaining to the property that is the subject of the current application.

Planning Permission (ref: 07/01693/DET) was granted on 19<sup>th</sup> November 2007 for the installation of replacement windows and the formation of a vehicular access at 5 Argyle Place, which is the property to the immediate north of the current application site.

Retrospective Planning Permission (ref: 18/02224/PP) was granted on 15<sup>th</sup> January 2019 for the partial removal of the front boundary wall to facilitate vehicular access and the re-surfacing of the front garden at 4 Argyle Place, which is the property to the immediate south of the current application site.

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**(E) PUBLICITY:**

Subject of Neighbour Notification (closing date 4<sup>th</sup> July 2023) and advertised as development in a Conservation Area (advert closing date: 14<sup>th</sup> July 2023 and Site Notice closing date: 19<sup>th</sup> July 2023).

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**(F) REPRESENTATIONS:**

No representations have been received.

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**(G) SUPPORTING INFORMATION**

**Has the application been the subject of:**

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

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**(H) PLANNING OBLIGATIONS**

**Is a Section 75 obligation 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 13<sup>th</sup> 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 7 – Historic Assets and Places  
NPF4 Policy 9 – Brownfield, Vacant and Derelict Land and Empty Buildings  
NPF4 Policy 13 – Sustainable Transport

**Liveable Places**

NPF4 Policy 14 – Design, Quality and Place  
NPF4 Policy 16 – Quality Homes

**Argyll and Bute Local Development Plan (Adopted March 2015)**

LDP STRAT 1 – Sustainable Development  
LDP DM 1 – Development within the Development Management Zones  
LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment  
LDP 9 – Development Setting, Layout and Design  
LDP 11 – Improving our Connectivity and Infrastructure

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

SG LDP ENV 1 – Impact on Habitats, Species and our Biodiversity  
SG LDP ENV 13 – Development Impact on Areas of Panoramic Quality (APQs)  
SG LDP ENV 17 – Development in Conservation Areas and Special Built Environment Areas  
SG LDP Sustainable Siting and Design Principles  
SG LDP TRAN 4 – New and Existing, Public Roads and 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.**

Argyll and Bute Sustainable Design Guidance 2006  
Historic Environment Policy Statement 2019  
Historic Environment Scotland – *‘Managing Change in the Historic Environment’*  
Publications

Argyll and Bute Proposed Local Development Plan 2

The Examination by Scottish Government Reporters into the Argyll and Bute Proposed Local Development Plan 2 (PLDP2) has now concluded and the Examination Report has been published. The Examination Report; the PLDP2 as recommended to be modified by the Examination Report; and the published Non Notifiable Modifications are material considerations in the determination of all planning and related applications.

PLDP2 Policies (as intended for adoption) relevant to the current application are as follows:

**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 10 – Design – All Development  
Policy 15 – Supporting the Protection, Conservation and Enhancement of our Historic Built Environment  
Policy 17 – Conservation Areas

**Connected Places**

Policy 34 – Electric Vehicle Charging  
Policy 39 – Construction Standards for Private Accesses  
Policy 40 – Vehicle Parking Provision

**High Quality Environment**

Policy 71 – Development Impact on Local Landscape Area (LLA)  
Policy 73 – Development Impact on Habitats, Species and Biodiversity  
Policy 79 – Protection of Soil and Peat Resources

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

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

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

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

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

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

Area of Panoramic Quality (Local Development Plan 2015)  
Local Landscape Area (Proposed Local Development Plan 2)  
Conservation Area

(ii) Soils

Agricultural Land Classification: Built-up Area/Unclassified Land

Peatland/Carbon Rich Soils Classification:  Class 1  
 Class 2  
 Class 3  
 N/A

Peat Depth Classification: N/A

Does the development relate to croft land?  Yes  No

Would the development restrict access to croft or better quality agricultural land?  Yes  No

Would the development result in fragmentation of croft / better quality agricultural land?  Yes  No

(iii) Woodland

Will the proposal result in loss of trees/woodland?  Yes  
(If yes, detail in summary assessment)  No

Does the proposal include any replacement or compensatory planting?  Yes  
 No – details to be secured by condition  
 Not applicable

(iv) Land Status / LDP Settlement Strategy

Status of Land within the Application  Brownfield  
 Brownfield Reclaimed by Nature  
 Greenfield

**LDP Settlement Strategy**

**ABC LDP 2015 Settlement Strategy**

Main Town Settlement Area  
 Key Rural Settlement Area

**ABC PLDP2 Settlement Strategy**

Settlement Area  
 Countryside Area

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

- Remote Countryside Area
- Helensburgh & Lomond Greenbelt

**ABC LDP 2015 Allocations/ PDAs/ AFAs etc.:**

**ABC PLDP2 Allocations/PDAs/AFA etc.:**

**N/A**

**N/A**

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

Planning Permission is sought for the formation of a vehicular access and the use of an existing hardstanding in the front garden as a parking space at 4A Argyle Place, Rothesay, Isle of Bute. In order to achieve the access and parking, the existing front boundary wall, railings and gate are to be removed from the site.

Principle of Development

The application relates to small-scale, householder development located in the residential curtilage of a dwellinghouse (a brownfield site) that is within the main town of Rothesay on the Isle of Bute and, as such, the principle of the proposal accords with the Settlement Strategy as contained in the existing and emerging Local Development Plan.

Impact on the Built Environment

4A Argyle Place is located within the Rothesay Conservation Area and the principle change to the built fabric would be the removal of the front wall, railings and gate. The latter two elements were installed only in the last ten years so their removal would not result in the loss of original or traditional features that have been in place for a significant period of time.

The removal of the wall is a fundamental element of providing the off-road parking space and, if one regards this wall as part of the frontage of Nos 4A and 5 Argyle Place, the resultant gap would reflect the predominant arrangement along the front boundary treatments of the properties in Argyle Place where there are relatively low walls with openings for both pedestrian and vehicular access.

In these circumstances, the proposed works are considered to have a neutral effect thereby preserving the character and appearance of this part of the Rothesay Conservation Area.

Impact on the Natural Environment

No material biodiversity impacts have been identified in the assessment of this application by the Planning Authority and the site for the proposed development is not covered by any national or European designations.

The site is located in an Area of Panoramic Quality (LDP 2015) and a Local Landscape Area (PLDP2) and these designations are a recognition of locally important physical landforms that are of scenic value.

The relevant policies in both the LDP and PLDP2 (as intended for adoption) seek to resist development in, or affecting, an Area of Panoramic Quality (APQ)/Local Landscape Area (LLA) where its scale, location or design would have a significant adverse impact on the character of the landscape.

No formal landscape and visual impact assessment is necessary and, given the '*householder*' type of development; the minor nature of the works; and the relatively localised impact that they would have, it is considered that the proposal would have a '*neutral*' effect upon the visual qualities of the wider APQ/LLA.

Finally, the site is not within an identified area of peatland, carbon-rich soils or priority peatland habitat and the proposal involves the use of an existing area of hardstanding with no ground breaking or disturbance of soils being involved.

### Impact on Road and Pedestrian Safety

The Area Roads Engineer has recommended refusal on the grounds that in-curtilage turning and visibility splays cannot be achieved and that vehicles may have to reverse onto the public road, which they consider to be unacceptable.

In the context of the approval at the adjoining property, No. 4 Argyle Place in January 2019 of access and parking space, which is comparative similarity with the current proposal; there have been no material changes in circumstance in the intervening period (either in the characteristics of this part of Rothesay or in published Council policies), and it was not considered reasonable for the lack of in-curtilage turning and the potential for vehicle reversing to be used as reasons for refusal in that case but this is highlighted as the main reason for refusal for this proposal.

It is recognised that visibility splays of 42 metres in both directions from a setback distance of 2.4 metres are not achievable with this proposal. However, should Planning Permission be granted for the access in question and the appropriate approvals were then obtained from the Council as Roads Authority, three sets of adjoining white lines would be in place that would deter cars being parked on this stretch of road for a distance of approximately 20 metres. The absence of parked cars on either side of the proposed access would result in relatively good visibility for a domestic driveway onto an A-class road.

Additionally, the width of the A844 at this location is such that there are two lanes for traffic and one lane (in front of the buildings) to accommodate the parking of vehicles. Given that the white line in front of the proposed access would discourage a parked vehicle on the road, a car exiting the parking space in a forward gear would be able to look in both directions for oncoming traffic having already crossed the footway and edged on to the road i.e. there would be a marked improvement in visibility in both directions as they left their own curtilage and moved carefully towards the public carriageway.

In the particular circumstances detailed above, it is considered that the lines of sight for a vehicle entering the public carriageway from the parking space in question would not result in an unacceptable risk to road or pedestrian safety.

Whilst it is recognised that the proposal does not meet the Roads Department's requirements in terms of in-curtilage turning and visibility splays and, therefore, would not fully accord with the provisions of the relevant Policies and Supplementary Guidance, the mitigating factors detailed in the paragraphs above are of sufficient materiality for the application to be approved as a minor departure to the Development Plan.

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

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

See Section (S) below.

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

Policy LDP 11 and Supplementary Guidance policy SG LDP TRAN 4 of the Argyll and Bute Local Development Plan 2015 and Policy 39 of PLDP2 (as intended for adoption) require that private accesses should be constructed to incorporate minimum standards to function safely and effectively as set out in the Council's Road Development Guide, including the provision of adequate visibility splays, boundary definition and turning capacities.

The current application does not make provision for turning within the front curtilage of the dwellinghouse. However, in the context of the approval at the adjoining property, No. 4 Argyle Place in January 2019 of an access and parking space; its comparative similarity with the current proposal; and there have been no material changes in circumstance in the intervening period (either in the characteristics of this part of Rothesay or in published Council policies), so it is not considered reasonable for the lack of in-curtilage turning and the potential for vehicle reversing to be used as reasons for refusal.

It is recognised that visibility splays of 42 metres in both directions from a setback distance of 2.4 metres are not achievable with this proposal. However, should Planning Permission be granted for the access in question and the appropriate approvals were then obtained from the Council as Roads Authority, three sets of adjoining white lines would be in place that would deter cars being parked on this stretch of road for a distance of approximately 20 metres. The absence of parked cars on either side of the proposed access would result in relatively good visibility for a domestic driveway onto an A-class road.

Additionally, the width of the A844 at this location is such that there are two lanes for traffic and one lane (in front of the buildings) to accommodate the parking of vehicles. Given that the white line in front of the proposed access would discourage a parked vehicle on the road, a car exiting the parking space in a forward gear would be able to look in both directions for oncoming traffic having already crossed the footway and edged on to the road i.e. there would be a marked improvement in visibility in both directions as they left their own curtilage and moved carefully towards the public carriageway.

In the particular circumstances detailed above, it is considered that the lines of sight for a vehicle entering the public carriageway from the parking space in question would not result in an unacceptable risk to road or pedestrian safety.

Whilst it is acknowledged that the proposal does not meet the Roads Department's requirements in terms of in-curtilage turning and visibility splays and, therefore, would not fully accord with the provisions of the relevant Policies and Supplementary Guidance, the mitigating factors detailed in the paragraphs above are of sufficient materiality for the application to be approved as a minor departure to the Development Plan.

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

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**Author of Report:** Steven Gove

**Date:** 5<sup>th</sup> February 2024

**Reviewing Officer:** Kirsty Sweeney

**Date:** 6<sup>th</sup> February 2024

**Fergus Murray**  
**Head of Development and Economic Growth**

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 23/00395/PP****Standard Time Limit Condition for Planning Permission (as defined by Regulation)****Standard Condition on Soil Management During Construction****Additional Conditions**

1. The development shall be implemented in accordance with the details specified on the application form dated 26<sup>th</sup> February 2023; the Addenda dated 23<sup>rd</sup> March 2023 and 13<sup>th</sup> June 2023; supporting information; and the approved drawings listed in the table below unless the prior written approval of the Planning Authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

<b>Plan Title.</b>	<b>Plan Ref. No.</b>	<b>Version</b>	<b>Date Received</b>
Location Plan	Ref. No. TQRQM23074155036170	-	13.06.2023
Site Plan 1:200	Ref. No. TQRQM23074161329640	-	13.06.2023
Site Plan 1:50	Drawing No. 202209-24	-	08.06.2023
Photographs and Description of Works	Drawing No. 202209-25	-	08.06.2023

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



## ADVISORY NOTES TO APPLICANT

1. The applicant's attention is drawn to the comments of the Area Roads Engineer at the time of Planning Permission (ref: 18/02224/PP) being granted on 15<sup>th</sup> January 2019 for the partial removal of the front boundary wall to facilitate vehicular access and the re-surfacing of the front garden at 4 Argyle Place.

These can be summarised as follows in the context of the current proposal:

- The access is taken from the A844 at Argyle Place, Rothesay within an urban 30mph speed restriction. There are vehicles regularly parked on the carriageway in the vicinity of the proposed access. The lack of turning provision within the site is not ideal and the applicant should reverse their vehicles into their parking area off the road and return to the road in a forward manner. The current Highway Code advises of this practice - *Rule 201* states "*when using a driveway, reverse in and drive out if you can*". This applies to off road parking where there is no provision for turning within the property
  - Any vehicle using the access must only enter or leave when it is safe to do so with regard to both pedestrian and vehicular traffic
  - The existing Disabled Bay outside 4A Argyle Place, which was originally marked out for use in association with the applicant's property, will be reviewed as per Council's standard procedures; this may result in the removal of the bay, unless there is a specific request for it to be retained for other qualified parties
  - No surface water must be able to run off the property onto either the footway or carriageway
  - If gates are to be fitted, they would require the submission of an application for Planning Permission. They should be designed such that they do not open out onto the footway or road
2. The carrying out of any works on or adjacent to the A844 road (Argyle Place) will require a Road Opening Permit (S56) and the applicant is advised to contact Roads and Amenity Services on 01546 605514 or to use the following link to the Council's website: <https://www.argyll-bute.gov.uk/licences/road-opening-permit>
  3. National Planning Framework 4 and the emerging Argyll and Bute Proposed Local Development Plan 2 advocate the provision of low or zero-emission vehicle charging points in safe and convenient locations within development sites and the applicant/developer is encouraged to examine the potential for this type of facility within the proposed parking space.

Prior to the installation of a charging point, the applicant/developer should consult with the Council's Development Management Service and Building Standards Section in Bute and Cowal for advice on whether any Planning Permissions or Building Warrants would be required - <https://www.argyll-bute.gov.uk/planning-and-building/contact-planning> and <https://www.argyll-bute.gov.uk/planning-and-building/building-standards/contact-building-standards>

**APPENDIX A – RELATIVE TO APPLICATION NUMBER: 23/00395/PP**

**PLANNING LAND USE AND POLICY ASSESSMENT**

Planning Permission is sought for the formation of a vehicular access onto the A844 public road and the use of an existing hardstanding in the front garden as a parking space at 4A Argyle Place, Rothesay, Isle of Bute. In order to achieve the access and parking, the existing front boundary wall, railings and gate are to be removed from the site.

National Planning Framework 4

The assessment of the issues in this section of the report pay due regard to the overarching **NPF4 Policy 1**, which seeks to prioritise the climate and nature crises in all decisions. 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 for or against a proposal on the basis of its positive or negative contribution to climate and nature crises.

The key issues for consideration are:

- Principle of Development
- Impact on the Built Environment
- Impact on the Natural Environment
- Impact on Road and Pedestrian Safety

**A. Principle of Development**

**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.

**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.

**NPF4 Policy 16** seeks to encourage, promote and facilitate the delivery of more high quality, affordable and sustainable homes, in the right locations, providing choice across tenures that meet the diverse housing needs of people and communities across Scotland.

**Policy 16(g)** states that householder developments will be supported where, *inter alia*, they do not have a detrimental impact on the character or environmental quality of the home and the surrounding area in terms of size, design and materials.

Assessment

In terms of the Settlement Strategy set out in the adopted Argyll and Bute Local Development Plan (LDP) 2015, the application site is situated within the defined Main Town of Rothesay where Policies LDP STRAT 1 and LDP DM 1 give general encouragement for sustainable developments, up to and including large scale, on appropriate sites.

As regards PLDP2 (as intended for adoption), the site is identified as being within a 'Settlement Area' where Policy 01 presumes in favour of redevelopment of brownfield sites where the proposed development is compatible with surrounding uses; is of an appropriate scale and fit for the size of settlement in which it is proposed; respects the character and appearance of the surrounding townscape in terms of density, scale, massing, design, external finishes and access arrangements; and is in compliance with all other relevant PLDP2 policies.

The application relates to small-scale, householder development located in the residential curtilage of a dwellinghouse (a brownfield site) that is within the main settlement on the Isle of Bute.

As will be explored in more detail later in this report, the proposed vehicular access and parking space are considered to be appropriate in terms of their impact on the character of the Rothesay Conservation Area and to have no materially harmful impact on vehicular and pedestrian safety.

On the basis of the foregoing, **the principle of the proposed development is considered to accord with those Policies and Supplementary Guidance that are referred to in the paragraphs above.**

## **B. Impact on the Built Environment**

**NPF4 Policy 7** seeks to protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places.

**Policy 7(d)** only supports development proposals in or affecting Conservation Areas where they would preserve or enhance the character and appearance of the designated area and its setting. Relevant considerations include the architectural and historic character of the area; the existing density, built form and layout; and the context and siting, quality of design and suitable materials.

**Policy 7(e)** seeks to ensure that development proposals in Conservation Areas retain existing natural and built features that contribute to the character of the designated area and its setting, including structures, boundary walls, railings, trees and hedges.

**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.*"

**Policies 14(a) and 14(b)** seek to improve the quality of an area irrespective of location and advocate the adoption of the six qualities of successful places in the formulation of developments. Two of these qualities are '*pleasantness*' (attractive natural and built spaces) and '*sustainability*' (the efficient use of resources that will allow people to live, play, work and stay in their area).

The above NPF4 Policies are underpinned in the Argyll and Bute Local Development Plan 2015 by Policies LDP 3 and LDP 9 and Supplementary Guidance policies SG LDP ENV 17 and SG LDP *Sustainable Siting and Design Principles* and in PLDP2 (as intended for adoption) by Policy 04; Policy 05; Policy 08; Policy 10; Policy 15; and Policy 17.

### Assessment

4A Argyle Place is a two-storey dwellinghouse that is attached to the south-facing gable of its three-storey flatted neighbour, 5 Argyle Place. In addition to the variation in height, the two properties are painted in different colours although the bay windows and string courses provide shared architectural detailing.

The front curtilage of the dwellinghouse is enclosed with a 600 mm stone wall along its boundaries with the footway and No. 5 to the north whilst there is a higher stone wall along the boundary with No. 4 to the south. There are light grey-coloured vertical railings on the top of the lower boundary walls and a similar-styled gate that provides access to a footpath leading up to the front door. The main part of the front area is finished in blond-coloured paving slabs.

The proposal would involve the removal of the existing gate; the demolition of the front boundary wall and railings to the level of the public footway; and the making good of the finishes and levels in matching tarmacadam.

The existing path to the entrance of the dwellinghouse would remain and there would be no change to the paved hard-standing area, which would be used as a private off-road parking space.

The property is located within the Rothesay Conservation Area and the principal change to the built fabric would be the removal of the front wall, railings and gate. Images on Google Streetview show that the railings and gate that are currently *in situ* were installed at some point between October 2015 and October 2021. On this basis, their removal would not result in the loss of original or traditional features that have been in place for a significant period of time.

The removal of the wall is a fundamental element of providing the off-road parking space and, if one regards this wall as part of the frontage of Nos 4A and 5 Argyle Place, the resultant gap would reflect the predominant arrangement along the front boundary treatments of the properties in Argyle Place where there are relatively low walls with openings for both pedestrian and vehicular access.

In these circumstances, the proposed works are considered to have a neutral effect thereby preserving the character and appearance of this part of the Rothesay Conservation Area.

On the basis of the foregoing, **the proposed development is considered to accord with those Policies and Supplementary Guidance that are referred to in the paragraphs above.**

## **C. Impact on the Natural Environment**

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

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

**NPF4 Policy 5** principally seeks to protect carbon-rich soils, restore peatlands and minimise disturbance to soils from development. It is anticipated that, for development that includes significant excavations, additional details (sections/ details of soil storage; etc.) should be submitted prior to the determination of the application and, if necessary, conditioned accordingly.

**Policy 5(a)** seeks to ensure that development proposals will only be supported if they are designed and constructed, firstly, in accordance with the mitigation hierarchy by first avoiding and then minimising the amount of disturbance to soils on undeveloped land and, secondly, in a manner that protects soil from damage including from compaction and erosion, and that minimises soil sealing.

The above NPF4 Policies are underpinned in the Argyll and Bute Local Development Plan 2015 by Policy LDP 3 and Supplementary Guidance policies SG LDP ENV 1; SG LDP ENV 11; and SG LDP ENV 13 and in PLDP2 (as intended for adoption) by Policy 04; Policy 71; Policy 73; and Policy 79.

### Assessment

No material biodiversity impacts have been identified in the assessment of this application by the Planning Authority and, in the particular circumstances of the proposal, no conditions relating to specific measures for biodiversity enhancement and protection are considered to be necessary.

The site for the proposed development is not within any of the following: a designated European site of natural environment conservation or protection; a National Scenic Area; a SSSI or RAMSAR site; a National Nature Reserve; or a Local Nature Conservation Site.

The site is located in an Area of Panoramic Quality (LDP 2015) and a Local Landscape Area (PLDP2) and these designations are a recognition of locally important physical landforms that are of scenic value.

The relevant policies in both the LDP and PLDP2 (as intended for adoption) seek to resist development in, or affecting, an Area of Panoramic Quality (APQ)/Local Landscape Area (LLA) where its scale, location or design would have a significant adverse impact on the character of the landscape and one of the requirements contained in PLDP2 Policy 71 is that an application for development within an LLA should be supported by a landscape and visual impact assessment.

No formal landscape and visual impact assessment has been submitted with the current application; however, it is considered that the submitted plans and drawings provide sufficient information to allow an appropriate form of assessment to be carried out. Given the 'householder' type of development; the minor nature of the works; and the relatively localised impact that they would have, it is considered that the proposal would have a 'neutral' effect upon the visual qualities of the wider APQ/LLA.

Finally, the site is not within an identified area of peatland, carbon-rich soils or priority peatland habitat and the proposal involves the use of an existing area of hardstanding with no ground breaking or disturbance of soils being involved.

On the basis of the foregoing, **the proposed development is considered to accord with those Policies and Supplementary Guidance that are referred to in the paragraphs above.**

### **D. Impact on Road and Pedestrian Safety**

In the Argyll and Bute Local Development Plan 2015, Policy LDP 11 and Supplementary Guidance policies SG LDP TRAN 4 and SG LDP TRAN 6 are applicable whilst Policy 34, Policy 39 and Policy 40 are relevant in the PLDP2 (as intended for adoption).

### Assessment

Policy 39 states that private accesses should be constructed to incorporate minimum standards to function safely and effectively as set out in the Council's Road Development Guide, including the provision of adequate visibility splays, boundary definition and turning capacities.

The Area Roads Engineer has examined the development and is recommending that the application should be refused on two grounds.

### **In-Curtilage Turning Provision**

The first grounds for refusal is on the basis that there is no room available within the site for a vehicle to turn so that it can enter and exit the parking space in a forward gear. Concern is expressed that this would lead to the unacceptable situation of vehicles reversing from the parking space onto the public road.

This was an issue that arose during the processing of the retrospective application for Planning Permission (ref: 18/02224/PP) for the access and parking space at 4 Argyle Place, which is to the immediate south of the application property. The following is an excerpt from the Report of Handling dated 15<sup>th</sup> January 2019:

*“The Area Roads Engineer has examined the development and has raised no objection. It is acknowledged that the lack of turning space within the curtilage of the property is not ideal given that it is unlikely that vehicles could both enter and exit the parking space in a forward gear. However, he has stated that, by exercising proper care and attention, the manoeuvring of vehicles can be carried out without having an adverse effect upon road or pedestrian safety.*

*One of the recommendations is that vehicles should reverse into the space and drive out in a forward gear. In seeking to ensure that this type of manoeuvring occurs, the Planning Authority can consider the attaching of a condition; however, such a condition should meet the six tests contained within Circular 4/1998 “The Use of Conditions in Planning Permissions”. Given the practical difficulties of enforcing such a condition and that other types of safe manoeuvring might also be possible, it is considered that a condition of this sort would not meet the tests of ‘enforceability’ and ‘reasonableness’. Notwithstanding this, informative notes will be attached that direct the applicant toward appropriate guidance.”*

The applicant for the current application (in an e-mail dated 26<sup>th</sup> September 2023) has confirmed that their vehicle would be reversed into the parking space such that there would be no reversing manoeuvre onto the public road.

In the context of the relatively recent decision on the access and parking space at the adjoining property; its comparative similarity with the current proposal; and that there have been no material changes in circumstance in the intervening period (either in the characteristics of this part of Rothesay or in published Council policies), it is not considered reasonable for this issue to be used as a reason for refusal.

### **Adequate Visibility Splays**

The second grounds for refusal from the Area Roads Engineer is that the “*visibility splay cannot be achieved*” although neither the setback distance (i.e. as measured back from the edge of the kerbline at the centre of the access) nor the distance when looking in both directions from the setback have been specified in his report.

Based on the document titled ‘*Roads Guidance for Developers – Small Housing Developments of One to Five Dwellings (Private Drive Ways/Accesses)*’ published by the Council’s Roads & Amenity Services in October 2008, the setback distance would be 2.4 metres and, at this type of main town location and vehicle speeds, the distance in each direction would be 42 metres.



It is acknowledged that visibility splays of 42 metres in both directions from a setback distance of 2.4 metres are not achievable with this proposal. However, it is considered that there are mitigating circumstances, as follows:

- As referred to in the '*History*' in Section (D) earlier in this report, both of the properties that immediately adjoin the application site obtained Planning Permission for the formation of vehicular access and parking spaces. They have white lines ('*access protection markings*') along their frontages to identify that a driveway exists and to make motorists aware that access is required. Whilst it is acknowledged that these white lines are an advisory, non-enforceable road marking, they are generally observed in that vehicles do not typically park directly in front of driveways.

Should Planning Permission be granted for the access in question and the appropriate approvals were then obtained from the Council as Roads Authority, three sets of adjoining white lines would be in place that would deter cars being parked on this stretch of road for a distance of approximately 20 metres. The absence of parked cars on either side of the proposed access would result in relatively good visibility for a domestic driveway onto an A-class road.

- The width of the A844 road at this location is such that there are two lanes for traffic and one lane (in front of the buildings) to accommodate the parking of vehicles. Given that the white line in front of the proposed access would discourage a motorist from parking their vehicle on the road, a car exiting the parking space in a forward gear would be able to look in both directions for oncoming traffic having already crossed the footway and edged on to the road i.e. there would be a marked improvement in visibility in both directions as they left their own curtilage and moved carefully towards the public carriageway.

In the particular circumstances detailed above, it is considered that the lines of sight for a vehicle entering the public carriageway from the parking space in question would not result in an unacceptable risk to road or pedestrian safety.

## **Disabled Parking Space**

A disabled parking space exists on the road outside the frontage of the application property, 4A Argyle Place. This space is enclosed with a broken white line and contains the word '*Disabled*' painted on the road; there is also a sign located on the footway adjacent to the front boundary wall of the application property that features the words '*Disabled Badge Holders Only*'. Images on Google Streetview show that the space has been in existence since at least June 2009.

Whilst disabled parking spaces are not allocated to a particular property, the applicant has confirmed that the space in question had been used by her father-in-law but that he passed away in June 2020.

The neighbouring property to the south, 4 Argyle Place, also had a disabled space and, when Planning Permission (ref: 18/02224/PP) was granted retrospectively for their access and parking space, an informative note was attached as recommended in the Roads Department's report:

*"The existing Disabled Bay outside 4 Argyle Place, which was originally marked out for the applicant's use, will be reviewed as per Council's standard procedures; this may result in the removal of the Bay, unless there is a specific request for it to be retained for other qualified parties."*

This disabled space has since been removed and a white line ('*access protection marking*') has been painted across the driveway.

Should Planning Permission be granted for the proposed access at 4A Argyle Place, the removal of the disabled space would be a key element in facilitating the practical use of the off-road parking bay, as would the painting of a white line in order to deter the parking of vehicles on the road. However, these two outcomes, in addition to the extension of the dropped kerb, would be matters for the Council as Roads Authority to determine when they were formally approached by the applicant.

They are not matters for the Council as Planning Authority to adjudicate upon although they will be drawn to the attention of the applicant in an informative note.

## **Electric Vehicle Charging Point**

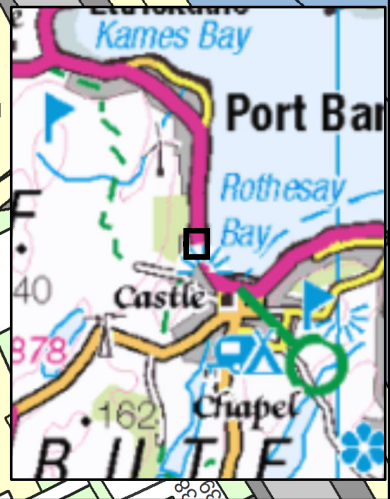
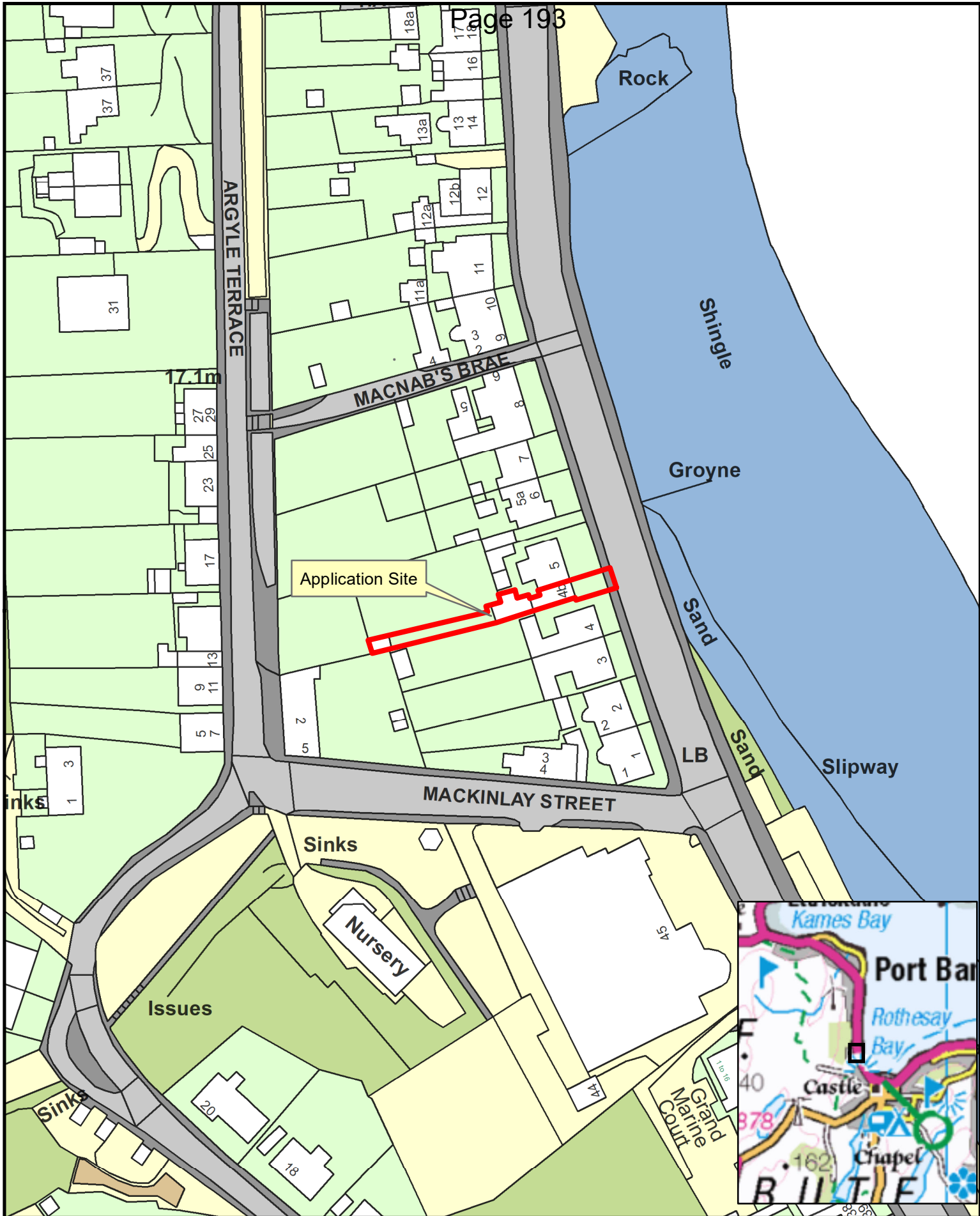
NPF4 Policy 13(b)(iv) supports development proposals that provide low or zero-emission vehicle charging points in safe and convenient locations.

Policy 34 of PLDP2 (as intended for adoption) explains that the "*provision of electric vehicle charge points or the infrastructure potential to accommodate future points requires to be considered as part of all new development which results in a new parking requirement*". It goes on to set out the requirements in association with different types (residential and non-residential) and scales (single spaces and more than ten communal spaces) of development.

The current proposal does not identify the provision of an electric vehicle charging point in association with the creation of the off-street parking space. However, the proposed development itself would not create a new parking requirement i.e. it is not an additional residential unit. In this circumstance, it is considered appropriate to attach an informative note that refers to the existing and emerging Development Plan policies and that encourages the applicant to consider the provision of an electric vehicle charging point in the parking space.

Whilst it is recognised that the proposal does not meet the Roads Department's requirements in terms of in-curtilage turning and visibility splays and, therefore, would not fully accord with the provisions of the relevant Policies and Supplementary Guidance, the mitigating factors detailed in the paragraphs above are of sufficient materiality for **the application to be approved as a minor departure to the Development Plan.**





**Location Plan Relative to Planning Application: 23/00395/PP**



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