

Argyll and Bute Council
Comhairle Earra Ghaidheal agus Bhoid

Customer Services
Executive Director: Douglas Hendry



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13 April 2011

NOTICE OF MEETING

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held in the **COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD** on **WEDNESDAY, 20 APRIL 2011 at 10:30 AM**, which you are requested to attend.

Douglas Hendry
Executive Director - Customer Services

BUSINESS

- 1. APOLOGIES FOR ABSENCE**
- 2. DECLARATIONS OF INTEREST**
- 3. MINUTES**
 - (a) Planning, Protective Services and Licensing Committee held on 25 February 2011 at 10.00am (Pages 1 - 16)
 - (b) Planning, Protective Services and Licensing Committee held on 25 February 2011 at 2.00pm (Pages 17 - 28)
 - (c) Planning, Protective Services and Licensing Committee held on 11 March 2011 (Pages 29 - 42)
 - (d) Planning, Protective Services and Licensing Committee held on 16 March 2011 at 10.00am (Pages 43 - 46)
 - (e) Planning, Protective Services and Licensing Committee held on 16 March 2011 at 10.30am (Pages 47 - 56)
 - (f) Planning, Protective Services and Licensing Committee held on 17 March 2011 at 10.30am (Pages 57 - 64)

- (g) Planning, Protective Services and Licensing Committee held on 17 March 2011 at 2.00pm (Pages 65 - 70)
- (h) Planning, Protective Services and Licensing Committee held on 22 March 2011 (to follow)
- (i) Planning, Protective Services and Licensing Committee held on 24 March 2011 (Pages 71 - 84)

4. STATUTORY APPOINTMENTS FOR REGULATORY SERVICES

Report by Regulatory Services Manager (Pages 85 - 86)

5. FOOD LAW ENFORCEMENT PLAN 2011 - 2012

Report by Regulatory Services Manager (Pages 87 - 108)

6. WORKPLACE HEALTH AND SAFETY ENFORCEMENT PLAN 2011 - 2012

Report by Regulatory Services Manager (Pages 109 - 134)

7. REMOVAL OF SECTION 75 AGREEMENT ASSOCIATED WITH PROPOSAL FOR THE ERECTION OF A DWELLINGHOUSE: ARICHUAN, SILVERCRAIGS, LOCHGILPHEAD (REF: 98/00027/DET)

Report by Head of Planning and Regulatory Services (Pages 135 - 138)

8. ARGYLL AND BUTE COUNCIL - OPERATIONAL SERVICES: EXTENSION TO EXISTING BURIAL GROUND: PENNYFUIR BURIAL GROUND, OBAN (REF: 07/01478/COU)

Report by Head of Planning and Regulatory Services (Pages 139 - 152)

9. EE-USK: DEMOLITION OF HOTEL (CATEGORY C LISTED BUILDING): ARGYLL HOTEL, CORRAN ESPLANADE, OBAN (REF:10/01817/LIB)

Report by Head of Planning and Regulatory Services
(Pages 153 - 182)

10. EE-USK: DEMOLITION OF HOTEL (CATEGORY C LISTED BUILDING) AND ERECTION OF NEW 63 BEDROOM HOTEL: ARGYLL HOTEL, CORRAN ESPLANADE, OBAN (REF: 10/01831/PP)

Report by Head of Planning and Regulatory Services
(Pages 183 - 210)

11. EILEAN EISDEAL: ERECTION OF 6KW WIND TURBINE WITH A MAXIMUM HEIGHT OF 17.75 METRES TO BLADE TIP: LAND SOUTH EAST OF EASDALE MUSEUM, EASDALE ISLAND, OBAN (REF: 10/02000/PP)

Report by Head of Planning and Regulatory Services
(Pages 211 - 232)

12. EILEAN EISDEAL: INSTALLATION OF SOLAR PANELS AND AIR SOURCE HEAT PUMP: EASDALE ISLAND COMMUNITY HALL, EASDALE ISLAND, OBAN (REF: 10/01729/PP)

Report by Head of Planning and Regulatory Services
(Pages 233 - 248)

- 13. EILEAN EISDEAL: INSTALLATION OF 14 SOLAR PANELS AND AIR SOURCE HEAT PUMP: EASDALE ISLAND COMMUNITY HALL, EASDALE ISLAND, OBAN (REF: 10/02013/LIB)**
Report by Head of Planning and Regulatory Services
(Pages 249 - 260)
- 14. ARGYLL COMMUNITY HOUSING ASSOCIATION: ERECTION OF 30 RESIDENTIAL UNITS (COMPRISING 2 SEMI DETACHED DWELLINGHOUSES AND 28 FLATS OVER 4 BLOCKS) WITH ASSOCIATED ACCESS ROAD, PARKING AND COMMUNAL GARDEN AREAS: DEVELOPMENT SITE, MCCALLUM STREET AND KINLOCH ROAD AND LONGROW, CAMPBELTOWN (REF: 10/02153/PP)**
Report by Head of Planning and Regulatory Services (Pages 261 - 280)
- 15. ROYAL NATIONAL LIFEBOAT INSTITUTION: ERECTION OF NEW CREW FACILITIES AND SOUVENIR SHOP: PORT ASKAIG PIER, PORT ASKAIG, ISLE OF ISLAY (REF: 11/00021//PP)**
Report by Head of Planning and Regulatory Services (Pages 281 - 298)
- 16. MR AND MRS S MCKINLAY: ERECTION OF CAR PORT WITH DECK OVER (RETROSPECTIVE): COUL-NA-MARA, PENINVER, CAMPBELTOWN (REF: 11/00037/PP)**
Report by Head of Planning and Regulatory Services (Pages 299 - 308)
- 17. TSL CONTRACTORS LTD: RETENTION OF EXISTING CONCRETE BATCHING PLANT FOR TEMPORARY PERIOD OF 18 MONTHS: ROBERTSONS YARD, SANDBANK, DUNOON (REF: 11/00158/PP)**
Report by Head of Planning and Regulatory Services (Pages 309 - 324)
- 18. SCOTTISH WATER: RE-PROFILING OF GROUND AND RE-ALIGNMENT OF HAND RAILING TO ACCOMMODATE BURIED PUMPING STATION CHAMBERS AND CSO CHAMBER; INSTALLATION OF RETAINING WALL AND ROCK ARMOURING; AND DROP KERBS FOR VEHICULAR ACCESS: LAND OPPOSITE 11 AND 12 ARDBEG ROAD, ROTHESAY, ISLE OF BUTE (REF: 11/00428/PP)**
Report by Head of Planning and Regulatory Services
(Pages 325 - 336)
- 19. ARGYLL AND BUTE COUNCIL: FELLING OF TWO TREES - FRAXIMUN EXCELSIOR AND ULMUS GLABRA (RETROSPECTIVE):MONEYDRAIN ROAD, LOCHGILPHEAD (REF: 11/00420/TPO)**
Report by Head of Planning and Regulatory Services
(Pages 337 - 340)
- 20. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: INSPECTION OF VEHICLES**
Report by Head of Governance and Law (Pages 341 - 348)
- E1 21. ENFORCEMENT REPORT: 10/00394/ENFHS**
Report by Head of Planning and Regulatory Services
(Pages 349 - 352)

E2 22. ENFORCEMENT REPORT: 10/00377/ENTH2
Report by Head of Planning and Regulatory Services
(Pages 353 - 356)

**E3 23. ENFORCEMENT UPDATE REPORT: 10/00012/ENOTH1; 10/00077/ENOTH2;
10/00210/ENFOTH2**
Report by Head of Planning and Regulatory Services (Pages 357 - 358)

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

The appropriate paragraph is:-

E1, E2 & E3 **Paragraph 13** Information which, if disclosed to the public, would reveal that the authority proposes-

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

PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE

Councillor Gordon Chalmers
Councillor Robin Currie
Councillor Mary-Jean Devon
Councillor David Kinniburgh
Councillor Donald MacMillan
Councillor Alister McAlister
Councillor Alex McNaughton
Councillor Al Reay

Councillor Rory Colville
Councillor Vivien Dance
Councillor Daniel Kelly
Councillor Neil Mackay
Councillor Bruce Marshall
Councillor Roderick McCuish
Councillor James McQueen

Contact: Melissa Stewart

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MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the PILLAR HALL, VICTORIA HALLS, HELENSBURGH
on FRIDAY, 25 FEBRUARY 2011

Present: Councillor Daniel Kelly (Chair)
 Councillor Vivien Dance Councillor Donald MacMillan
 Councillor David Kinniburgh Councillor Roderick McCuish
 Councillor Bruce Marshall Councillor Alex McNaughton
 Councillor Alister MacAlister Councillor James McQueen
 Councillor Neil Mackay Councillor Al Reay

Also Present: Charles Reppke – Head of Governance and Law
 Howard Young – Planning Officer
 Lynda Robertson – Build Heritage Conservation Officer
 Belinda Hamilton – Area Governance Assistant
 Robert Sills – Agent for Applicant
 Nigel Millar – Helensburgh CC – Statutory Consultee
 Kathleen Siddle – Helensburgh CC – Statutory Consultee
 Lee Fish – Supporter
 John Tacchi – Supporter
 Mr A Bain - Supporter
 Leslie Cox - Objector
 Hugh Connolly - Objector
 Mrs Linzee-Gordon - Objector
 Arthur Morris - Objector

1. APOLOGIES FOR ABSENCE

Apologies were intimated from Councillor Colville, Councillor Currie and Councillor Devon.

2. DECLARATIONS OF INTEREST

There were no Declarations of Interest.

3. MR AND MRS P CAIRNS: ERECTION OF DWELLINGHOUSES AND ASSOCIATED WORKS: GROUND TO THE NORTH OF DEAN HOUSE, EAST ABERCROMBY STREET, HELENSBURGH (REF: 10/01302/PP)

The Chair welcomed everyone to the meeting and general introductions were made.

Charles Reppke, Head of Governance and Law, advised that a late representation in support of the application had been received in the form of an email from John Tacchi. This had been distributed to members prior to the commencement of the meeting.

Mr Reppke then outlined the hearing procedure and the Chair invited anyone who wished to speak at the meeting to identify themselves.

Planning Officer

Howard Young, Planning and Regulatory Services, gave a brief outline of the application site which was situated in upper Helensburgh and was within the Conservation Area. Mr Young advised that he had received a late representation in support of the application from Mr John Tacchi by e-mail. He also wished to point out that two e-mails received from Mr A McGillvray and Mr A Rodgers, were noted in the report as objections when in fact they were in support of the application.

Mr Young advised that the applicants had now redesigned the proposed dwellinghouse and that this now complied with the Council's requirements. A Power-point presentation showed the amended design and finishes, floor layout and elevations. Mr Young considered that the design was now satisfactory and modern and would fit well into the area.

In these respects, Mr Young recommended approval of the application subject to the relevant conditions contained within his report.

Agent for Applicant

Mr Robert Sills introduced himself and gave a brief summary of his professional background, advising that he himself was a local resident having lived a little over 35 years in the Helensburgh area and had an intimate knowledge of the site and surrounding area. He added that over the years, his practice had been involved in more than two hundred projects in the Helensburgh, Lomond and West Dunbartonshire area and that he had gained a reputation for high quality, innovative design solutions working with both historic and contemporary buildings. Indeed, he had been presented the Helensburgh & Lomond Planning Design award by the Council on several occasions.

Mr Sills then went on to give a brief review and history of the application. The initial design proposals were formulated following a pre-application consultation with the Planning Officer on site. This consultation took place between the Planning Office and the applicants on 21 May 2010 and was important to them in so far as it gave them the degree of comfort necessary to enable them to appoint Mr Sills to progress detailed design proposals for their new home with a view to submitting a formal planning application. Mr Sills reminded the committee of the Council's policy to only accept detailed design proposals in Conservation areas and that this incurred considerable and unrecoverable expense to the applicants. The Planning Officer's initial view had been that the site was of an adequate size to accommodate an additional house. He also suggested at that time that the house should be located in a similar position on the site to the one eventually proposed by the architects following their own site survey and analysis.

Prior to the submitting a formal planning application, a full set of design proposals was shown to the same Planning Officer on site on 13 July 2010. His response at that time was positive and his view was that the proposals could be submitted as they stood. This was done on 30th of same month.

As part of their Planning Application, Mr Sills advised that a 19 page Design and Access Statement with illustrations and photos was submitted. This included an

initial appraisal of the site both within its immediate surroundings and as part of the wider Conservation Area, followed by a detailed explanation of how they proposed reconciling the applicants' requirements within the constraints imposed by the site.

Following representations received as part of the consultation process, Mr Sills subsequently submitted a further 11page document entitled 'Response to Representations' in which they had responded to all of the issues raised.

Both of the above mentioned documents are now available to view on the Council's website and indeed the Planning Officer's report and recommendations to Committee makes reference to the main issues referred to in these documents.

As a result of issues raised as part of the consultation process and to address some of the concerns expressed by the immediate neighbours, a number of significant changes to the proposed design of the house had been made. These included reducing the overall floor area, length and height of the house, and moving its position on the site. As a result of these changes, Mr Sills believed that the overall likely visual impact of the house on the site would be reduced and that its relationship with the rear of Dean House and the adjoining property, Sparrowcroft, would be improved.

Whilst finalising the position of the house on the site, privacy issues that may have arisen due to the relative position of the windows in the new house together with those in the adjoining properties, were taken into account. Having assessed the window positions in accordance with the relevant Scottish Government guidelines, Mr Sills was satisfied that there were no valid privacy issues.

The relative positions of the new house and the adjacent property of Sparrowcroft were assessed with regard to overshadowing. Mr Sills demonstrated that there would be no significant impact to the daylight or sunlight currently enjoyed by either Sparrowcroft or to the rear of Dean House. The size and orientation of the windows of the new house would also ensure that it would enjoy adequate day/sunlight when assessed in accordance with the Building Research Establishment's guide to good practise with regard to the site layout planning for day/sunlight.

The form of the proposed new building is visually single storey and use of the roof space had been made to provide two small bedrooms and a shower room. One of these rooms has a dormer window, similar to the haylofts in other coach houses in East Rosdhu Drive and elsewhere in Upper Helensburgh and the architect had sought to make this, in conjunction with the entrance doors below and the adjacent glazed wall of the staircase, a central feature of the design.

Mr Sills informed that the design of the proposed property was his contemporary take on a traditional coach house. The revised proposals were submitted to the Council on 29 October 2010 following lengthy discussions with the Planning Officer who had declared himself satisfied with these as submitted, subject to due planning process.

The Planning Officer had deemed these alterations significant enough to be considered material alterations to the original Planning Application, and as a

result, further advertising of the proposals was carried out and a further consultation process undertaken.

When the application was finally placed before the Committee last month with a recommendation that it be approved subject to conditions, the applicants were informed that a late response was still awaited from Lynda Robertson, the Council's relatively newly appointed Built Heritage Conservation Officer.

Mr Sills advised that he had subsequently met with Lynda Robertson and Howard Young on 9th February 2011, when Lynda Robertson had expressed the views on the proposals which she confirmed in her memo to Howard Young dated 17 February. At their meeting, some areas were identified where it was agreed that there was still scope for some minor changes to be made, such as with regard to choice of boundary fencing, driveway surface treatment and extent, type and colour of render. Mr Sills explained that he had felt it unnecessary at this time to make more fundamental design changes to what he considered to be a good architectural solution.

Having subsequently discussed the matter with the applicants, Mr Young was advised that the architects were agreeable to reducing the extent of cast stone cladding on the new house in favour of using more render as suggested by the Conservation Officer, and that this revision could be treated as 'non-material'. The architects were also agreeable to having the type of boundary fence and choice of hard driveway surface made the subject of conditions requiring the further approval of the Planning Officer. Notes to this effect were added to the drawings now in the Planning Officer's possession.

Mr Sills then pointed out some observations regarding the late contribution by the Conservation Officer to the consultation process. He referred to the mention of the two mature guard trees being an important part of the design and setting of Dean House. These were in fact Leylandii some 43 years of age and in this respect would have been around at the time of the sub-division of Dean House and that it would have been impossible therefore, for these trees to have formed any part of the original design and setting of original house. Mr Sills advised that these trees had been removed as they had been close to and had blocked the daylight from the rear windows of Dean House and that their roots were damaging the drains.

Regarding the layout of the feus in Upper Helensburgh, Mr Sills informed that the rear areas of the large villas were generally laid out as utility areas and that there was rarely any attempt to balance the rear elevations visually as was the case with the principal front elevations. Rear south sloping garden areas to the north of the main houses were usually laid out as vegetable plots and that any elements of such grand design as tennis courts, and exotic plant species, were reserved for the garden area to the south of the main houses. East Rosdhu Drive would have been used almost exclusively for service access to the villas which fronted East Abercromby Street. For this reason, the coach houses and stables serving these villas were usually tucked away in a corner of the feu behind the main house as close as possible, and that it was this arrangement that formed the dominant street pattern throughout most of Upper Helensburgh.

Under the heading of 'Impact of Current Proposal', Mr Sills advised that the Conservation Officer had stated that the most significant impact of the proposal

on the conservation area would be the loss of the spatial relationship between the main house and its designed ground which was considered a key characteristic of the Conservation area. Mr Sills explained that there existed no such relationship to speak of as the rear garden of Dean House had been untended and overgrown since at least 1985. Mr Sills advised that his proposals would seek to create the sort of relationship similar to that found between other large villas and their subsidiary coach houses and stables both in East Rossdhu Drive and throughout Upper Helensburgh. He added that the garden area seen at this morning's site visit would be laid out in accordance with the detailed landscaping layout that formed part of the planning application.

On Ms Robertson's comments on the scaling back and simplification of the roof design, Mr Sills felt that in his professional opinion, these were entirely appropriate and that the existing design would add visual interest to the building.

Mr Sills also wished to address the misconception by some of the objectors, that the creation of the Upper Helensburgh Conservation Area (UHCA) in 1994 was intended to put a stop to any further new development and that this was not the case and that it was also not true to say that East Rossdhu Drive was worthy of more special treatment than other parts of the Conservation Area. Much had been made by the objectors, of the fact that no new dwellings had been built on East Rossdhu Drive since the creation of the UHCA. However, several new dwellings were constructed on this street after Dumbarton District Council had put in place their Interim Policy Statement covering the sub-division of existing feus in Upper Helensburgh in 1982. This IPS was designed to provide 'emergency control measures' for all new development within the Upper Helensburgh area which it was recognised had particular character worthy of preservation. In effect this IPS treated Upper Helensburgh as a Conservation Area in waiting and included most of the development control measures currently existing in the Conservation Area Planning legislation. Therefore the suggestion that the existing relatively new houses on East Rossdhu Drive would not have been approved under the current planning legislation was pure speculation and not relevant in this case.

Mr Sills referred to the support that the application had received and that he had taken on board and tried to address the genuine concerns raised by the objectors. He wished to make the point that Local Plan Policy ENV14 was often quoted by the objectors in that the development would not 'preserve or enhance' and that he was confident that his proposals would have a positive influence on this part of the conservation area. However, Mr Sills added, that the Scottish Planning Policy Document went further and states that proposed development that would have even a neutral effect upon the character or appearance of the area, should also be treated as being one which preserves the area's character or appearance.

In conclusion, Mr Sills asked that the Committee approve the application.

Statutory Consultee

Nigel Millar, Helensburgh Community Council, summarised the objections raised by the Planning Sub Group of the Community Council. He said that much had been made of the site of Dean House in the Upper Helensburgh Conservation Area and it was the view of the objectors that this was an area to be treasured

and looked after. Mr Millar advised that Helensburgh was fortunate in having the highest overall percentage in Scotland of conservation area in relation to the landmass of the town, and that it contained a high number properties by well known Victorian and Edwardian architects. These properties would have been cutting edge in design in their time and would have been both innovative and creative. Mr Millar acknowledged that Dean House was not a listed building but that the community council still had concerns regarding the application. Mr Millar referred to the Helensburgh Design Statement Appraisal Document created by the community council and the wealth of experience used in the compilation of the document. He stressed that when responding to any proposed development, the community council would consider these on their individual merit.

In considering this particular application, Mr Millar noted that when it could be demonstrated that there was a failure to 'preserve and enhance' the application would usually be refused. It was the view of the Helensburgh CC that this application did not preserve, enhance or add anything to the conservation area and surrounding landscape. He added that in Argyll and Bute's own design guide, much mention was made of the rear of a site and that the siting of the proposed development alongside a very large house facing down the street was not consistent with this design guide.

Mr Millar indicated that it was the opinion of the community council that this design only maintained and did not enhance and that there were concerns about the removal of the green areas between the buildings.

Under LPENV14, Mr Millar stated that the design should be of the highest quality and that the community council were not of the opinion that this was the case. He referred to the fine range of excellent Victorian and Edwardian architect designed properties as being the 'Jewels in the Crown' for Helensburgh and whilst not looking for copies of these, any proposals should be of 'landmark design'.

Mr Millar noted the use of words such as maintain, acceptable and complement were used in the report but that there was no mention of 'special quality'. There were many examples of such properties in Helensburgh which in their time would have been creative and innovative and were now referred to as traditional. The six characteristics referred to in the Helensburgh Design Statement had not been met in this application, particularly regarding the sustainability and green aspects and in these respects, the Helensburgh Community Council could not support the application.

Supporters

Mr Lee Fish

Mr Fish, son-in-law of the applicants, thanked all who had been supportive of the application and noted the depth of feeling that it had provoked. He thanked also, the Local Authority staff and Councillors for the time spent on the application. Mr Fish referred to plans for other houses of a similar nature that had been granted and said that he understood that this was an emotive issue due to the uncertainty. However, in this instance, he felt that the design had been sensitively done and that change should be welcomed. Mr Fish noted that most of the objectors did not live in the vicinity of Dean House and that over 1/3 of the

letters received were from the same families and that much scaremongering had taken place as to the scale of the development. He added that his family had a fifty year history in the town and that the house was not being constructed for economic gain but was to provide a home for his wife's elderly parents. It was through much hard work and diligence that the plans had been amended and that this was evident through the reduction in the number of complaints now received. The size, scale and aspect of the design now complemented the diverse range of villas in the street and testament to the success of this is that complaints come from those living in similar developments. Dean House was now the only house in the block development with sole occupancy and this indicated the unsuitability of large houses in modern times. The garden had now been cleared and the Leylandii trees removed and Mr Fish thanked the many friends and strangers who embraced the progress being made. The application now spanned seven months, needlessly long, due to the objections which were in Mr Fish's opinion, mainly invalid. He noted that several of the immediate neighbours were not among those who had objected and he asked that planning permission be granted without further delay as his in-laws were now excited at the prospect of moving into the area to be with their friends, family and neighbours.

Mr John Tacchi

Mr Tacchi introduced himself as an ex- Councillor with Argyll and Bute from 2003/2007 when he had represented those in the East RosSDhu and Abercromby ward and was therefore familiar with the site. Mr Tacchi is also a current member of the Helensburgh Community Council as were three other supporters of the application. He referred to this area as being of 'eclectic development' comprising of both good and bad design. He pointed out that Conservations Areas were not sacrosanct and should be merely a caveat when considering new applications. In reference to the Helensburgh Design Statement, Mr Tachhi advised that this application ticked five out of the six requirements and that he felt unqualified to comment on the sustainability and open space issue. Dean House had now been restored to much of its former glory and the applicants had worked with the Planning Officer to comply and that the new house would not detract from the character and appearance of the older property. Mr Tacchi added that it was highly pertinent that both Historic Scotland and Scottish Natural Heritage had no objection and that in these respects, asked that the committee approve the application.

Mr Andrew Bain

Mr Bain informed that he believed the proposed development to be of a modern and well designed nature which would enhance the area. He added that it was a good example of 21Century design which met all the required criteria and it was noted that he himself lived in a home designed by Mr Sills in a similar location. His home, he noted, was energy efficient, modern, pleasant and attractive. The design had been initially controversial and that there had been initial objections by Historic Scotland but that once completed, had received a design award from the Council. Mr Bain acknowledged that there would always be differences of opinion but that if it was a good design, it would eventually be accepted. He urged the committee to back the experience of the architect and trust in what was a good track record.

Objectors

Mr Leslie Cox

Mr Cox said that he hoped to dissuade the committee that the objections were based on a threat to the whole conservation area and added that he had no qualms with the architect himself. The Planning Officer's report there had been 31 letters in support and 103 in objection to the application. He reiterated that it was not the design of the house that he objected to, but to the development in the green space. Most people, he said, wished the gardens to be restored to their original state and noted that the gardens had begun to deteriorate in 2001, the same time as planning permission for a house in the back garden had been refused. Mr Cox said that it was the ordinary person in the street who should judge whether the application would be an enhancement and that Councillors as elected representatives, should acknowledge the feelings of their constituents.

It was the lack of light due to the orientation of the application site that gave most cause for concern and Mr Cox pointed this out in his presentation. He felt that the size of the proposal would challenge Dean House and showed the superimposed plan. The committee were shown a variety of aspects regarding roof ridge height and distance from boundary wall. Mr Cox assured them that the photographs were to scale and all the plans accurate in perspective etc. He said since the first draft, Mr Sills had made adjustments of a minimal amount. It was felt that the addition of the large window to address the light issue, was of unsuitable design and would open the floodgates for similar developments. The Google Map showed what was described as a pleasant arrangement of houses, and Mr Cox pointed out sites he felt were more suitable for development. He was concerned that the appearance of East Abercromby street would become akin to a film set and urged the committee to reject the application.

Mr Hugh Connolly

Mr Connolly introduced himself and added that he lived in the adjacent property of Sparrowcroft. His objection was that of loss of amenity and the lack of respect to the conservation area by his new neighbours. He felt that there would be a serious issue of shadowing and loss of daylight to his property during late afternoon and evening for much of the year. Mr Connolly showed photographs of the small garden to indicate his point and showed the position of the house wall in the window reflection. The roof height of the new house would rise 16ft above the height of the boundary wall and result in loss of view and darkness to his property. Various elevations and the possible resulting impact were demonstrated. Mr Connolly also drew the committee's attention to the Google Map which showed that trees had been removed. He also advised them that the part of the boundary wall had been removed without planning permission and that the front gateposts had been removed and then re-instated in a wider position.

Mrs V Linzee-Gordon

Mrs Linzee-Gordon informed the committee that she had been in a similar situation to Mr Cox and Mr Connolly a number of years ago but that the application at that time had been rejected following guidance by the then Conservation Officer and that this had now resulted in a flourishing garden. Mrs

Linzee Gordon said that she hoped that the same decision would be reached for this application.

Mrs Linzee-Gordon said that the historical architecture of many of the properties in Helensburgh were part of the town's identity and although Dean House was not a listed building, it was certainly one of the oldest remaining housing stock in Helensburgh. When originally constructed, Dean House would have been surrounded by trees and flourishing gardens and it was no surprise that Helensburgh was known as the Garden City of the Clyde at that time. Since the new owners had moved in, the site had been left to deteriorate, Mrs Linzee-Gordon said, in order to encourage support for its development. Other similar developments in the vicinity had been sympathetically sited, such as Dhu Mill, but this would not be the case at Dean House as it would potentially dominate the villa. Mrs Linzee-Gordon advised that a previous application by neighbours had failed and she suggested that the conservation area designation had stopped infill development but that the 2009 Local Plan acknowledges the need for new low cost housing and starter homes.

Mrs Linzee-Gordon questioned the lateness of the report from the Planning Officer and added that she had been horrified by the stance taken by the applicants regarding the Planning Officer's suggestions, insisting that they would only make the relevant changes if they were cost-effective. She said that there had been a failure to address the scale and mass issue highlighted by Mr Young.

She then urged the committee to consider the proposal in front of them and to question whether the development would enhance, preserve the character of, and preserve the amenity of the surrounding area.

Mr Arthur Morris – Helensburgh and District Civic Society

Mr Morris said that many of the points he wished to raise had been made already and that he had no complaints regarding the architectural design of the proposed house. However, he felt that its location within the conservation area was inappropriate and that it should be constructed using local stone, slate and timber sash windows in keeping with other properties in the vicinity. Mr Morris felt that a precedent would be set which would result in all the other coach houses being converted in a similar manner. Mr Morris was of the opinion that the main house would be devalued by the addition of the smaller property, as would the whole surrounding area and that similar previously rejected applications in the same area would have to be revisited.

The Civic Society which had 100 members and Mr Morris said that it was important that their views were considered, and that failure to do this would result in a disincentive for people to join such local groups. Mr Morris said that it was the wish of the Civic Society to oppose this application.

Members' Questions

Cllr McCuish asked HCC if it had been of any comfort for them to know that Mr Young had been involved in the previous application to which Mrs Siddle responded by saying that their concern had been with the late involvement of the Conservation Officer but that she hoped their awareness of the Appraisal Document would provide some comfort.

Cllr McCuish noted that some members of the HCC were in support of the application and asked about the process of deciding who they would represent. Mr Millar explained that the responsibility was delegated to their Planning Group whose representatives were knowledgeable on the technical nature, and familiarisation of various policies and documents and that all comments and amendments were taken on board. When asked if the decision of the Planning Group went back to the full committee of the community council Cllr McCuish was advised that it did not but that a report was circulated to all members prior to their monthly meeting at least two days before to allow consideration. Mrs Siddle said that this system worked very well and that no adverse comments had been received.

Cllr Kinniburgh asked Mr Young if it was the case that the previous case had been withdrawn or refused to which Mr Young responded that application 07/02046DET had been withdrawn before any decision had been reached.

Cllr Kinniburgh asked Mr Young as to why, despite the Conservations Officers recommendation to scale back the dormer roof, approval had still been recommended. Mr Young responded by advising that in addition to the other response, his own should be considered and he felt that in this case, the dormer feature added interest and was similar to others in the same street.

Cllr Reay asked Mr Sills if the design of this application was typical of others in the near vicinity. Mr Sills said that it was and that in his professional and architectural opinion fitted well into the streetscape and was modest in comparison.

Cllr Reay was concerned about the fencing demonstrated in the presentation and asked Mr Sills about his plans for this. Mr Sills explained that this was one of the conditions and that suitable material and design would be mutually agreed with the Planning Officer.

Cllr McKay asked Mr Tacchi how many members of HCC there were to which he was advised that there were 22. He asked Mr Millar how many members sat on the Planning Group and was advised that there were 6.

Cllr McKay then asked Mr Young about the entrance material for the entrance to the development to which Mr Young responded that there had been various suggestions which could be incorporated into the conditions. Cllr McKay asked him about the six points in the Helensburgh Design Statement and Mr Young responded by saying he felt that the application did fulfil the majority of these criteria but that he was unable to answer the matter of carbon emissions.

Cllr Dance referred to the democratic element adopted by the HCC and asked Mr Morris if all 100 members of the Civic Society had been consulted. Mr Morris answered that all of their members were not involved in the planning aspect and that 6 – 10 members who had knowledge in this field had submitted a letter during the first application.

Cllr Dance then suggested that only about 8 of the Civic Society members had given their opinion and not 100.

To Mr Young, Cllr Dance asked about the 'waning' approach to conservation areas previously suggested by Mrs Linzee-Gordon. Mr Young felt that this was a difficult matter to address and that as one who was born locally he did care about the designs. He used his professional opinion to take the application through the steps that came to the conclusion he had now reached and highlighted that the policies currently in place were not merely for preservation.

Cllr Dance asked Mr Cox if he had any comment on the impact on Dean House when viewed from the front as that was the main feature of the site. Mr Cox said that the gateposts were the only issue.

Cllr Dance asked Mr Tacchi what was the sixth feature of the design statement that he was unhappy with, to which Mr Tacchi responded that it was because he was unable to answer the 'open spaces' issue as he did not know what was the intention of the applicants in regards to the green space.

Cllr Dance asked Mr Sills about his somewhat brief references to green issues. Mr Sills referred to Section 3.2.8 of the Design Statement on Carbon Emissions and said that one aspect had been that on the original application, the house had been longer and had an additional structure.

Cllr Chalmers enquired as to the source of the additional guidelines to developments with neutral impacts referred to by Mr Sills in his introduction. Mr Sills advised that this was the Council's own policy LPENV14 which interprets this. Mr Sills added that in his opinion something which does no harm should be regarded as the same thing as something which preserves and enhances. Cllr Chalmers enquired as to the procedural onus on objectors to prove detriment, to which Mr Young responded that it was the Council who made the assessment and judgement in material considerations.

Cllr Reay asked the Conservation Officer whether POL ENV 1 was active or neutral to which she answered that it was neutral rather than enhancing.

Cllr McCuish asked Mr Connolly whether his house was in the grounds of a Victorian villa to which Mr Connolly replied that it was

Cllr McCuish asked the objectors to look at the plan of the street and whether in their opinion, infill had been established. Mr Young replied that there had been some infill in that area which predated the conservation area designation but that the wider block must be taken into consideration. Mr Young advised that the issues of light and views would not be regarded as material considerations.

Cllr Dance asked Mr Young about the boundary fence issue and asked him to explain the use of a wooden fence rather than an extension to the existing wall. Mr Young said that the plans indicated a choice and that a clause could be inserted. He suggested that Mr Sills be mindful to look at the suggestions of the Planning Officer in this respect.

Cllr Reay asked the Conservation Officer to define 'neutral' in this context. She referred to the amount of previous infill and explained that due to the size of this infill the effect would not be neutral.

Cllr Reay pressed the issue and asked if the Conservation Officer regarded if a

neutral effect would be had in the context of Dean House to which she responded that it would not be neutral.

The Chair then asked for the summing up process to commence and advised that no new information could be introduced during this process.

Summing Up

Planning Officer

Mr Young had nothing to add and was happy with the recommendation.

Architect and Agent

Mr Sills had little to add other than pointing out that this was only a single storey house and of modest proportions. In his professional opinion, it would enhance the surrounding area and was energy efficient. With regards to the trees, he said that this issue had been dealt with and acknowledged that the owners should have applied for planning permission to move the gateposts, but that he felt that it would have been granted in any case and added that the boundary wall had been damaged by a skip.

Statutory Consultee

Mr Millar HCC, said that the CC works within Council policy and that there is a presumption in favour of housing. He said that there was no inbuilt resistance to this in any area of the town and that they had the highest respect for the architect and indeed had recently supported another such development. Mr Millar felt that much had been made of the enhancement issue and that it was interesting to hear the Planning Officer's definition of this. However, he felt that the written standards of both Scottish Government and the Council should have been addressed in the original documents. In reference to the Planning Group, Mr Millar said that they, as volunteers did their best under the circumstances and that they had a good record that they should be proud of and that the members of the CC who had supported the application had a democratic right to do so. Mr Millar finished by saying that the CC had taken the view of the residents and that this was in the ration of 3:1.

Supporter

Mr Lee Fish

Mr Fish said that Helensburgh CCs comments had been subjective and not objective. He said that they must listen to the advice of the Planning Officer and Conservation Officer who both recommended approval.

John Tacchi

Mr Tacchi stressed that he had no differences with the HCC and that he believed in democracy and they procedures that they followed. He asked that councillors consider this application in relation to the whole street and that this was a case that should be viewed in its totality.

Andrew Bain

Mr Bain had nothing further to add.

Objectors

Mr Cox

Mr Cox had nothing further to add.

Mr Connolly

Mr Connolly said that the fence was his main concern together with the fact that the house would overlook his property and Dean House and that this would result in build density.

Mrs Linzee Gordon

Mrs Linzee Gordon referred once again to the 2000 application which had been turned down by the Council. She felt that the development would neither enhance or preserve the surrounding area and that the amendments had been minimal. She felt that the Planning Officer had made a U-turn on these amendments. She acknowledged that in the current climate, it was irresistible to develop garden areas where possible.

Mr Morris – Civic Society

Mr Morris felt that the whole thing hinged on the issue of enhancement which in his opinion was not the case. The result would be a de-grading of Dean House.

The Chair then ascertained that all parties had received a fair hearing to which they confirmed that they had.

Debate

Cllr McCuish thanked everyone for their input and indicated that he was happy with the design in that it was both modern and iconic. Buildings of this type had previously been frowned upon but that in this instance, he did not feel that it would detract from the character of the area and was in support of the application

Cllr Marshall was impressed by the high standard of all the presentations. He was aware that buildings such as Dean House were constructed in the 1850s but that we must remember that this was now the 21st Century. In modern times, it was not feasible to look after such properties as a whole and that the best use would be for the modest house proposed. Mr Marshall was aware that planners must make the decisions but that there would possibly have been no Hill House if planners were not forward thinking. His view was that approval should be granted.

Cllr McKay said that the standard of both sides had been high. He acknowledged that the involvement of the Conservation Officer should perhaps have come at an earlier stage but that much pre-application discussion with the Planners had

taken place and that the applicants had taken on board what had been asked of them. He acknowledged the enthusiasm and knowledge of the HCC members and that their input had been an advantage but due to the existence of other back garden development. He felt that there could be some degree of compromise and recommended that the application be approved.

Cllr Reay congratulated both sides and that the application was always going to be controversial. He congratulated the owners on their restoration of Dean House. Cllr Reay was disappointed with the massing and scale and was keen to have more clarification on the 'neutral' issue. He had no problem with the design in principle, but felt that its setting within the grounds of Dean House was inappropriate and would affect the neighbouring properties and it was with this in mind that he recommended refusal.

Cllr Dance said that this was an example of what Helensburgh does well and acknowledged the emotive issues were involved. Cllr Dance described the application as finely balanced and that it should be considered in the wider context. Four out of the six criteria in the Design Statement had been reached and only the open space and enhancements issues questionable. In conclusion, Cllr Dance felt that when assessed against the neutrality test, the application did no harm and that the lack of comment by Historic Scotland was highly significant. She recommended approval of the application

Cllr Kinniburgh had listened to all the arguments and congratulated all who had taken part. However, he agreed with Cllr Dance in that the application should be considered in planning terms and in this respect, he was happy to support it.

Cllr McMillan indicated his support for the application

Cllr McQueen indicated his support for the application

Cllr McNaughton supported the application and added that the presentation by the Agent had been extremely good.

Cllr McAllister said that in his opinion, all the boxes of the Design Statement had been ticked and that this was a sympathetic design on a Victorian stable. He saw nothing detrimental in the application and indicated his support for it.

Cllr Chalmers thanks all for a well conducted meeting. He was happy to have taken part and said that it was unfortunate but appreciated that the decision did not suit all.

Cllr Reay felt that it was imperative that another review of the Conservation Area took place in the near future on the potential capacity of relevant properties.

Councillor Kelly thanked everyone for their well discussed points and moved that the application be granted subject to the conditions contained within the report and the additional condition that Mr Young liaises with the Chair, Vice Chair and Local Members of the Helensburgh Central ward.

Councillor Kelly thanked everyone for their well discussed points and moved that the application be granted subject to the conditions contained within the report and the additional condition namely to delegate to the Head of planning in

consultation with the Chair ,Vice Chair and Councillors Reay and Dance to agree the details *submitted pursuant to condition 3.*

Decision

It was agreed that planning permission be granted subject to the following conditions:-

CONDITIONS AND REASONS RELATIVE TO APPLICATION 10/01302/PP

1. The development to which this permission relates must be begun within three years from the date of this permission.
Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. The development shall be implemented in accordance with the details specified on the application form dated 30/07/2010 and the approved drawing reference numbers 485/PA1A, 485/PA2A, 485/PA3A, 485/PA4A, 485/PA5A, 485/PA6A and 485/PA7A unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.
Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.
3. Development shall not begin until samples of materials to be use (on external surfaces of the buildings and/or in constriction of hard standings/walls/fences) have been submitted to and approved in writing by the Planning Authority. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.
Reason: In order to integrate the development into its surroundings.
4. No development shall be commenced until details of the surface water drainage system to be incorporated into the development have been submitted to and approved in writing by the Planning Authority. Such measures shall show separate means for the disposal of foul and surface water, and the provision of a Sustainable Urban Drainage System (SuDS) The scheme shall be prepared in accordance with the advice given in Planning Advice Note 61 (PAN 61) 'Planning and Sustainable Urban Drainage Systems' and the 'SuDS Design Manual' (CIRIA C697). The development shall be implemented in accordance with the duly approved surface water drainage system.
Reason: To ensure that an acceptable scheme of surface water drainage is implemented.
5. Prior to the commencement of development the developer shall submit written evidence to the Planning Authority that an agreement with Scottish Water is in place for the connection of the proposed development to the public water supply (and/or public sewer).
Reason: In the interests of public health and to ensure the availability of an adequate water supply (and/or drainage system) to serve the proposed development.

6. The new vehicle access should be surfaced in a bituminous or other approved material details of which shall be submitted to and approved in writing by the Planning Authority prior to works commencing on site. In addition, the existing drainage ditch along the verge should be maintained in perpetuity at the crossing point.

Reason: In the interests of road safety.

(Ref: Reports by Head of Planning dated 18 February 2011, submitted, e-mail received from John Tacchi, dated 23 February, tabled)

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the PILLAR HALL, VICTORIA HALLS, HELENSBURGH
on FRIDAY, 25 FEBRUARY 2011**

Present: Councillor Daniel Kelly (Chair)

Councillor Vivien Dance	Councillor Donald MacMillan
Councillor David Kinniburgh	Councillor Roderick McCuish
Councillor Bruce Marshall	Councillor Alex McNaughton
Councillor Alister MacAlister	Councillor James McQueen
Councillor Neil Mackay	Councillor Al Reay

Also Present: Charles Reppke – Head of Governance and Law
Howard Young – Area Team Leader, Planning
Gareth Roberts, Organic Architects – Agent & Architect for Applicant
Nigel Millar – Helensburgh Community Council – Statutory Consultee
Kathleen Siddle – Helensburgh Community Council – Statutory Consultee
Tom Haveron - Objector
Kenneth Crawford – Objector
George Wootton – Objector
Iain Martin – Objector
James Crawford – Objector
Bruce Mill – Objector
Glen Roy – Objector

1. APOLOGIES FOR ABSENCE

Apologies were intimated from Councillor Robin Currie, Councillor Rory Colville and Councillor Mary-Jean Devon

2. DECLARATIONS OF INTEREST

There were no Declarations of Interest

3. MR H HOOD: SITE FOR ERECTION OF A DWELLINGHOUSE: LAND WEST OF 15 LOCH DRIVE, HELENSBURGH (REF: 10/01578/PPP)

The Chair welcomed everyone to the meeting and general introductions were made.

Charles Reppke, Head of Governance and Law outlined the hearing procedure and the Chair invited anyone who wished to speak at the meeting to identify themselves.

It was noted that Mr Kenneth Crawford's first name had been mistakenly noted as Keith on the report and this was corrected.

Planning Officer

Howard Young, Planning and Regulatory Services, gave a brief outline of the

application site which was situated within the garden ground of 15 Loch Drive, Helensburgh, sitting within a larger development block running along Loch Drive to the north, Cairndhu Avenue on the east, Castle Avenue on the west and Kidston Drive to the south. Mr Young advised that although this was an application in principle, indicative plans had been submitted. The two main issues which were outstanding were those of visual impact on the landscape and visual impact on the adjoining properties.

Within this part of Helensburgh there was a homogenous pattern apart from this plot which differed in that it comprised of two semi detached houses. Given the current climate, Mr Young said that it was only to be expected that the number of applications of this kind would increase. To address the sun/daylight issue, the applicant's agent had been asked to submit a report. Mr Young added that as the proposed new build be more than one storey, he would have concerns. He was therefore recommended approval subject to conditions and reasons appended in his report.

Agent and Architect for Applicant

Mr Gareth Roberts, Organic Architects, introduced himself and provided a brief professional background. He reminded everyone that under the Council's own policy, there was a presumption in favour of the provision of housing and that this plot was in compliance under the issue of sustainability in Appendix A of the Local Plan. He then went on to give an outline of the proposals and that in his opinion, the character of Loch Drive would not be adversely affected adding that there had been no objections from Roads Department or Scottish Water. Addressing the daylight issue, he advised that the drawings produced during the initial application showed no significant impact. He reminded those present that this was an application in principle only and that such issues as scale and form would be considered by a future application.

Statutory Consultee

Kathleen Siddle spoke on behalf of Helensburgh Community Council advising that they were in favour of such developments, but only when the site is right for Helensburgh and she gave examples of other such developments. She went on to say however, that the HCC objected to this particular development based on the Argyll and Bute Local Plan, the HCC Design Statement, and also through consultation with the neighbours in Loch Drive itself.

The Argyll and Bute Local Plan Policy LP ENV 19 states that the development should be sited and positioned to pay regard to the context in which is it located. Mrs Siddle stated that there was no ambiguity in this policy and that it meant that the landscape must be considered. From the visit to the site and from the attached location plan, it was evident that most of the houses on Loch Drive were detached and set within their own gardens. The only exception was the 2 sets of semi-detached properties at numbers 9 – 15. Each of these had a large garden at their side, making a most attractive balance between hard buildings and soft green garden land. Together with the fact that the vast majority of the houses and gardens in the street are maintained to a high standard, this resulted in a street of great charm

The plan to infill one of these such garden spaces with a hard building would

destroy the soft richness, openness, and balance of this part of the street. The resulting continuous line of building would look completely out of character with its surroundings and be very visually intrusive in the streetscape.

There were concerns that Argyll and Bute Council had suggested a single storey building for this site, as apart from this one, all the other buildings in this area are of one and a half or two storeys high. In this context, a single storey would look odd and that the development would not be paying regard to Policy LP ENV 19.

Regarding layout and density in the same policy, Mrs Siddle referred to the phrase "inappropriate layouts or densities including over-development shall be resisted. It was the opinion of HCC that the mass and bulk of the proposed dwelling, even single storey, would cause serious densification on the site, leaving the dwelling houses on either side very enclosed and at odds with the rest of the street. This would be even worse if the development was to be one and a half or even two storeys high.

On a practical level, Mrs Siddle advised that the small gap between the existing houses and the proposed house would make it impossible for a car to drive between the houses to any garage or parking at the rear. As the garage at No. 15 had already been demolished and part of its ground space would be taken up by the proposed development, the only place to park a car would be at the front of the property and that this was a situation that did not occur in this part of the street.

Mrs Siddle then referred to the Helensburgh Design Statement which she said aspired to raise the standard of building throughout the town and added that it had never been openly challenged or criticised. She said that when looking at planning applications, it encouraged the reader to consider whether the proposal would integrate with the immediate and wider landscape. By looking odd and out of character with the rest of the street, and causing loss of balance between the buildings and garden spaces, the planning application in front of us today would degrade what is currently a most attractive street and that in other words, the proposed building would not integrate with the immediate and wider landscape as described in the Design Statement.

In conclusion, HCC had been contacted by the residents of Loch Drive who feel quite strongly that this application should be rejected and HCC supports their view.

Mrs Siddle advised that HCC's objection was based solely on planning grounds and she asked that the visual appeal of this street together with the information contained in the Argyll and Bute Local Plan and the Helensburgh Design Statement should be the key factors to be used in determining this application.

Combined with local resident opposition, it was HCC's view that these take precedence and they therefore asked that the application be refused.

Objectors

Mr Tom Haveron

Mr Haveron referred to his objection regarding the drainage system advising that

this was based on the ability of the drainage and sewerage system to cope with an additional property, and whilst he understood the need to summarise objections, he considered that this report, his objection was summarised out of all recognition.

Mr Haveron explained that his objection had stemmed from the fact that whenever it rains, the road outside his house at 21 Loch Drive, is immediately flooded with a large pool of water forming across the entrance to his driveway, thus denying him a clear and dry access to his own property.

A few years ago, Mr Haveron advised that he had requested that Argyll and Bute Council investigate this problem in order to ascertain whether a drain could be put in the road which would take this water away. An Engineer did come along and examine the situation but advised him that nothing could be done as the drainage system in Loch Drive was already operating at full 100% capacity and therefore the system just could not cope with even one additional drain being installed.

Given that nothing had changed since then, Mr Haveron said that the point he was making in his objection was clearly that another additional property could not possible therefore be accommodated.

He went on to describe how his objection had appeared in the Supplementary Report and suggested that it would appear that the issue was clearly being avoided even though it had been Argyll and Bute Council themselves who had defined it. Mr Haveron also noted the lack of objection from Scottish Water and asked whether Scottish Water was aware of Argyll and Bute Council's claim that the system was already fully committed. Alternatively, he asked if it was possible that Argyll and Bute Council had not fully advised them of their assessment and that Scottish Water had no objection to overloading it. It could simply be, he suggested, that they had been misled by Argyll and Bute as to the true drainage situation.

Mr Haveron explained that he was submitting his written comments as he firmly believed that for whatever reason, his objection as recorded in the Supplementary Report had been recorded inadequately and inaccurately and that his issue with drainage would require to be fully investigated and the matter properly recorded.

Mr Kenneth Crawford

Mr Crawford introduced himself, adding that his name was Kenneth and not Keith as listed in the report. He had been a resident in Loch Drive for 18 years and had chosen this area in which to live as it was a well kept and developed estate. Mr Crawford explained that his reasons for objection were to the principle of creating a minimalist plot and squeezing another house between the long-established dwellings. Both he and his wife objected to the inevitable physical depression of the remaining existing property at no.15 which they felt, was not being considered but would be a very real result were the application permitted and implemented.

The Officer's report had twice referred to the central section of Loch Drive as deviating from the general development pattern. Mr Crawford said it was quite

clear, from the Plan supplied, that this was only true in relation to the siting of the houses within their individual plots which were all of the same size. These would have been set out in the 1930s by the then Ardencaple Estate. Every house on the south of Loch Drive has approximately 850 square metres. This includes the four post-war properties which were built as two pairs of semi-detached houses, and Mr Crawford suggested that this was perhaps due to the building works regulations or shortages at the time. Each house still has that standard plot size and we are now being asked to approve the division of one of them into unequal halves, to the severe detriment of the existing house.

Mr Crawford advised that it was intended that number 15 would be left with, at most, a 1m strip for access to its side door and garden, which is then reduced by four rainwater and wastepipes and a grid projecting 13cm from the gable and perhaps by the thickness of any future fence. The path will be the only rear access for weekly refuse bins to the kerb and return. One of Mr Crawford's wheelie bins was 58cm wide. This would leave the occupier only 29cm clearance and would even require the house back step to be cut back.

At the time of the application, the existing garage was being demolished, as was the front garden and wall. The suggestion is that a future owner's vehicle could use part of the existing access and turn left to park in front of the main door and lunge window, even that two vehicles could be parked in this way. Attempts to sell no. 15 before the outcome of these proceedings may have been unsuccessful even though it was indicated at that time that there would be a concrete hard standing at the side. Of course, if its price was reduced, a buyer would inevitably be found, but no.15 would then have become the lowest valued and least desirable property in the entire estate, with little or no opportunity for extension or improvement. No other house had no front garden.

Mr Crawford stated that the recommendation made no mention of preserving the roadside tree, which exists in the verge of the application site, and would be transferred to a purchaser. In conclusion, he requested that the application for Planning Permission in Principle be refused, the grounds being that there is insufficient site area for development without adversely affecting the amenity of the adjacent properties and their surrounding area. Further, that the development would be seriously detrimental to No 15 Loch Drive which currently formed part of the site.

Mr Bruce Mill

Mr Mill began by thanking all the councillors who had travelled to the meeting. He then drew attention to his first point which related to 15 Loch Drive itself. He described the house as a fine three bedroom home with great views from any window or the conservatory of the large garden. The house did require some modernising, and it would be possible to build a large conservatory if the garage were to be removed. This was a fine and affordable family home in an excellent location. Mr Mill suggested that the house had now been butchered to accommodate the new development and was now a shadow of its former self. He said that in Mr Kerr's eyes, Loch Drive was disrupted by the two pairs of semi detached dwelling houses in the middle of the streetscape, homes as the people who live or lived there would call them. Whilst he acknowledged that this disruption occurred some 60 years ago, he felt that it was Mr Kerr's wish that

they be demolished to allow the construction of new houses.

Mr Mills then advised that the quoted measurements were wrong and misleading and that even when they had been remeasured for the meeting of 16th February, they were only stated as being approximate. He said that the boundaries of the new development had not been made clear. The latest, according to Clyde Properties, stated 1m from the gable end. Due to the proximity of the new development together with the dubious daylight assessment test, MH Planning had stated that the conservatory be demolished if it should become a determinative issue. Mr Mill felt that this reiterated the point he had made initially.

Mr Mill referred to the terms of Policy LP ENV1, Appendix A of the Local Plan and advice from Scottish Government regarding what constituted material planning considerations. He said that following his mother's death in October 2009, the house had come into his and his older brother's possession. He had at that time contacted the planning department on 18 May 2010 and in June had been told that planning on this plot would be highly unlikely. It had been with this in mind, that the house had been put up for sale. On 4 August 2010, Mr Hood made an offer which, with amendments, had been accepted. Between 8th and 23rd September, Mr Hill suggested, it had appeared that the planning officer had a change of mind as planning would now not seem to be a problem.

Mr Wootton

Mr Wootton indicated that many of the points he had wished to raise had been made already. He felt that the knocking down of the garage to No 15 had destroyed the continuity and symmetry of the semis. He was concerned about the plot ratios and drew attention to a drain which was over 1m away from the gable wall and would appear to be in the development plot. He cited drainage, symmetry and plot ratio as his three main issues for objection and felt that a precedent would be set were permission granted for this application.

Mr Iain Martin

Mr Martin's main objection was to the loss of light and privacy. His property lay only 17m gable to gable and he advised that the drawings on the application were inaccurate and caused confusion.

The new access would come in at his side of the plot thereby causing a loss of amenity. Mr Martin also felt that the new property would not be in keeping with the character of the street and that the parking issue had already been discussed, and reiterated the previously mentioned problem with the drainage and sewerage. Mr Martin felt that this had been a speculative venture on Mr Hood's part and that a lack of concern for residents of the street had been shown. He urged the committee to reject the application

Mr James Crawford

Once again, Mr Crawford said that many of the main issues had been covered and that he too felt that the significant impact of the development had not been considered. Mr Crawford suggested that Mr Hood had been determined to get planning permission at all cost and that a smaller building would be out of scale with its neighbouring properties. He felt that the proposals would be of no merit

or benefit to the area and should therefore be rejected.

Glen Roy

Mr Roy's main objection was that a precedent would be set and that if passed, another two potential identical plots would be a possibility. Although he appreciated that each application should be judged on its individual merit, it would be difficult to refuse additional applications if this one were approved.

Members' Questions

Cllr Chalmers asked Mr Martin to confirm the distance between the wall and fence to which Mr Martin confirmed that it was 1.4m. Cllr Chalmers then directed his question to Mr Roberts, asking what length of frontage there would be, to which Mr Roberts said that it would be 9.5m

Mr Martin said that in order to satisfy the light assessment for a single storey there should be 4m.

Cllr Chalmers asked Mr Young to explain how the loss of light was gauged. Mr Young responded that it was the 25degree rule and indicated this on the plan showing the angle from the apex.

There followed some discussion regarding dimensions and Cllr Marshall said that there would appear to be some dubiety about the actual distances. He asked Mr Young if he could confirm that the gable to gable distance was 17.3m to which Mr Young agreed that it was.

Cllr Marshall asked if this meant that the available building space was 13.9m and Mr Young said that he would anticipate it to be slightly less and that the plot could be elongated to allow more side access. Mr Young advised that he wished to maintain a 1m boundary from between 15 Loch Drive and a 4m boundary at the 17 Loch Drive end.

Cllr Marshall asked if this shape of house would be appropriate in this setting and Mr Young replied that there were a mix of styles and sizes of buildings in this area. He said that a single storey could be higher than a one and a half storey depending on the design.

Cllr Reay asked Mr Roberts if the division of the plots in this way was satisfactory to which Mr Roberts said that it was entirely satisfactory. He said that in his opinion it was a sensible, sustainable and energy efficient proposal and that it should be a 1 ½ storey. He advised that despite the restrictions, he felt that it could be accommodated without any detrimental impact.

Cllr Dance asked what the plot size was on the proposed site. Mr Roberts said that it was 450 square metres and that the property at No 10 was almost identical. He said that there were other precedents.

Cllr Dance asked if the 3m at the side of No 15 was big enough for a garage and wheelie bin access. Mr Roberts advised that the recommended space was 2.6m and that access to rear could be got through the garage. Cllr Dance thought this to be unsatisfactory.

Cllr Dance asked the Planning Officer if a single storey could be as high as a 1 ½ storey. Mr Young replied that this could be specified by conditions but that he would be looking for something lower and single storey where possible.

Cllr Dance referred to the parking in the front and noted that this did not exist anywhere else in the street. She asked what Mr Young's thoughts on this were and asked if he had taken on board the impact of density, symmetry of the streetscape and now parking. Mr Young responded that he was unclear that there was a detrimental impact as there were other instances of residents tarmac-ing the garden parking area.

Cllr McCuish asked Mr Young as to why the previous owners might have been led to believe that there would be no scope for planning and if it was possible that the new house could be set back to avoid the light pollution issue. Mr Howard said that the officer did not recall the alleged conversation and he was therefore not in a position to comment. Regarding the setting back suggestion, Mr Young said that the building line already established would be disrupted.

Cllr McKay asked if it was established that there would be no provision for a front garden. Mr Young replied that the indicative plans show a parking and turning area and said that it may or may not have a garage.

Cllr McKay said that this would mean it was the only property in the street with no garden and therefore did not comply with ENV19 and other relevant policies. Mr Young said that he recalled other properties in the area that had tarmac-ed over the drive and that he was satisfied with the proposal before him.

Cllr McKay said that we had heard from the architect that this is an in principle application and asked that if there was a garage, would it change the impact on light for example. Mr Young said that distances could be specified at the time of submission of the detailed application but that he would be unhappy with anything closer to the boundary. He said that it was not his issue where any potential garage could be sited.

Cllr McKay asked if all the parking requirements had been met. Mr Young said that the consultants had advised that it was satisfactory and he was happy with this advice.

Cllr Marshall asked about the drainage issue to which Mr Young said that he had only been made aware of this through the representations. Cllr Marshall asked the same question to HCC to which they said that they had only been made aware through the residents.

Cllr McAllister asked Mr Roberts if there was adequate space in the rear garden and Mr Roberts said there was and that this was the standard required by other Local Authorities. He noted that Argyll and Bute had no written standard regarding this.

The Chair then asked for the summing up process to commence and advised that no new information could be introduced during this process.

Summing Up

Planning Officer

Mr Young said that he expected more applications for sub-divisions such as this. He had initial concerns and although different from the existing pattern, thought that it might be acceptable. Any issues had either been raised or could be addressed and he therefore stood by his decision to recommend approval.

Agent and Architect

Mr Roberts reminded those present that this was an application in principle and that any matters of concern could be brought forward and addressed in the future application.

Statutory Consultee

Kathleen Siddle said that the HCC felt that the current balance would be lost and would not be as visually attractive as it is at present. There were concerns that the street parking would look odd.

Objectors

Mr Haveron reiterated the drainage problem that remained unaddressed and asked if Planning Dept and Scottish Water had agreed on the capacity of the current system.

Mr Kenneth Crawford said that Scottish Water had made it clear that the developer should sort out the drainage problems. On page 10 of the report the areas of the plots were stated as being 850m squared and that this meant that the plot in question was technically only 401m square.

Mr Wootton pointed out again that the 1m boundary did not allow the possibility of a garage and this would necessitate parking to the front of the property.

Mr Martin said that in his opinion, the site was not wide enough and that there would be a big impact on the whole street although the applicant had done everything possible.

Mr James Crawford said that there was plenty other suitable space in Helensburgh for such applications. He felt that in this instance the intention was merely profit making and that there should be a duty of care to the new owner of No 15.

Mr Roy had nothing further to add other than that a precedent would be set.

The Chair then ascertained that all parties had received a fair hearing to which they confirmed that they had.

Debate

Councillor Reay said that the idea of the subdivision of these plots was ill-conceived and that the amenity of the residents would be affected. The

application was out of character and there would be a particularly detrimental affect on No 15. He therefore recommended refusal.

Councillor Dance endorsed Cllr Reay's comments and added that there was no merit in this application. Whilst she was not averse to the sub-division of plots, she felt that to halve the square meter area of the plot was unsuitable. She acknowledged that this was an in principle application but that in the context of the design, symmetry of the streetscape would be lost and a minimalist plot would be created. She was in agreement with most of the points raised by the objectors regarding size and symmetry. Cllr Dance felt that the impact on both of the neighbouring properties would be highly significant and that there would be no improvement to the suburban setting. The proposals were contrary to ENV 19 and she therefore recommended refusal.

Cllr McCuish whilst congratulating Mr Roberts on his efforts, felt that it did not fit with the pattern of the street and recommended refusal.

Cllr McKay felt that although there was enough space on which to build, the size of the house would not be in character with the rest of the street. It contravened both ENV19 and LP HOU1 and had concerns regarding the parking issue. He recommended refusal of the application.

Cllr Marshall agreed with this and that he had particular concerns for the future owner of No 15. He therefore recommended refusal of the application.

Cllr Chalmers apologised to Mr Roberts but felt that his comparison with new build density did not apply to this case. He felt that both the access and amenity issues would result in too little frontage to work with. Although not against a contemporary landmark, he felt that this would be of the wrong type for the area and indicated his support for an amendment.

Cllr Kinniburgh said that the proposals simply did not fit into the streetscape of Loch Drive and would support an amendment to the recommendation.

Cllr McQueen indicated support for the amendment.

Cllr McMillan said he would support a motion for refusal.

Cllr McAllister felt that this was a borderline decision but agreed that it was out of character.

The Chair thanks everyone for their comments and agreed with what had been said.

Decision

To recommend refusal of planning permission in principle for the following reasons:-

The size and shape of the proposed plot is insufficient to accommodate a dwellinghouse in keeping with the character of the existing residential area. The plot of land is located within an area of primarily detached dwellinghouses set within regular rectangular shaped plots of approximately 23 metres in width and

37 metres in depth giving an area of approximately 850 square metres. The existing dwellinghouse would have an overall area reduced from approximately 850 square metres to approximately 426 square metres. The proposed plot width for the new house would be only 12.9 metres and 37 metres deep giving an area of approximately 426 square metres which is 57% of the existing curtilage of No.15. This would result in a dwellinghouse which would appear to be too large for its plot and out of keeping with the character of the surrounding residential area. Consequently, the combination of the sub-division of the existing plot, the introduction of a detached dwellinghouse with a reduced frontage of 12.9 metres into a block of primarily detached dwellinghouses with 23 metre frontages would not integrate with its setting and, when juxtaposed with the existing detached dwellinghouses on larger plots, be visually discordant, visually intrusive and would have a detrimental impact on the character and amenity of adjoining properties and the wider street scene. This would be contrary to adopted Local Plan Policies LP ENV1, LP ENV 19, LP HOU1 and Appendix A which require that new development should integrate with its urban setting and should be compatible with its surroundings.

(Ref: Report by Head of Planning dated 14 February 2011, submitted)

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the KILMELFORD VILLAGE HALL, KILMELFORD
on FRIDAY, 11 MARCH 2011**

Present: Councillor Daniel Kelly (Chair)

Councillor Gordon Chalmers	Councillor Donald MacMillan
Councillor Mary-Jean Devon	Councillor Alex McNaughton
Councillor Bruce Marshall	Councillor James McQueen
Councillor Alister MacAlister	Councillor Al Reay
Councillor Neil Mackay	

Also Present: Councillor Elaine Robertson

Attending: Iain Jackson, Governance and Risk Manager
David Love, Planning Authority
Fiona Scott, Planning Authority
Tom McCardle, on behalf of the Applicant
John Lesley, on behalf of the Applicant
John Heron, Statutory Consultee
Sue Stefek, Statutory Consultee
Marine Curran-Colthart, Statutory Consultee
Jane Rentoul, Objector
Lorna Hill, Objector
Catherine Hibbert, Objector
Colin Hibbert, Objector
Robert Hill, Objector
Ewan Kennedy, Objector

Apologies: Councillor Rory Colville Councillor David Kinniburgh
Councillor Robin Currie Councillor Roderick McCuish
Councillor Vivien Dance

**1. MR COLIN GLADSTONE: APPLICATION FOR ERECTION OF 2
DWELLINGHOUSES AND INSTALLATION OF 2 SEPTIC TANKS: LAND
NORTH OF EAST KAMES, KILMELFORD (REF: 10/02048/PPP)**

The Chair welcomed everyone to the meeting and introductions took place.

Mr Iain Jackson, Customer Services, established who would be speaking for the Planning Authority, Applicant, Consultees and Objectors (noting that the Community Council were not represented and that there were no supporters present).

PLANNING AUTHORITY

Mr David Love presented the case on behalf of the Head of Planning and Regulatory Services. He advised that the Committee had agreed to hold this hearing on the basis of the large number of representations from a small community. He explained that the area was within a PDA (Potential

Development Area), within a APQ (Area of Panoramic Quality) which was deemed suitable for low density development.

Mr Love then discussed the history of the site from 2009 onwards and the access arrangements which could be achieved by condition. He also discussed surface water discharge and a habitat survey which had been submitted by the applicant and that indicated the site was not within an ecologically sensitive site.

Mr Love advised that the water source for the site was a private supply which would come from Kames Farm and, for the benefit of those Members who were not in attendance at the site visit, showed slides of the site. He stated that there were no objections from statutory consultees, 12 objections from individuals, 5 late representations and a letter from Councillor Robertson. He apologised for an error within the original report which wrongly attributed comments to the Council's advisors and advised that this was picked up in supplementary report number 1 and was covered by condition 7.

Mr Love stated that the application had been assessed on the basis that it was an established PDA within the Local Plan, the reduction from 6 to 2 dwellings provided better separation from the Fish Farm (that could have given rise to a bad neighbour in reverse situation) and less demand on the private water supply. The Local Plan is in favour of small scale development and there was an intention that the remainder of the PDA would remain undeveloped, this development having exhausted any further potential for development. He stated that there was no other material circumstances to warrant anything other than approval and requested that the Committee approve the application.

APPLICANT

Mr McCardle spoke to the application, expanding on the history as given by Mr Love. He advised that there had been many staff changes in the Planning Department but that he had been with this application since the beginning, 10 years ago. At this point he had sought advice about the chances of developing the site. He was advised that there was no chance at this time but as time went on the area was put forward as a potential area for development within the local plan. In May 2007 he entered into discussions with planners with a view that the application submitted could be used as a model application for PDAs. In October 2008 6 houses were applied for with a new access to serve the properties (as recommended by the Roads Authority). At this point there were many objections and therefore, in consultation with Planning, the application was withdrawn and re-submitted using the existing access in September 2009. At this time there was a habitat survey required and as a result of this the layout of the scheme was amended. Twelve months after this, intimation was received from Planning that they could not support the application as, in consultation with Environmental Health, they had determined that it would constitute a bad neighbour in reverse development. They did however suggested that plots 1 and 2 could be supported. Accordingly the application was withdrawn given it was obviously going to fail. The current application was re-submitted on 2 November 2010.

Mr McCardle advised that architects referred to the Local Plan in the first instance for guidance so they needed to be confident in it. He then commented about the water supplying the Committee with a plan which showed the existing

supply and the catchment for the proposed supply. He explained that there was unlikely to be any contamination between the two as there was a river running between supplies.

CONSULTEES

Mr Heron, on behalf of the Roads Authority, advised that he had attended numerous site meetings. He had checked that the site lines were achievable and that the ground was within the applicants control in order that growth could be cut back. As the first 2 metres was an integral part of the highway, he advised that the Roads Authority would take control of this. He explained that he had requested improvements to the junction to allow traffic in and out of the site to prevent cars waiting on the main road.

Ms Stefek, Environmental Health Officer, had no comment at this stage.

Ms Curran-Colthart, Local Biodiversity Officer, had no comment at this stage.

OBJECTORS

Mrs Rentoul

Mrs Rentoul advised that she would discuss the history of the site. She explained that in June 1991 there had been an application for a dwellinghouse, workshop and store which was refused in August 1991 with the comment from the Planning Authority that the application should be “strongly resisted with respect to the setting of an undesirable precedent for further uncoordinated prominent development which in itself and incrementally will erode the landscape character of this area of Regional Scenic Value”.

In February 1992, a second application was submitted with an amended layout which sited the house behind a rocky knoll. The applicant had put forward a special needs case given the need to operate a special water testing business and the application was granted in June 1991 with the comment “the applicant’s special needs case (taking account of the site size requirements and bad neighbour elements) was felt to totally undermine and negate against any undesirable precedent for further ribbon development eastward.”

Mrs Rentoul advised that from these conflicting statements there was some comfort in the repeated statements in official reports that there would be no further development on the peninsula.

Mrs Rentoul then discussed the 2008 application for six houses which had been set out by Mr McCardle. She stated that this had attracted 50 letters of objection, including one from the Kilniver and Kilmelford Community Council. The application was a potential departure from Policies RUR 1 and RUR 2 of the Lorn Local Plan and was withdrawn in July 2009. A few weeks later, on the eve of the adoption of the Lorn Local Plan, which had the site identified as a PDA, a further application was made. She explained that given the site was a **Potential** Development Area, it was assumed that it would have to satisfy critical criteria to become an **allocated** Development Area. She said that it was not unreasonable to think that the application would fail given the repeated statements from Planners.

Mrs Rentoul made reference to a letter in May 2010 from the Planning Authority which referred to new pieces of information being received including an amended indicative site layout and the proposal to include two affordable units within the six proposed dwellings. She commented that this appeared to be a sign of desperation. The application was withdrawn in July 2010 for reasons given by Mr McCardle.

Mrs Rentoul advised that the application before the Committee was the fourth application made. She referred to a covering letter which referred to the fact that the application was a fresh application and that as there had been colossal expense to the applicant the fee had been waived. She considered that the "colossal expense" was as a result of the applications being fraught with difficulty and commented that the objectors, having sent over 300 reasonable and well argued letters of complaint and two reports from Keppie Planners and a critique of the Quadrat Ecological Assessment, could not have their outlays waived.

Mrs Rentoul made a final comment that she hoped the Committee would agree that it was difficult to understand how this site was ever zoned correctly as a PDA in the first place.

Mrs Hill

Mrs Hill raised a query as to why the site had been given the status of a PDA when it was within an APQ. She had referred this to Mr Jackson-Stark of the Planning Authority who had led her to believe that the applicant had replied to an advert inviting landowners to submit plots for consideration as a PDA. She was since advised that the Council put this forward which she felt was extraordinary given their past position. She advised that this had been done without consultation and with no neighbour notification.

Mrs Hill then questioned why the applicant had applied for 6 dwellings when the PDA was on a small scale of up to 5. She discussed constraints which had been identified at the time of the designation such as water, sewerage, access and road safety, built heritage and nature conservation. She quoted from an email from Mr Jackson-Stark from June 2010 which confirmed the designation as potential due to the fact there were issues still to be resolved. She stated the issues had not been resolved but listed as conditions which she felt was an unacceptable compromise.

Mrs Hill then discussed water supply stating the besides the current application, Kames Farm had various applications lodged which would require considerable water. All of these developments would require to access the source behind Kames Farm who were looking to invest in a borehole. She expressed concern about the supply running out during the dry season. She advised that the supply had run dry last year and had taken 5 days before the supply returned to some of the houses.

Mrs Hill then discussed 2 water reports which had been posted on the website and comments from Iain MacKinnon, Area Environmental Health Manager, that the reports were poor and that the wrong data had been used. He had also commented that a borehole would not work as any borehole would just "rob the spring". Paul Reynolds, also of the Environmental Health Team, had

commented that a full survey was recommended. Given these comments, she had grave concerns about the Planning Authority providing accurate information. She also commented that the water supply issue had been referred to by Planning as a civil matter and not a planning concern.

Mrs Hibbert

Mrs Hibbert spoke regarding the comments from the Roads Authority that the access could be safe subject to improvements to provide 160m splays in both direction. She advised that she had tested this yesterday and that a car had disappeared at 122m. To the west of the site there was considerable clearing required and she had concerns as to who would maintain this when the applicant was not in the area. She advised that the plans had indicated a tarmac road which she stated would give an urban appearance and that visitors may take thinking they could access the sea. This would intensify traffic usage.

With regard to sewerage, she advised that there was no indication of where the septic tank and soakaway would be sited. It was unclear where these could be sited to be below the water table which was at 4m and that this might result in a health hazard to the new or existing properties.

Mrs Hibbert then discussed drainage and the issues in that the drainage appeared to flow uphill. Mr Jackson-Stark had commented in 2010 that this should be overcome before development. This was clearly not the case and therefore the application shouldn't progress.

Mr Hibbert

Mr Hibbert quoted from the Local Plan, LP BAD 2, which stated that developments should not be in close proximity of an industrial site. He commented on the noise, smell, bright lights and helicopter operations which were often at unsocial times. He referred to a conversation with Ms Stefek stating that Ms Stefek had been quoted as saying that "if she had her way there would be no houses on this bit of land".

Mr Hibbert then queried what had changed between the previous indications that an application would not be looked upon favourably from the Planning Authority and the current application. He discussed the location of the site in relation to the pier, the views from the proposed dwellings and a condition for a clear view which was imposed by the applicant and which he felt would not allow for adequate screening of noise, light and smells from the pier.

Mr Hill

Mr Hill spoke about the scenic impact in this area and his strong feelings about preserving it. He spoke about many of the characteristics of the area being similar to those in Cornwall. He had recently visited Cornwall and advised that he would not be in a hurry to go back as he considered the area had been ruined by small but incremental developments. He stated that the Local Plan sought to protect scenery and that the topography and planting suggested to cover the east side of the development would be more visible across the bay. The knolls were lower than the proposed houses and that any planting would be restricted by the East Kames sightline, unless they were within garden grounds, which he

considered was unreasonable.

He discussed the bigger picture which included the APQ and Kames Farm developments. He considered that there would be economic benefit with the Farm developments but that this could not be demonstrated in this case. He quoted from Local Plan Policy LP ENV 10 which Mr Love had referred to earlier but which was not addressed within the reports.

He discussed cumulative impact as a result of the proposed developments at the farm, the mussel farm and forestry works. When added together these would create a huge impact and the success of the Local Plan was dependent on a strict interpretation.

He then discussed habitat which, along with bad neighbour issues, he felt was critical to the application. He advised that the survey had identified a sensitive habitat. He advised that there were no low sensitivity areas on the site and that the site was moderate to high. He referred to the poor timing of the survey and that it had not picked up on several endangered species such as otters. He advised that it was a criminal offense to disturb otters and that it was best practise to follow up such surveys through the seasons.

Mr Kennedy advised that he did not live on the peninsular but that he was concerned about the threat to the panoramic areas. He referred to his recent attendance at the hearing for the Raera Windfarm when the issues were broadly similar in that panoramic quality of the countryside was being weighed against economic importance. In the Raera case, the argument was that the applicants claimed a national interest behind them whereas in this case there was a landowner seeking to land a speculative gain.

He reminded the Committee that PDA status does not create a presumption in favour of development and quoted from the Local Plan. He queried what had changed between 1992 when the site had deserved the strongest protection to the fact that this could be overcome by operational need and screening of a rocky knoll in the present day.

Mr Kennedy raised the concept of ribbon development and how the Planning Officer had indicated this was not ribbon development as it was not on the main road. His suggestion was that to be ribbon development it required a road but not necessarily a main road.

He referred to archaeology, commenting on Mr Love's apology and stating that there was most certainly was something on site according to West of Scotland Archaeological Services but that this was dealt with by yet another condition.

Mr Kennedy discussed the current local plan housing allocation for Kilmelford at 40 units. He stated that this was more than satisfied by existing consents and referred to the fact that, in his opinion, the "unaffordable" part of the Glebe development was not being built on the basis there was no demand.

In conclusion, Mr Kennedy stated that the Planning Officer had an unseemly enthusiasm for this development in minimising the relevant constraints and had not properly assessed the impact in terms of ENV 10. He urged the Committee to refuse the application.

QUESTION TIME

Councillor Reay asked how many objectors, during the process of the Local Plan Designation, there were and whether there was a hearing as a result. Mr Love advised he was not involved in the process but that Mr Jackson-Stark had indicated there had been no objection.

Councillor Reay put the question to the objectors who stated that there was no objection as they hadn't been aware of the process. Councillor Reay was surprised by this as the consultation ran for several months.

Councillor Mackay asked for confirmation that the area was not included in the previous plan. Mr Love confirmed this was the case.

Councillor Mackay questioned whether any objectors were aware, through the Community Council, that the new Local Plan was looking at this designation or that subsequently the area had changed designation. Mrs Rentoul advised that a consultation at Community Council level had taken place on the new proposals and that she had seen the PDA designation on Kames Peninsula. She did not fully appreciate the significance of this and given it was potential and not allocated, felt any proposed development would fail on the basis of the comments made previously by Planners. She conceded this was perhaps foolish and naïve in light of events that had occurred since this consultation. Councillor Mackay commented that he did not think that this was foolish as there were many of the 13 Community Councils and communities in Ward 5 that had not realised the significance of the various designations.

Councillor Mackay asked if this application was put forward on the basis of operational need ie. in relation to the fish farm, would we be in a different position. Mr Love advised that we would be in exactly the same position.

Councillor Devon asked Ms Stefek if the bad neighbour in reverse test had failed in June 2010. Ms Stefek advised that there had been no evidence of any nuisance, no complaints to say that the farm was causing any problems.

Councillor Devon asked Mr Heron to comment on the suggestion that the visibility splays were only 122m. Mr Heron disagreed with this statement advising that the splays had been measured and were 160m in both directions.

Councillor Devon asked if Ms Curran-Colthart was aware that otters had been seen on the site. Ms Curran-Colthart stated that it had been requested for the report but that the person who conducted the survey didn't find any evidence. This could be reflected in the fact that the survey was undertaken in November but also due to the chances of finding them along the coastline were slim.

Councillor Chalmers asked about the drawing of water given the number of applications being processed. The Chair reminded the Committee that they were dealing with this application and that any other applications were not up for discussion.

Councillor Marshall commented on the high quality of presentations and asked about the comment made by Mr Love in an email to Ms Stefek in July 2010. Mr

Love explained he was attempting to gauge the impact of 6 houses and that he was try to assess the magnitude of adding a further 6 houses to the existing 9.

Councillor Marshall asked Ms Curran-Colthart about he scenic quality of the area and if there was any fear of creating a ribbon development. Ms Curran-Colthart explained that she could not comment on this as was for SNH to provide information on scenic quality.

Councillor Marshall asked if the loss of water last year was the first time it had happened. Mrs Rentoul stated there had been periods over the last 40 years where the supply had run out and that the previous farm tenant had always maintained there would be issues with the supply.

Councillor MacNaughton asked Ms Stefek to comment upon the statement made by the objectors as to whether houses should be permitted in the area. Ms Stefek stated this had been in the midst of a lengthy call and had been taken out of context. It was not her view and considered the area would be a nice area to live in.

Councillor MacAlister asked if there was any overlap in water supply. Mr McCardle stated that in his opinion there was no overlap, the hydro report had indicated there was sufficient supply for and additional 6 dwellings.

Councillor Devon asked Mr Love to shed some light on the comments made about the site and whether it may/may not be in the PDA. Mr Love advised that a new plan can review designations and also has the potential to remove designations.

Councillor Devon then ask Mr Love about his opinion on LP BAD 2 being appropriate to the application. Mr Love advised that the Hatchery was built already and that they couldn't take into consideration any future intensification in activity. His professional opinion was that the existing planning at East Kames together with additional planting in terms of the proposed condition was sufficient as a buffer to prevent LP BAD 2 being relevant.

Councillor Mackay queried whether the planning policies were taken into account when reviewing or implementing designations. Mr Love advised that he was not part of the local plan team and therefore he could not confirm this although assumed this would be the case.

Councillor Mackay asked Ms Stefek whether she had approached the fish farm directly about complaints. Ms Stefek stated that she had done but there was no response. When they had realised there were 6 dwellings they did come back but there were no complaints from residents. Councillor Mackay stated that he had contacted them directly with a complaint about their lighting. They had directed this away from the main road and therefore there had been no need for him to take this any further. He suggested other residents may have done likewise.

Councillor Marshall asked about the proposals to develop at the farm and asked whether the 2 livestock buildings could have been built without planning permission in terms of permitted development rights. Miss Scott advised that they had already exhausted their rights by building 2 poly tunnels and therefore

they did require planning permission.

This concluded the questioning session and it was agreed to hold a 5 minute comfort break. The meeting re-convened at 12.40pm

SUMMING UP

Planning Authority

Mr Love re-emphasised that applications should be determined in accordance with the Local Plan unless material circumstances proved otherwise. He stated that the PDA would be limited to these two plots and that the applicant had sufficiently addressed issues relating to water, waste water, avoidance of sensitive areas and the provisions of LP BAD 2. There were no other material circumstances and therefore the application should be granted.

Applicant

Mr McCardle discussed architects being guided by the Local Plan and the fact that if this application was not approved it would raise questions as to what to do with the plan and its use.

Consultees

Mr Heron advised that the site lines could be achieved, that maintenance of the site lines were an enforceable condition, no different to other roads. He suggested that entry issues raised could be dealt with by a restricting sign advising that the road was a private one.

Ms Stefek and Ms Curran Colthart had nothing further to add.

Objectors

Mrs Rentoul advised that the fish farm had been subject of 2 complaints. One in relation to burning of waste which resulted in a complaint to the Authorities and the second in relation to disposal of toxic waste for which there was a prosecution. She commented that other issues had been raised directly with the farm and that they had dealt with these.

Mrs Hill advised she had lodged a Freedom of Information request relating to the designation which had only produced one document which was a hand written note from Mr Gladstone. She was surprised there was no minuted decision on this. She also stated that the Planner's report had suggested that the windows to the dwellings should face away from the site thereby acknowledging there was something to be avoided.

Mrs Hibbert commented that the site lines were, in her opinion, 38m short of the required 160m. She stated these were currently maintained and did not know how the additional distance could be achieved.

Mr Hibbert referred to Mr Love's response about screening. He had concern that the only difference would be the additional planting which he did not consider would be a significant difference in terms of overcoming the bad neighbour in

reverse policy.

Mr Hill wondered whether the Council would consider a speed limit given the intensification in view of all of the proposed developments and the fact that buses stop at the belmouth of the access which may cause problems in accessing East Kames. With regard to the Bad Neighbour issue he felt that any new neighbour may take a different approach to the existing neighbours in making complaints directly to the Council. He reminded the Committee that the fish farm was a processing plant and not just a hatchery. He reported that there was significant lorry traffic with reversing beacons at night. He also commented that the sound was amplified as it travelled across the bay and that there was also an issue with smell which could not be screened by vegetation. He also referred to helicopter operations and the question of whether ENV 10 had been properly addressed.

Mr Kennedy did not wish to add anything further.

The Chairman asked all parties whether they had received a fair hearing. There were no adverse comments raised by the parties in attendance.

DEBATE

The Chairman advised that they had a lot of difficult issues to deal with and that was why the Committee held hearings. He advised that in his own ward there had been an issue with no response to the local plan which had led to similar problems. However, the consultations are well advertised and people should take note of them, not simply raise the issue when an application is put forward.

Councillor Reay expressed disappointed in the Community Council stating they should have been more active in making people aware of the consultation. He said that the Council had gone to great lengths to consult the public. Helensburgh alone had raised 3500 of the 4000 representations given the sensitivity in that area. He advised that the plan had now gone through, that planning were right to be recommending approval and that it was now down to subjective opinions.

Councillor Mackay referred to the statement about architects giving clients advice based on the local plan and if it can't be used, what could. He accepted what Councillor Reay had said about the consultation on the local plan but stated that many of the smaller communities did seem to have realised the importance of the consultation. He spoke regarding the need to weigh the policies against the information provided at the hearing and that he felt LP BAD 2 was very significant and that he also had concern about the water supply issue. He thought that if permission was given it would give rise to problems given the size of the fish farm operation.

Councillor Chalmers advised that he agreed with Councillor Mackay having heard instances of complaint which had not been reported to Environmental Health. He felt that the operation of the fish farm was the sort of thing any reasonable person would object to. However, he did not intend to afford as much weight to the proximity of the sites to the fish farm as Councillor Mackay and considered that the water issue would be suitably addressed by condition.

Councillor Devon had reservations about LP BAD 2 which were giving her mixed feelings about the development. She considered the proposed conditions relating to water supply and roads issues were suitably strong although felt that a more recent hydro study than the 2008 version before them would be beneficial.

Councillor Marshall, like his fellow Councillors, felt that consultation was prime on the current Local Plan. He suggested that Community Councils should pass this type of information on to the wider community and was sorry this hadn't happened in this case. Like Councillor Mackay he had serious concerns about bad neighbour and water supply issues.

Councillor McQueen indicated that he was supportive of the Planners in this particular case.

Councillor MacAlister expressed concern about the entry to the site but that he was comforted by the fact that the Roads Authority felt that safety issues could be resolved by condition.

Councillor MacNaughton stated that his initial concerns had been cleared up and that he intended to support the Planner's recommendation.

Councillor MacMillan concurred with Councillor MacNaughton's statement.

MOTION

That the application be granted subject to the conditions and reasons contained with the Report by the Head of Planning and Regulatory Services dated 7 March 2011.

Moved by Councillor Kelly, seconded by Councillor MacMillan

Councillor Mackay indicated that he wished to move an amendment and requested a short break to work on this. The Chairman agreed a five minute recess and the meeting re-convened at 1.15pm.

AMENDMENT

That the proposed development is Bad Neighbour in Reverse, on the grounds of noise, light and smell due to the close proximity of the proposed noise sensitive development.

Noise sensitive developments can be separated from noise sources and orientated and designed to minimise the impact of noise. The location of the proposed development will not provide this benefit to the residents.

Individual sensitivity to noise is highly subjective and is affected by a range of factors. As these can include non-acoustic matters such as attitude to the noise source, sensitivity may not always relate directly to the level of noise.

Scotland's rural areas possess an environmental quality from which people derive a range of benefits. Developments in areas that have been relatively undisturbed by noise nuisance are prized for their environmental or amenity value. This is what the potential residents of the proposed development would

be expecting, yet this would be the reverse. The pre-existing usage of the Commercial Fish Farm and Factory would negate this amenity.

The introduction of the development in this location is likely to give rise to complaints from new residents, relating to the operation of the Fish Farm and Factory and would more than likely have an adverse affect on the current operation and future development of the Fish Farm and Factory which is vital to the economic sustainability and development of the local area.

Possible mitigation measures by way of a Section 75 such as barriers, bunds, planting would not be appropriate. The only effective means to reduce the impact on the operation of the Fish Farm and Factory would be to relocate the development.

This application will introduce incompatible development in relation to an area already containing a development classed as a Bad Neighbour Development therefore this application is contrary to Policy LP Bad 2 – Bad Neighbour in Reverse of the current Argyll Local Plan Adopted 2009 and should be refused.

Moved by Councillor Mackay, seconded by Councillor Marshall.

Mr Love and Mr Jackson both confirmed that in their opinion this was a competent amendment. It was suggested by the Chair and agreed by the Committee that the matter had been well enough aired and that they would proceed to the vote.

Decision

The motion was carried by 6 votes to 4 and the Committee resolved to grant planning permission in principle subject to the following conditions and reasons:-

1. That the development to which this permission relates must be begun within three years from the date of this permission.

Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997.

2. Prior to the commencement of works at the site, details shall be submitted for the approval of the Planning Authority in respect of the undermentioned matters:
 - a. The siting, design and external appearance of the proposed development;
 - b. The boundary treatment of the site of the proposed development, which shall include indigenous tree and shrub planting utilising native species;
 - c. Details of the access arrangements;
 - d. Details of the proposed surface water drainage arrangements;

which shall be consistent with the provisions set out within the submitted Design Statement dated December 2010.

Reason: To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997 and ensure the proposed dwellings are consistent with the character of the surrounding natural and built environment.

3. Prior to the development commencing a full appraisal to demonstrate the wholesomeness and sufficiency of the private water supply to serve the development shall be submitted to and approved in writing by the Planning Authority. This assessment shall be carried out by a qualified and competent person(s). Such appraisal shall include a risk assessment having regard to the requirements of Schedule 4 of the Private Water Supplies (Scotland) Regulations 2006 and shall on the basis of such risk assessment specify the means by which a wholesome and sufficient water supply shall be provided and thereafter maintained to the development. Such appraisal shall also demonstrate that the wholesomeness and sufficiency of any other supply in the vicinity of the development, or any other person utilising the same source or supply, shall not be compromised by the proposed development. Furthermore, the development itself shall not be brought into use or occupied until the required supply has been installed in accordance with the agreed specification.

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

4. The development shall be implemented in accordance with the details specified on the application form dated 2nd December 2010 and the approved drawing reference numbers:
 - Plan 1 of 8 (Location Plan at scale of 1:10000)
 - Plan 2 of 8 (Site Plan at scale of 1:500)
 - Plan 3 of 8 (Site Plan at scale of 1:1000)
 - Plan 4 of 8 (Site Plan at scale of 1:2000)
 - Plan 5 of 8 (New Turning Head at scale of 1:100)
 - Plan 6 of 8 (Proposed Junction to A816 at scale of 1:100)
 - Plan 7 of 8 (Location Plan at scale of 1:5000)
 - Plan 8 of 8 (Site Plan – Habitat at scale of 1:1000)

unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997 (as amended).

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

5. No development shall commence until on site until a scheme incorporating the following access details have been submitted to and has been agreed in writing by the local planning authority in consultation with the Council's roads engineers.
 - Access at junction to public road to be constructed with 4.5m radii and

- a 5.5m width for first 10m;
- No walls, hedges, fences etc to be permitted within 2m from the channel line of the public road.
- Visibility splays measuring 160.0m x 2.4m to be cleared in advance of development and maintained clear of all obstruction in excess of 1.0m in height;
- Carriageway width to be 3.5m to beyond access to dwellings
- 2m wide footway to be provided at radius of access road;
- Turning head to diagram 5.24 of the Council's Guidelines for Developments at the access to the dwellings;
- 2m wide verge required on both sides of the access road.

The duly approved scheme shall be implemented in full prior to the occupation of either dwelling

Reason: In the interests of road safety to ensure the proposed development is served by a safe means of vehicular access.

6. Proposals subject to application for matters specified in condition and implementation of the development shall have regard to and be carried out in full compliance with the mitigation measures outlined within the submitted 'Ecological Assessment of Kames Farm Proposed Development' dated November 2009 by Quadrat Scotland.

Reason: In the interests of ecological and habitat preservation.

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

Reason: In the interests of preserving potential archaeological remains and the historic environment.

(Ref: Reports by Head of Planning and Regulatory Services dated 27 January, 28 February and 7 March 2011, submitted)

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 16 MARCH 2011**

Present: Councillor Daniel Kelly (Chair)

Councillor Gordon Chalmers	Councillor Neil Mackay
Councillor Robin Currie	Councillor Donald MacMillan
Councillor Vivien Dance	Councillor Roderick McCuish
Councillor David Kinniburgh	Councillor Alex McNaughton
Councillor Bruce Marshall	Councillor James McQueen
Councillor Alister MacAlister	Councillor Al Reay

Attending: Charles Reppke, Head of Governance and Law
Graeme Forrester, Governance and Law
Inspector Davidson, Strathclyde Police
Ms Neilly, Applicant

1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

2. DECLARATIONS OF INTEREST (IF ANY)

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR A STREET TRADER'S LICENCE: A NEILLY IN RESPECT OF SITE AT BLACKMOUNT, BRIDGE OF ORCHY

The Chair welcomed all those present to the meeting and outlined the procedure that would be followed during the meeting.

The Chair invited Ms Neilly to speak in support of her application for a street traders licence. Ms Neilly advised that she had worked in a very busy coffee and crafts shop in Glencoe where she had been very good at her job. She advised that the opportunity for the snack bar had arisen, that it was currently owned by a neighbour, and that she would like to take what she had learnt during her time in the coffee shop and use it to run the snack bar. Regarding the conviction, Ms Neilly advised that she had never been in trouble before and that it had been a family matter.

The Chair invited Inspector Davidson to speak in support of the objection from Strathclyde Police. Mr Davidson advised that Strathclyde Police were objecting to the application on the grounds that Ms Neilly had not declared a previous conviction on her application form.

The Chair invited the applicant and objector the opportunity to ask questions based on each other's presentation. There were no questions.

Questions

The Chair gave Members of the Committee the opportunity to question the applicant and objector.

Councillor Chalmers asked Ms Neilly why she did not declare the conviction on her application form. He asked if she had misunderstood the questions on the form. Ms Neilly agreed that she had misunderstood the application form.

Councillor MacMillan asked Ms Neilly if at present that was the only snack bar in the area and if that would be the only one in the future. Ms Neilly replied yes.

Councillor Dance asked Ms Neilly if she had not disclosed the conviction as it had been some time ago and because it had been admonished. She asked if Mr Kennedy would be running the snack bar with her and asked her to give a view of what she predicted the future would be. Ms Neilly advised that her day in court had been a blur. She confirmed that Mr Kennedy would be assisting in the running of the snack bar. Ms Neilly advised that she would like to use the opportunity of the snack bar to move forward and that she had gained good experience during her time in the coffee shop.

Councillor Reay asked Ms Neilly if the snack bar would be her sole source of income to which she replied yes.

Summing Up

The Chair invited both parties to sum up.

Inspector Davidson advised that the conviction would be spent on 17 November 2011. He advised that even though it had happened some considerable time ago, it was still a conviction and should have been disclosed on the application form.

Ms Neilly advised that she had no further comments.

The Chair invited both Inspector Davidson and Ms Neilly to confirm that they had received a fair hearing. Both confirmed that this had been the case.

Debate

Councillor McCuish expressed support for the application as the conviction was nearly spent and he did not view the representation from Strathclyde Police as an objection.

Councillor Reay advised that this was a valuable opportunity and that the snack bar was located in a good spot for tourists.

Decision

The Committee agreed to grant the application of a street traders licence and noted that notification of this would be sent to the applicant by the Head of Governance and Law within 7 days.

(Reference: Report by Head of Governance and Law dated March 2011, submitted)

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 16 MARCH 2011**

Present: Councillor Daniel Kelly (Chair)

Councillor Gordon Chalmers	Councillor Alister MacAlister
Councillor Rory Colville	Councillor Neil Mackay
Councillor Robin Currie	Councillor Donald MacMillan
Councillor Vivien Dance	Councillor Roderick McCuish
Councillor Mary-Jean Devon	Councillor Alex McNaughton
Councillor David Kinniburgh	Councillor James McQueen
Councillor Bruce Marshall	Councillor Al Reay

Attending: Charles Reppke, Head of Governance and Law
Angus Gilmour, Head of Planning and Regulatory Services
Richard Kerr, Principal Planning Officer
Alan Morrison – Operations Manager – Environmental Health
Bill Winthrop, Area Environmental Health Manager

1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

2. DECLARATIONS OF INTEREST (IF ANY)

Councillor Bruce Marshall declared an interest in item 5 of the agenda as he had previously submitted an objection to the application.

Councillor David Kinniburgh declared an interest in item 9 of the agenda as the applicant was a work colleague of his.

Councillor Dance declared an interest in item 14 of the agenda as she was the applicant.

Councillors Colville, MacMillan, McAlister, McCuish, McKay and Reay declared an interest in item 11 of the agenda due to their membership on the ACHA Board and ACHA Area Committee.

The Chair introduced to the Committee Mr Bill Winthrop, Area Environmental Health Manager - Helensburgh and Lomond. He advised that Mr Winthrop would be retiring from Argyll and Bute Council on 31 March 2011 after 45 years service in Local Government. The Chair thanked Mr Winthrop on behalf of the Committee and on behalf of the Council for his years of hard work and presented him with a Quaich.

3. MINUTES

- (a) Planning, Protective Services and Licensing Committee 16 February 2011 (10.00am)

The Minutes of the Meeting of the Planning, Protective Services and Licensing Committee held on 16 February 2011 at 10.00am were approved as a correct record.

- (b) Planning, Protective Services and Licensing Committee 16 February 2011 (10.30am)

The Minutes of the Meeting of the Planning, Protective Services and Licensing Committee held on 16 February 2011 at 10.30am were approved as a correct record.

4. PROMOTING FOOD SAFETY STANDARDS IN ARGYLL AND BUTE

The Operations Manager – Environmental Health spoke to his report highlighting the work undertaken by the Council on the Eatsafe and Food Hygiene Information Award Schemes which had taken the Council to the forefront of these national schemes in Scotland.

Decision

The Committee noted –

1. The work being undertaken by the Council's Environmental Health Service to protect food safety and to support the food industry in Argyll and Bute.
2. That the Council's work on the Eatsafe and Food Hygiene Information Awards Schemes is at the forefront in Scotland.
3. The work of the catering industry in the introduction of the scheme and the high level of compliance with food safety in terms of the Eatsafe and Food Hygiene Information Awards Schemes.

(Reference: Report by Operations Manager – Environmental health dated March 2011, submitted)

Having previously declared an interest, Councillor Marshall, left the room and took no part in the discussion of the following item of business.

5. CWP PROPERTY DEVELOPMENT AND INVESTMENT: APPLICATION FOR ERECTION OF A CLASS 1 FOODSTORE WITH ASSOCIATED DEVELOPMENT TO INCLUDE CAR PARKING, ACCESS ROAD, ROAD BRIDGE, FILLING STATION AND ENGINEERING WORKS: 361 ARGYLL STREET, DUNOON (REF: 10/00222/PPP)

The Head of Planning and Regulatory Services presented the report and also supplementary report 1 that had been tabled at the meeting. The supplementary report confirmed receipt of late letters of representation. He advised that the application was recommended for refusal for the reasons set out in his report subject to a discretionary local hearing being held due to the large number of representations that had been received.

Decision

Agreed to hold a discretionary hearing at a date and time to be determined.

(Reference: Report by head of Planning and Regulatory Services dated 4 March 2011, submitted and Supplementary Report 1 dated 15 March 2011, tabled)

Councillor Marshall rejoined the meeting.

6. MARK NEWALL: APPLICATION FOR FORMATION OF PRIVATE ACCESS TRACK: ROWALEYN, GLENARN ROAD, RHU (REF: 10/00490/PP)

The Head of Planning and Regulatory Services spoke to an update report on the application that had been continued from the Planning, Protective Services and Licensing Committee held in December 2010. He advised that the applicant had been given the opportunity to submit a more suitable revised scheme, that to date nothing had been received and therefore he recommended refusal of the application for the reasons contained within the original report.

Decision

1. Noted that no further scheme had been submitted by the applicant.
2. Agreed that the application be refused for the reasons as detailed in the report by the Head of Planning and Regulatory Services dated 25 November 2010.

(Reference: Supplementary Report 1 by Head of Planning and Regulatory Services dated 7 February 2011, submitted and report by Head of Planning and Regulatory Services dated 25 November 2010, submitted)

7. MR GERRY BOYLE: APPLICATION FOR CONSTRUCTION OF AN ALL WEATHER SPORTS COURT AND THE ERECTION OF ASSOCIATED LIGHTING AND FENCING: STRATH OF APPIN PRIMARY SCHOOL, TYNRIBBIE, APPIN (REF: 10/01121/PP)

The Principal Planning Officer spoke to the report and recommended that having due regard to the development plan and all other material planning considerations, the application be granted subject to the conditions and reasons contained in the report.

Decision

Agreed to grant planning permission subject to the conditions and reasons contained within the report by the Head of Planning and Regulatory Services.

Reference: Report by Head of Planning and Regulatory Services dated 23 February 2011, submitted)

Councillor McQueen left the meeting.

Councillor Marshall declared an interest in the following item of business, he left the room and took no part in the discussion.

8. MR A FRASER: APPLICATION FOR ERECTION OF 3 DWELLINGHOUSES AND GARAGES, FORMATION OF VEHICULAR ACCESS AND INSTALLATION OF PRIVATE SEWAGE SYSTEM: LAND SOUTH EAST OF SEASIDE: NEWTON, STRATHLACHLAN (REF: 10/01656/PP)

The Head of Planning and Regulatory Services spoke to the report and to a further supplementary report containing a suggested change to the sewerage treatment plant which had been previously agreed with the applicant. He recommended that having due regard to the development plan and all other material considerations, the application be granted as a minor departure to the development plan subject to the conditions, reasons and informative notes contained within the report.

Decision

Agreed -

1. to grant planning permission as a minor departure to the development plan subject to the conditions, reasons and informative notes contained within the report by the Head of Planning and Regulatory Services.
2. that a note be passed to the applicant requesting that they inform Roads and Amenity Services of any construction works due to take place which may have a detrimental impact on the public road.

Reference: Report by Head of Planning and Regulatory Services dated 23 February 2011, submitted and Supplementary Report 1 by the Head of Planning and Regulatory Services dated 15 March 2011, tabled)

Councillor Marshall rejoined the meeting.

Having previously declared an interest, Councillor Kinniburgh, left the room and took no part in the discussion of the following item of business.

9. JD WETHERSPOON PLC: APPLICATION FOR CHANGE OF USE OF RETAIL PREMISES (CLASS 1) TO PUBLIC HOUSE (SUI GENERIS), FORMATION OF BEER GARDEN AND EXTERNAL ALTERATIONS IN CONNECTION WITH THE PROPOSED USE AND FORMATION OF TWO RETAIL UNITS: 19-29 JAMES STREET, HELENSBURGH (REF: 10/01892/PP)

The Principal Planning Officer presented the report and also a supplementary report giving information on further representations received. He recommended that subject to a discretionary local hearing being held the application be approved subject to the conditions and reasons as set out in the original report by the Head of Planning and Regulatory Services.

Motion

That the application be granted without holding a discretionary hearing. Moved Councillor Colville. Seconded Councillor Devon.

Amendment

That a discretionary hearing be held. Moved Councillor Kelly. Seconded Councillor Reay.

A vote was taken by a show of hands, the motion received 7 votes and the amendment received 7 votes. On there being an equality of votes the Chair gave his casting vote in favour of the amendment.

Decision

That a discretionary hearing be held with the date and time to be determined.

(Reference: Report by Head of Planning and Regulatory Services dated 24 February 2011, submitted)

Councillor Kinniburgh rejoined the meeting.

10. ARGYLL AND BUTE COUNCIL: APPLICATION FOR CONSTRUCTION OF A 3G SYNTHETIC PITCH WITH ASSOCIATED LIGHTING, FENCING AND ACCESS PATHS:: KINLOCH PARK, CAMPBELTOWN (REF: 10/02037/PP)

The Principal Planning Officer spoke to the report and also to a supplementary report giving details of further representations that had been received. He recommended that the application be approved subject to the conditions and reasons as detailed in the original report dated 7 March 2011.

Decision

Agreed to grant planning permission subject to the conditions and reasons as detailed in the report by the Head of Planning and Regulatory Services dated 7 March 2011.

(Reference: Report by Head of Planning and Regulatory Services dated 7 March 2011, submitted and Supplementary Report by Head of Planning and Regulatory Services dated 7 March 2011, tabled)

Having previously declared an interest, Councillors Colville, McKay, MacMillan, McAlister and McCuish left the room and took no part in the discussion of the following item of business. Councillor Reay who had previously declared an interest opted to stay in the room.

11. ACHA: APPLICATION FOR EXTENSION TO EXITING FLATTED DEVELOPMENT TO FORM TWO ADDITIONAL RESIDENTIAL UNITS AND FORMATION OF ENCLOSED GARDEN AREAS: 96-110 LONGROW, CAMPBELTOWN (REF: 10/02137/PP)

Members considered a report recommending that planning permission be approved subject to conditions contained within the report.

Decision

Agreed that the application be approved subject to the conditions listed in the report by the Head of Planning and Regulatory Services.

(Reference: Report by Head of Planning and Regulatory Services dated 28 February 2011, submitted)

Councillors Colville, McKay, MacMillan, McAlister and McCuish rejoined the meeting.

12. MR AND MRS G NICHOLSBY: APPLICATION FOR ERECTION OF THREE TIMBER CABINS ('STUDICONS') FOR HOLIDAY LETTING PURPOSES: DUNDONALD, NORTH CONNEL (REF: 10/02167/PP)

The Principal Planning Officer spoke to the report recommending that planning permission be approved subject to the conditions listed within the report by the Head of Planning and regulatory Services.

Decision

That the application be granted subject to the conditions listed within the report by the Head of Planning and Regulatory Services.

(Reference: Report by Head of Planning and Regulatory Services dated 23 February 2011, submitted)

The Chair ruled and the Committee agreed to adjourn the meeting at 1.05pm and reconvene at 1.40pm. Councillor Currie left the meeting at 1.05pm.

13. ARGYLL AND BUTE COUNCIL: APPLICATION FOR ALTERATIONS TO COLQUHOUN SQUARE INCLUDING ALTERATIONS TO ROAD LAYOUT, FORMATION OF SERVICE ACCESSES, PROVISION OF PARKING SPACES AND HARDSTANDING, INSTALLATION OF STREET FURNITURE, CYCLE STANDS AND BOLLARDS AND PROVISION OF LANDSCAPING: COLQUHOUN SQUARE, HELENSBURGH (REF: 11/00007/PP)

The Principal Planning Officer spoke to the report and recommended that planning permission be approved subject to the conditions and reasons contained within the report by the Head of Planning and Regulatory Services.

Decision

Agreed to grant the application subject to the conditions and reasons as set out within the report by the Head of Planning and Regulatory Services.

(Reference: Report by Head of Planning and Regulatory Services dated 23 February 2011, submitted)

Having previously declared an interest, Councillor Dance left the room and took no part in the discussion of the following item of business.

14. MR AND MRS T DANCE: APPLICATION FOR ALTERATIONS AND EXTENSIONS/REPOSITIONING OF LPG TANK: BARREMMAN, 24 STRAID-A-CNOG, CLYNDER (REF: 11/00132/PP)

The Principal Planning Officer presented the report to members recommending that planning permission be granted subject to conditions as detailed in the report by the Head of Planning and Regulatory Services.

Decision

Agreed to grant the application subject to the conditions as listed within the report.

(Reference: Report by Head of Planning and Regulatory Services dated 7 March 2011, submitted)

Councillor Dance rejoined the meeting.

15. IVOR INGRAM: APPLICATION FOR ERECTION OF GARDEN SHED: LAND ADJACENT TO 20 JARVISFIELD, SALEN (REF: 11/00184/PP)

The Principal Planning Officer spoke to the report and recommended that having regard to the development plan and all other material considerations, the application be granted subject to the conditions as detailed within the report by the Head of Planning and Regulatory Services.

Decision

Agreed to grant planning permission subject to the conditions contained within the report.

(Reference: Report by Head of Planning and Regulatory Services dated 23 February 2011, submitted)

16. DUNBRITTON HOUSING ASSOCIATION: APPLICATION FOR ERECTION OF FOUR STOREY RESIDENTIAL BUILDING COMPRISING TWELVE TWO BEDROOM FLATS: FORMER SCRUMBLES, UPLAND ROAD, GARELOCHHEAD (REF: 11/00210/PP)

The Principal Planning Officer spoke to the report and recommended that having due regard to the development plan and all other material considerations, the application be approved subject to the conditions as detailed within the report by the Head of Planning and Regulatory Services.

Decision

Agreed to hold a discretionary hearing at a time and date to be determined.

(Reference: Report by Head of Planning and Regulatory Services dated 25 February 2011, submitted)

17. PROPOSED TREE PRESERVATION ORDER: UPPER GLENFYNE PARK, ARDRISHAIG (TPO 1/11)

The Principal Planning Officer spoke to a report seeking approval from Members of a provisional Tree Preservation Order in respect of mature trees growing on land within a landscape corridor with footway connections within the Upper Glenfyne Park residential area of Ardrishaig.

Decision

1. Approved that a provisional Tree Preservation Order be made in respect of the trees as detailed in the plan appended to the report by the Head of Planning and Regulatory Services.
2. Agreed that the order should be tree specific in relation to the specified trees as shown on the plan as opposed to an Area or Woodland Order.

(Reference: Report by Head of Planning and Regulatory Services dated 28 February 2011, submitted.)

Councillors McCuish and Devon left the meeting.

Councillor Kinniburgh declared a non-financial interest in the following item of business, left the meeting and took no part in the discussion.

18. PROPOSED VARIATION OF HEADS OF TERM FOR SECTION 75 AGREEMENT - 09/00786/OUT - ERECTION OF 37 RESIDENTIAL UNITS, UPGRADE OF EXISTING ACCESS ROAD, CREATION OF OPEN SPACE AND RESTORATION OF BURIAL GROUND AT MIDDLE INNENS, TIGHNABRUAICH

Following on from the discretionary hearing that had been held on 10 August 2010 where the Committee had resolved to grant planning permission subject to the prior conclusion of a Section 75 Agreement. Members considered a report seeking agreement to a proposed change to the phasing aspect of the Heads of Terms of the proposed Section 75 Agreement.

Decision

Agreed the proposed change to the phasing aspect within the Heads of Terms of the proposed Section 75 Agreement.

(Reference: Supplementary Report 2 by Head of Planning and Regulatory Services dated 25 February 2011, submitted)

Councillor Kinniburgh rejoined the meeting.

Councillors Colville and MacMillan left the meeting.

19. APPEALS UPDATE

The Head of Planning and Regulatory Services had submitted a report advising of a recent appeal decision by the Scottish Government Directorate for Planning

and Environmental Appeals.

Decision

Members noted the contents of the report.

(Reference: Report by Head of Planning and Regulatory Services dated 28 February 2011, submitted)

20. PROPOSED STOPPING UP ORDER: MACCALLUM STREET, CAMPBELTOWN

The Head of Governance and Law spoke to a report seeking authority for the Executive Director of Customer Services to make a Stopping Up Order for McCallum Street, Campbeltown utilising the powers contained within Section 207 of the Town and country Planning (Scotland) Act 1997.

Decision

Authorised the Executive Director of Customer Services to make a Stopping Up Order under the provisions of Section 207 of the Town and Country Planning (Scotland) Act 1997 in relation to MacCallum Street, Campbeltown shown delineated within the boundaries coloured red and hatched in red on the plan annexed to the report by the Executive Director of Customer Services and to take all necessary steps in relation thereto, and that as soon as possible in the event that Planning Permission is granted for the residential development on land encompassing part of said road in accordance with Planning Application Reference 10/02153/PP.

(Reference: Report by Executive Director of Customer Services, submitted)

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

The Head of Governance and Law spoke to a report informing Members of the position with regard to the introduction of the new taxi fare scales and prospective appeal.

Decision

Members noted the contents of the report.

(Reference: Report by Head of Governance and Law, submitted)

The Committee resolved in terms of Section 50A(4) of the Local Government (Scotland) Act 1973, to exclude the public for the following item of business on the grounds that it was likely to involve the disclosure of exempt information as defined in Paragraph 13 of Part 1 of Schedule 7A to the Local Government (Scotland) Act 1973.

22. ENFORCEMENT REPORT: 10/00012/ENOTH1

The Head of Planning and Regulatory Services gave a verbal report with regards to enforcement case 10/00012/ENOTH1.

Decision

Agreed to serve an enforcement notice if an application was not lodged by 15 April 2011.

(Reference: Verbal report by Head of Planning and Regulatory Services)

23. ENFORCEMENT UPDATE: CASE 10/00323/ENOTH2

The Head of Planning and Regulatory Services gave a verbal report with regards to enforcement case 10/00323/ENOTH2.

Decision

Agreed to give the Head of Planning and Regulatory Services delegated powers, in consultation with the Chair and Vice Chair of the Committee, to serve a notice to secure the reinstatement of the site.

(Reference: Verbal report by Head of Planning and Regulatory Services)

24. ENFORCEMENT CASE: 10/00414/ENFCON

Members considered a report with regard to enforcement case 10/00414/ENFCON.

Decision

Authorised the service of a Tree Replacement Notice on the owner.

(Reference: Report by Head of Planning and Regulatory Services, submitted)

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the KILMELFORD VILLAGE HALL, KILMELFORD
on THURSDAY, 17 MARCH 2011**

Present: Councillor Daniel Kelly (Chair)

Councillor Gordon Chalmers	Councillor Rory Colville
Councillor Neil Mackay	Councillor Donald MacMillan
Councillor Alister MacAlister	Councillor Roderick McCuish
Councillor Alex McNaughton	Councillor James McQueen
Councillor Al Reay	

Attending: Iain Jackson, Governance & Law
David Love, Planning Manager
Fiona Scott, Planning Officer
Billy Reynolds, Architect for Applicant
Mr Andrew Read, Applicant
Ms A Young, Applicant
Mrs Antionette Mitchell, Kilninver & Kilmelford Community Council
John Heron, Roads Technician
Mr Liversedge, Objector
Mr Allan Loughray, Objector
Mrs Jane Rentoul, Objector

1. APOLOGIES FOR ABSENCE

Councillor Robin Currie
Councillor Vivien Dance
Councillor Mary-Jean Devon
Councillor David Kinniburgh
Councillor Bruce Marshall

2. DECLARATIONS OF INTEREST (IF ANY)

There were no declarations of interest

3. MR A READ AND MS A YOUNG: APPLICATION OF AGRICULTURAL BUILDING: LAND NORTH EAST OF KAMES FARMHOUSE, KILMELFORD (REF: 10/01410/PP)

The Chairman welcomed everyone to the meeting and invited the Committee to introduce themselves. Mr Iain Jackson, Governance & Law, outlined the procedures that would be followed during the hearing. He then established who would be addressing the meeting. in respect of the Planning Authority, Applicant, Consultees, Supporters and Objectors.

The Chairman agreed that Mr Liversedge, having submitted a late letter of objection, be allowed to address the meeting at the appropriate time.

Planning Authority

Mrs Fiona Scott presented the application on behalf of the Head of Planning and Regulatory Services, advising the Committee that the application had been presented to the PPSL Committee on 15th February 2011 and was continued to a hearing due to the number of representations received in the context of a small community. She advised that the application is for an agricultural building sited within an area of countryside around settlement and that there is a justifiable locational need for the development. Area Roads Manager was consulted on the application and raised no concerns. Kilninver and Kilmelford Community Council were also consulted and raised issues which have been detailed and commented on in the main report. She concluded that this application is for suitable development which will support agricultural enterprise and the local economy and recommended that the application be granted, subject to the conditions and reasons appended to the planning report.

Applicant

Mr Reynolds, Agent for the applicants, gave an overview of the application, advising that the building was in a key location of the farm, away from the steading; the traditional farm building would not be spoiled; studies have been carried out to ensure there will be no negative impact; and the building will be a modern building, softened to enhance visual impact from the road.

Ms Young, joint owner of Kames Farm, asked that the Committee support the application, adding that this is now her full time residence, having sold her previous farm. She advised that there is a new borehole for the water supply. Consideration was given to the siting of the shed to enable access to grazing and shelter for her Alpacas. Stock has to be kept indoors in inclement weather as the wool is harvested. Pregnant alpacas are to be kept in this new building, along with any who need special attention, i.e. young which need bottle fed two-hourly for their first two months, the separate building will avoid disturbance to other stock. A major issue is that males are also required to be kept apart. The building will assist with valid welfare and economic reasons and she asked the Committee to support the application.

Consultees

Kilninver & Kilmelford community Council: Mrs Mitchell said she was speaking for Kames residents who had raised very real concerns over their water supply, adding that the report had not sufficiently covered all the concerns. The application form had not identified that water would be required, or whether the polytunnels were to be removed. They felt the Agent had not submitted a full application. Mr Reid and Ms Young had been invited to Community Council meetings to discuss their application but had declined to attend. Residents are happy with the farm shop, but have a genuine concern about the water supply which has dried up previously. She added that comments were not threatening in any way but residents felt that certain issues still have to be addressed.

Roads: Mr Heron had no comment at this stage.

Objectors

Mr Christopher Liversedge, Objector, introduced himself as a retired architect. He raised concerns in regard to the borehole, asking how long it would take for the water level to recover in periods of drought. He asked whether an analysis of the soil had been taken as there may be soil migration from clay. He added that when the water level is lowered it has an effect on the land above therefore affecting other people's water supply. A reservation tank should be included to assist extraction during drought.

Mr Loughray, Objector, said he shared concerns with other residents that water had not been taken into account on the application. He objected because according to the application form no water was required for this building. He recognises that farms have to diversify and has no objection to this as it helps rural areas and tourism. He objected to the water supply issue as it will have a devastating effect on others, stating that to ensure sustainable development, the planning office have a duty to assess the cumulative impact on others. He added that Kames Farm has previously had a lack of water. This is drawn from the same catchment area and is a limited resource. The farm and development will have first call on available water therefore others will be adversely affected. Polytunnels, farm shop, café and holiday cottages are an increased burden on resources. He raised concerns that residents have no further legal right to amend their current rights, and that the landowners could refuse to provide others with water. Mr Loughray said there has been no Hydro---- survey carried out and no proper assessment by Planning in advance of the application and he therefore requested that the Committee overturn the report and refuse the application, or, if Members are not minded to refuse, could defer their decision to allow findings of such a report to be made available.

Mrs Rentoul stated that the polytunnels had been sited as temporary and asked whether a shed would hide the polytunnels from the road. She queried how the stated hours of operation would fit with the animals, and added that there should be water provision included for animals.

Questions from Members

Councillor McCuish asked about the amount of water to be used for the shed for husbandry and was advised by the applicant that the amount of water stated was only used when washing out the building or washing out the yard and was not a daily amount., it was the maximum amount which could be used occasionally.

Councillor McCuish asked if the water usage would be similar when the animals were moved to the new shed and was advised that there will be no additional usage of water as the polytunnels will then be used for storage of machinery and straw.

Councillor McCuish asked whether all the current applications would be served from the borehole and was advised that water will be taken to the new building from a bowser.

Councillor Reay asked how long the borehole had been in use and was advised that tests prior to sampling have been sent to the laboratory.

Councillor Reay asked if figures stated were the maximum capacity of available water and was advised by the applicant that geologically the borehole is not the same source as the existing water supply. Ms Young said that they have spent money on drainage to remove spring water which is separate from the normal supply, 500m distant from the existing supply. There is access to other springs also, a sufficient supply for the development. Current usage is less than 300 litres per day from springs. Ms Young added that the animals drink less water in summer, as they are outside eating vegetation.

Councillor Reay asked if the Architect had detailed information on the water usage and was told he had not.

Councillor Colville asked the Planning Officer if a licence for extraction had been applied for and was advised that planning was not involved in this adding that Environmental Health had not been consulted on the application.

Councillor Colville asked about the polytunnels and was advised that they were used as a way to move stock to Kames from their previous farm and will now be used for dry forage and machinery, having been approved under permitted development.

Councillor Mackay asked the applicants whether they intend to increase their livestock and was advised that they have no plans to do so.

Councillor Mackay asked whether males and females would be separated within the shed and was advised that the later application would cover this.

Councillor Mackay asked the Planning Officer about their response to the Community Council and was told they had been advised that there was no supply required for this building therefore there had been no requirement for consultation. Fiona confirmed that there will be no direct connection to the water supply.

Councillor Mackay asked the Planning Officer whether Environmental Health would have concerns and was advised that this was an outline application which was assessed on the information given by the applicant.

Councillor MacMillan asked about the supply of water and whether there would be a shortage and was told by the applicant that Argyll Geothermal have identified a further 2 spring sources if problems are experienced with the boreholes. The applicant added that they have taken the water issue very seriously.

Councillor Macmillan asked the applicant if they were able to link to the main source of water and was told that this could be done, and they had a right to, but they don't use it.

Councillor McCuish asked how Kames Farm existed before and was told that there had previously been sheep and cattle on the farm with access to many streams, but access to this has been used by the fish farm and the streams all dry up in summer.

Councillor McCuish asked if the applicants could guarantee non-use of the main

supply and was told that they could not guarantee it.

Councillor MacAlister asked how high the boreholes were and was told that they were 19m above sea level. The depth of the boreholes were 23m and 51m which the applicant confirmed were below sea level.

Councillor Reay asked if any other farm steadings had used water from boreholes and the Planning Officer advised that she was unaware of any other boreholes.

Councillor Chalmers asked the applicant about the historical use of Kames Farm and was told there was evidence of both cattle and sheep on the farm, with the previous owner having 400 sheep. The applicant said there has been no record of water problems over the past 25 years.

Councillor McCuish asked the applicant whether the pump from the borehole would be used throughout the year. The applicant said it would be used constantly as this would keep the water purer.

Councillor Mackay asked if the residents on the peninsula had any indication of water problems over the years, Mrs Rentoul said they have had problems, and that the farm takes priority over other properties. She stated that the existing supply is inadequate and there have been problems since she moved to the area in 1967, adding that other connections to this system would be detrimental to the supply.

Councillor Mackay asked if the water had been almost rationed at times and was told that this was the case.

Councillor Mackay asked the applicant whether they had looked at the water supply prior to purchase and was told by the applicant that they have a signed affidavit from their Solicitor confirming that there were no previous water supply problems. Ms Young added that the alpacas are housed when there is most water and outside in the summer when there is less, adding that there had been a problem last summer and doesn't want to exacerbate this and wants to give security to those on the peninsula.

Councillor Reay asked if the applicants had experienced a drought since they bought the farm and was told that they had not.

Councillor Reay asked about staffing on Kames Farm and was told there were 3 full time jobs with a further 2 or more staff in the summer to cover the holiday season.

Chair asked if the applicants could supply water to the peninsula and was told no, the peninsula get water from the storage tank. The applicant added that only extreme conditions would result in no water, and that the farm had turned off their supply last year to allow the peninsula tank to fill up.

Councillor Colville asked about a wayleave to access a spring and was told by Mr Loughray that this would not guarantee a supply as there is no onus on the landowner to provide a supply.

Councillor Reay asked if the applicants intended to source their supply from the borehole and the applicants confirmed that their supply would be from this new supply, which would release more for the peninsula.

Councillor Reay asked if outlets could be isolated from the existing supply and was told that this could be done, and only the house would come from the existing spring.

Councillor Mackay asked the Planning Officer if she had concerns about water when considering the application for the shed and she said that the water supply was not part of this application.

Councillor McCuish asked about ownership of the land where the water supply is sourced from and was told by the applicant that the hill is owned by someone else and that they are in the same position as everyone else, having a wayleave to extract from the spring and having no control over the spring or the water supply.

Councillor McCuish asked whether the farm had control over the current supply and was told by Ms Young that they have no priority over the current tank – it feeds off to the peninsula then the farm buildings.

Summing Up

Planning Authority

Mrs Scott expressed to Members that their consideration should be confined to that of land use issues only. The area is suitable for development, the application will not detract from the area, and there are no other issues to warrant non-granting of the application.

Applicant

Did not wish to add anything further

Consultees

Mrs Mitchell said she found the information confusing and contradictory due to issues of water and she would only be satisfied if a proper report had been brought in or a representative from SEPA had attended.

Mr Heron had nothing further to add.

Objectors

Mr Liversedge commented that the farm needs a water supply to the shed and that the bowser is still taking water from the supply.

Mr Loughray commented that he couldn't see why the water supply was not a material planning consideration.

Mrs Rentoul said she had nothing further to add.

As there were no further questions from Members the Chairman asked all parties whether they had received a fair hearing. All speakers agreed they had.

Debate

Councillor Chalmers advised that he is happy to go along with the recommendation of the planning officer

Councillor Mackay noted that water was not part of the application for the building, but livestock being housed in it need water

Councillor Colville advised that he is happy with the recommendation, subject to conditions

Councillor Reay advised that there may be impositions put in place later but saw no reason to refuse the application.

Councillor McCuish advised that he could see no reason not to grant

Councillor MacNaughton advised that the application has addressed future problems and there is no reason to refuse.

Councillor MacAlister advised that the application should be granted.

Councillor MacMillan advised that the application should be granted.

Councillor MacQueen advised that the application should be granted

Decision:

It was unanimously agreed that this application be approved subject to the conditions and reasons as set out in the supplementary report by the Head of Planning and Regulatory Services dated 25th February 2011.

(Reference: Reports by Head of Planning and Regulatory Services dated 25th January and 25th February 2011, submitted)

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the KILMELFORD VILLAGE HALL, KILMELFORD
on THURSDAY, 17 MARCH 2011**

PRESENT

Councillor Daniel Kelly (Chair)
Councillor Rory Colville Councillor Neil Mackay
Councillor Donald MacMillan Councillor Alister MacAlister
Councillor Roderick McCuish Councillor Alex McNaughton
Councillor James McQueen Councillor Al Reay

Attending:

Iain Jackson, Governance & Law
David Love, Planning Manager
Fiona Scott, Planning Officer
Billy Reynolds, Architect for Applicant
Ms A Young, Applicant
Mrs Antionette Mitchell, Kilninver & Kilmelford Community Council
Mr John Heron, Roads Technician
Mr Liversedge, Objector
Mr Allan Loughray, Objector
Mrs Jane Rentoul, Objector

1. APOLOGIES FOR ABSENCE

Councillor Gordon Chalmers
Councillor Robin Currie
Councillor Vivien Dance
Councillor Mary-Jean Devon
Councillor David Kinniburgh
Councillor Bruce Marshall

2. DECLARATIONS OF INTEREST

There were no declarations of interest

**3. MR A READ AND MS A YOUNG: APPLICATION FOR ERECTION OF
AGRICULTURAL SHED INCORPORATING FARM SHOP AND CAFE
BUILDING AND INSTALLATION OF PRIVATE SEWERAGE TREATMENT
PLANT AND SOAKAWAY: LAND NORTH WEST OF KAMES FARMHOUSE,
KILMELFORD (REF: 10/01415/PP)**

The Chairman welcomed everyone to the meeting and invited the Committee to introduce themselves. Mr Iain Jackson, Governance & Law, outlined the procedures that would be followed during the hearing. He then established who would be addressing the meeting. in respect of the Planning Authority, Applicant, Consultees, Supporters and Objectors.

The Chairman agreed that Mr Liversedge, having submitted a late letter of objection, be allowed to address the meeting at the appropriate time. He also agreed that Fiona Wylie, having submitted a late letter in support, be allowed to address the meeting at the appropriate time.

Planning Authority

Mrs Fiona Scott presented the application on behalf of the Head of Planning and Regulatory Services, advising the Committee that the application had been presented to the PPSL Committee on 15th February 2011 and was continued to a hearing due to the number of representations received in the context of a small community. She advised that the application is for erection of an agricultural shed incorporating a farm shop and café building and installation of a private sewerage treatment plant and soakaway. The site is adjacent to a fish farm and will be integrated into the landscape by trees. There have been no objections raised by Consultees other than the Community Council in regard to the water supply and the close proximity of the fish farm. She added that there is a suspensive planning condition covering water concerns. The site benefits from a locational need and will have no unacceptable impact on the landscape. She recommended that the Committee approve the planning application as a minor departure to Development Plan Policy RET4, subject to conditions appended to the report.

Applicant

Mr Reynolds, Agent for the applicants, said the previous application was to be served by a borehole therefore the proposals with the new water supply will reduce usage from the supply that serves the peninsula.

Mrs Young, Applicant, said the main objections were around the water supply. A successful borehole has been dug producing 40 litres per minute, and water sampling is being undertaken. The borehole is approximately 35m above sea level and the current supply is approximately 63m away, separated by a deep gully with a stream – the supplies are on two separate hills separated by a burn and the borehole will not take water from the current supply. The existing supply pipe is situated 30m east of the proposed building. The site was chosen to separate male and female animals, and to give access to shelter and grazing. The site utilises an area of very little use as there is better ground available for grazing and forage. The trees surrounding the site will deaden the noise from the fish farm. There are currently 3 people employed full time, and the café and shop will provide work for another 2 with extra workers being taken on to cover holiday changeovers. Mrs Young urged the Committee to take this into account when making their decision.

Consultees

Kilniver & Kilmelford community Council: Mrs Mitchell said she was speaking for Kames residents who had raised very real concerns over their water supply. She had earlier heard contradicting and confusing reports on the water supply. She said it was unfortunate that the applicants hadn't attended Community Council meetings to discuss their application. The community basically supported the farm shop, café, etc., but their concerns over the water supply are serious as a strain will be put on the water supply. She added that a proper hydrology report should have been made available or SEPA should have been in attendance at the meeting.

Roads: Mr Heron said the proposal is acceptable and complies with road safety policies ensuring that a service bay at the end of the access and passing places be installed, adding that the access would be much safer than at present.

Paul Reynolds, Environmental Health, reiterated concerns raised in regard to the water supply. A report has been submitted, but not a full report as required. He wanted confirmation that other users would not be disadvantaged.

Supporters

Mrs Fiona Wylie spoke in support of the application on the basis that it would bring much needed employment to the area and boost the local economy, some local contractors had already been used on the site and it would attract tourists which in turn will benefit the local retail outlets and restaurants. She suggested that an attractive feature of the proposed site is the open pasture between the A816 and the house and steadings and the location of the proposed new buildings would preserve this vista. She urged the Committee to approve the application.

Objectors

Mr Christopher Liversedge, Objector, introduced himself as a retired architect. He raised concerns in regard to the borehole, asking how long it would take for the water level to recover in periods of drought. He asked whether an analysis of the soil had been taken as there may be soil migration from clay. He added that when the water level is lowered it has an effect on the land above therefore affecting other people's water supply. A reservation tank should be included to assist extraction during drought.

Mr Loughray, Objector, said he shared concerns with other residents that water had not been taken into account on the application. He objected because according to the application form no water was required for this building. He recognises that farms have to diversify and has no objection to this as it helps rural areas and tourism. He objected to the water supply issue as it will have a devastating effect on others, stating that to ensure sustainable development, the planning office have a duty to assess the cumulative impact on others. He added that Kames Farm has previously had a lack of water. This is drawn from the same catchment area and is a limited resource. The farm and development will have first call on available water therefore others will be adversely affected. Poly tunnels, farm shop, café and holiday cottages are an increased burden on resources. He raised concerns that residents have no further legal right to amend their current rights, and that the landowners could refuse to provide others with water. Mr Loughray said there has been no Hydrology survey carried out and no proper assessment by Planning in advance of the application and he therefore requested that the Committee overturn the report and refuse the application, or, if Members are not minded to refuse, could defer their decision to allow findings of such a report to be made available.

Mrs Rentoul stated that the poly tunnels had been sited as temporary and asked whether a shed would hide the poly tunnels from the road. She queried how the stated hours of operation would fit with the animals, and added that there should be water provision included for animals.

Questions from Members

Councillor Reay asked whether there have been other successful boreholes in the area. Mr Reynolds said he would investigate this, and the Planning Officer said she was not aware of any other boreholes being used. Kames fish farm had tried to use one but trials showed they were either dry or there was a risk if salt water seeping in.

Councillor McCuish referred to the condition regarding water supply and asked the objectors if they were happy with this condition. The Objectors said that conditions are often not met easily by applicants and they asked the Committee to defer consideration of the application until meaningful assessment of this was provided.

Councillor Colville referred to condition 3 in the report saying it was complex and asked about the cost of bringing in a hydrologist. Mr Reynolds said it would be very costly. Councillor Colville then asked if it was fair to ask the applicant to pay for this and perhaps not get planning? Mr Reynolds thought the applicant had the backing of the planners therefore there was no problem with the application. Councillor Colville then asked the applicant if they could guarantee that the report was not flawed or that they could guarantee the supply to others, to which the applicant stated that they could not guarantee this.

Councillor Mackay asked the applicant why they had not accepted the invitation from the Community Council to discuss the proposals. The applicants refuted that they had been invited, that they heard about it from a neighbour. They had tried to visit the Chair of the Community Council and had met with residents at Mrs Rentoul's house, adding that they had nothing to hide. Councillor Mackay then asked whether Mr Reynolds had any concerns about having a café within the shed. Mr Reynolds said he had no concerns, this would have to be registered and comply with regulations. Councillor Mackay also asked about condition 3 and was advised that this links with policies which state that this has to be done, adding that it is not unusual for a condition to be included and complied with prior to beginning work on site. Councillor Mackay asked Mr Loughray whether he was aware of the wording of policy, to which Mr Loughray said he was aware of it.

Councillor MacNaughton asked whether the questions raised could have been dealt with by planning prior to the application appearing before the committee, and was advised that these issues were only highlighted when the objectors wrote in therefore they couldn't have been dealt with earlier. The Planning Officer stated that they give advice only, there is no guarantee to the applicant of approval.

Councillor Colville asked if new activity would decrease the supply to others and was advised that the report indicated that the supply was sufficient, but there would be no guarantee for the future.

Councillor McCuish asked about the meeting with the applicants and was advised by the applicant that they had been paid a neighbourly visit when they arrived in the area. They were invited to the Objectors house, and others were invited along to meet them.

There was no meeting, and no discussion of the application. Councillor McCuish then asked the applicant about the meeting and was advised that they had been invited and asked what plans they had for the farm. The café had been added to the plans later after speaking to other people. Councillor McCuish then asked about mains water and was advised that there is a mains supply to Kilmelford approximately 2 miles from Kames.

Councillor MacAlister asked about the borehole and was advised that the farm is supplied by the catchment area. The borehole will supply thousands of gallons of water per day giving a huge excess in the possible supply of water.

Summing Up

Planning Authority

Mrs Scott reinforced that the applicant could not commence work until the hydrologists report had been received. The site is suitable for the application and will be shielded from the road. There are no other material considerations which would prevent the application from being approved.

Applicant

Ms Young said that all water would be supplied by the borehole, and that she would be happy to comply and supply reports.

Consultees

Mrs Mitchell defended the community council by saying that dates are advertised prior to meetings. She repeated that the community council have no issues and that they welcome the café and shop. She said that nothing had been said to convince her of the water supply. It would be fair to have a proper report to allay everyone's fears, and hoped there would be no bad feeling. The present fish farm owner had tried to use a borehole but was unsuccessful.

Mr Heron said he had nothing further to add at this time.

Mr Reynolds said the report provided was basic and did not satisfy requirements – it did not show the effect on current usage, etc.

Supporters

Mrs Wylie said she had nothing further to add.

Objectors

Mr Liversedge said he hadn't heard whether there had been authorisation from SEPA.

Mr Loughray thanked the Committee for the chance to air his objections today.

Mrs Rentoul said she felt that a hydrology report would have been done on an application and it was important that there would be no risk to the fish farm.

The Chairman asked all parties whether they had received a fair hearing, and all present agreed that they had.

Debate

The Chairman said he understood the concerns and agreed it was best to come to the area to look at it properly.

Councillor Mackay said the main concern of the day is water and it would probably have been better for the applicant to have met with the community council previously. He shared the concern of all the objectors but was content with policy and that conditions have been added and would support the application.

Councillor Colville wondered whether, with the private supply being so close to the mains supply, whether anyone knew of the possibility of further expansion. He felt there was a strong case for Scottish Water to extend the mains supply. He is minded to grant approval, having faith in Officers. This would create an opportunity for a public supply.

Councillor Reay echoed the views of Mrs Wylie, that this application would benefit the area and tourism. The area would always be vulnerable to drought. He would support the application with condition 3 attached.

Councillor McCuish said the application would affect the land and would be happy to get reports, particularly the hydro report. Given that conditions have to be met, he would support the application.

Councillor McNaughton said the scheme is very good and that he feels for everyone of the same mind. Water has been addressed and he would agree with the recommendation.

Councillor MacAlister said this would encourage tourists to the area and would support the application.

Councillor MacMillan was undecided but put faith in condition 3 and hoped consideration of the application would result in a suitable outcome.

Councillor Mackay said this application should be approved today and he hoped the application could work with the local shop and the local café.

Decision

It was unanimously agreed that the application be approved subject to conditions contained within the report by Head of Planning & Regulatory Services dated 28th February 2011.

(Ref: Reports by Head of Planning & Regulatory Services dated 24th January and 28th February 2011, submitted)

MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the SOUTHEND CHURCH HALL, SOUTHEND
on THURSDAY, 24 MARCH 2011

Present:

Councillor Daniel Kelly (Chair)

Councillor David Kinniburgh
 Councillor Alister MacAlister
 Councillor Neil Mackay
 Councillor Donald MacMillan
 Councillor Roderick McCuish

Councillor Alex McNaughton
 Councillor James McQueen
 Councillor Al Reay

Attending:

Charles Reppke, Head of Governance and Law
 Richard Kerr, Principal Planning Officer
 Peter Bain, Area Team Leader
 Arlene Knox, Senior Planning Officer
 Sarah Dooley, Wind Prospect Developments Ltd, for Applicant
 Dr Steve Percival, Ecology Consulting, for Applicant
 Stan Phillips, SNH, Consultee
 John Bakes, Southend Community Council, Consultee
 Susan Patterson, Supporter
 Robert Kidd, Objector
 Anthony Davies, Objector
 Heather McKinlay, Objector
 Donald MacLean, Objector
 Jane Taylor, Objector

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Chalmers, Colville, Currie, Dance, Devon and Marshall.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. KILCHATTAN WIND FARM LIMITED: ERECTION OF 16 WINDTURBINES (81 METRES TO BLADE TIP), FORMATION OF ACCESS TRACKS, ERECTION OF WIND MONITORING MAST, CONSTRUCTION OF SWITCH GEAR BUILDING AND TEMPORARY CONSTRUCTION COMPOUND: KILCHATTAN, LAND AT TODD HILL, SOUTHEND, BY CAMPBELTOWN (REF: 08/00138/DET)

The Chair welcomed everyone present to the meeting and invited the Committee to introduce themselves.

Mr Reppke advised the Chair that a late representation had been received by the Planning Section the previous day from Mr Donald MacLean who wished to speak at the meeting. He advised that under normal procedures, for a person to be allowed to speak at a discretionary hearing, their representation must be

received before the meeting of the PPSL Committee when the application is first discussed. He advised that it would be at the Committees discretion to allow Mr MacLean to speak at the meeting. The Committee agreed that they wished to hear Mr MacLean speak.

Mr Reppke outlined the procedure that would be followed during the meeting and invited those who wished to address the Committee to identify themselves.

Planning Authority

Richard Kerr, Principal Planning Officer advised that the application before the Committee was for a commercial wind farm consisting of the erection of 16 wind turbines (81 metres blade to tip), formation of access tracks, erection of wind monitoring mast, construction of switch gear building and temporary construction compound on an area of land at Todd Hill, Southend and that the access to the site would be from the B842. Mr Kerr referred the Committee to Supplementary Report 1 and advised that since this report had been issued a further representation had been received from argyllwindfarms.com containing 368 signatures of support. He advised that the applicant had provided a visual document containing views of the site from prominent places and advised that the Committee had undertaken a short tour of these places prior to the Hearing. Mr Kerr advised that the site was within an area of panoramic quality and national scenic area and that the visibility of turbine hub height had originally been assessed by looking at the site from 13 representative viewpoints. This had been increased to 23 due to the exposed nature of the site. He added that other commercial wind farm sites in the area were hidden by topography and that this site would not be. Mr Kerr continued by saying that the wind farm would assume importance the landscape due to the low landscape and minimal topography. He showed slide visuals of the landscape with predicted views of the wind farm and a number of photographs of current views of the site from different angles. Mr Kerr advised that the application was inconsistent with Planning Policies LP ENV10, LP DC 6, STRAT DC4, STRAT DC5 and LP REN 1 amongst others. He advised that the full list of compliant/conflicting policies was contained in appendix A, section P of the original report. With regard to consultees he advised that objections had been received from SNH and RSPB and that Southend Community Council were in support of the application. He reported that a late representation had been received from Mr Kidd advising that the Community Council response claiming that the wind farm would only be visible from the sea was factorially incorrect as the wind farm would be clearly visible from Southend. He advised that a total of 515 representations had been received, 293 in support and 225 against plus the 368 signatures that had been recently received from argyllwindfarms.com. Mr Kerr advised that the planning section were recommending refusal of the application and gave a summary of the reasons for refusal contained within the report. To conclude he reiterated that the two main grounds for refusal were landscape and visual; and insufficient information to assess the cumulative impact.

Applicant

Ms Sarah Dooley, Senior Development Manager of Wind Prospect Developments Ltd introduced herself to the Committee. She gave some background to the application. She said that the original planning application had been submitted in January 2008 with further information being submitted in

June 2010. The application had been before the Planning Protective Services and Licensing Committee in February 2011 and she advised that a further addendum report had been circulated amongst Members addressing inaccuracies contained within the report by the Planning Authority which had stemmed from inaccuracies contained within the responses by SNH and the RSPB. Ms Dooley gave some information on Government Policy and Targets with regard to emission reductions and renewable energy in the UK and in Scotland. She gave an overview of the environmental benefits from the Kilchattan windfarm should it be approved. She advised that in terms of material considerations no objections had been received in terms of historical environment, archaeology, hydrology and water quality, road safety and maintenance, noise and disturbance, health and safety, telecommunications and military and civil aviation. She advised that objections had been received with regard to landscape and visuals and ornithology and that the recommendation for refusal by the Planning Authority had been based on these objections by SNH and the RSPB. She advised that Wind Prospect refuted these objections and the recommendation by the Planning Authority. With respect to landscape and visual impact Ms Dooley told the Committee that the proposal was not to be located within an area that has a landscape designation. She advised that the site was in an area of panoramic quality but that the policy did not preclude development of wind farms. She provided some APQ statistics stating that the windfarm would have 12.5% visibility from the land whilst the remainder of visibility would be from the sea. With regard to the pattern of development she advised that the site was located within the upland forest moor mosaic landscape character type which had been the same as others that had been consented in the surrounding area and therefore it followed the established pattern of wind farm development in landscape character terms. She advised that the scale of the project had been deliberately designed small and that the turbines to be used were between 25% and 35% smaller than others in the surrounding area. In connection with the claims made that the cumulative assessment had not been carried out properly, Sarah confirmed that all neighbouring sites had been included in the assessment and that she was happy that this had been completed satisfactorily. She advised that with regard to sequential effects, the main one would be visibility but refuted this as a reason for refusal. She highlighted to the Committee that the time the site would be visible over an 18 minute journey on the minor b road at a speed of approximately 30mph.

Dr Steve Percival of Ecology Consulting introduced himself. He told the committee that he had written the environmental statement and that in terms of ornithology there was a single species that was at risk from the wind farm, which was the hen harrier. He advised that the two risks to hen harriers were the risk of collision with turbines and the risk of loss of foraging habitat through displacement. Dr Percival advised that the key question was the importance of the site to hen harriers and told the Committee that this had been assessed through 272 hours of field studies over 2 years. He advised that from the studies undertaken in 2005 and 2006 results showed low use of the site by Hen Harriers and that they had been found more to the east of the site. From studies between 2008 and 2009 results had shown that hen harriers had been found more to the east of the site. He advised that they were attracted by the heather and that in conclusion the studies had shown low use of the site by the birds. He added that no nests had been recorded within 500m of the site. The studies had also concluded a collision risk of 0.02 per year, 1 per 50 years which he advised was

not a significant number. Dr Percival then told the Committee that should the application be approved a habitat enhancement scheme would be put in place which would provide gain to nature in the area. This scheme would enhance the areas surrounding the site to make them more attractive to hen harriers, reduce predators, control bracken and enhance wet flushes. He advised that funding would be provided towards a local hen harrier conservation management programme and that a steering group would be put in place to take this forward. Dr Percival advised that SNH and RSPB had expressed concern over the competence of the surveyor carrying out the studies, he confirmed that the surveyor had over 25 years of hen harrier experience, was the Chair of the Cumbria Bird Club and had 9 years wind farm experience and that he had carried out all the studies. Dr Percival advised that a population survey had been carried out by SNH which had found 9 pairs of hen harriers in the Dalbuie Forest area which was out with the site of the windfarm. He confirmed that assessment methodology had been carried out using SNH guidance which had recently been changed in December 2010. He advised that this had also been carried out using the new guidance issued in December 2010 and it had produced no difference to the conclusions. Dr Percival concluded his presentation by highlighting that Hen Harriers were the only species at risk in the area, that there was a negligible collision risk, a negligible risk of displacement and that should the application be approved an enhancement scheme would be put in place. He demonstrated a collision risk comparison of other SNH approved sites to the proposed site and highlighted that they had a higher collision risk to that of Kilchattan.

Sarah Dooley then spoke about the potential economic benefits of the wind farm advising that turbine supply would be sourced locally where possible and that haulage and construction would be tendered locally. She advised that a trust fund of £2,000 per MW produced would be put in place and that there would be opportunities for local investment in the farm. With regard to the local road network she advised that a maintenance programme would be put in place during construction of the wind farm and that once construction was complete the road network would be upgraded. Ms Dooley then spoke of public opinion and representation that had been received. She advised that 82% of people in Scotland were in support of wind farms and 94% of people that live near wind farms are in favour of them. She advised that there had been substantial local support for the wind farm, 59% of representations had been in support and 78% of these had been from those in the local area. She displayed a graph showing geographical distribution of representations. Ms Dooley told the Committee that should the application be approved a viable grid connection had been agreed for 2015. Ms Dooley concluded by saying that the proposal was consistent with planning policy and referred the Committee to appendix 2 of the addendum report which listed the policies. She highlighted that an appropriate land and visual assessment had been carried out. She advised that there were no significant bird effects and that nature would benefit from the habitat management scheme that would be put in place. She highlighted the economic benefits and the substantial levels of support and asked that the Committee approve the application.

Consultees

Stan Phillips of SNH introduced himself and gave an introduction to SNH and their involvement in wind farm applications. He advised that SNH had been in

support of 70% of wind farm applications and had opposed 30%. He advised that SNH were objecting to this application due to the significant adverse landscape and visual impact, an inadequate cumulative impact assessment, the inadequate assessment on the impact on hen harriers and the lack of information with regard to peat depth and stability. Should the application be approved he recommended that appropriate legal agreements be put in place with regard to a habitat management plan and with regard to black grouse and habitats. He also recommended that conditions be put in place to mitigate possible impacts on European protected species and small pearl bordered fritillary and that an Ecological Clerk of Works be employed during construction. With regard to adverse landscape and visual impact he advised that the proposal would undermine the distinctive character of the area and would have an adverse impact on the panoramic quality of the area. He advised that other wind farms in the area were well sited, largely hidden on the spine of Kintyre and did not have an adverse impact on views; that this proposal would erode this pattern and would impinge on the coastal views in the area. He suggested that any development should be contained within the Kintyre spine. He advised that the impact would be over a large area, that the site would dominate the landscape due to its close proximity and that the turbines were of poor landscape fit. He showed a number of photographs of views in the area describing the effects the wind farm would have on each one. Views included those from the Kintyre Way start and finish, the coast, beaches, golf course, Sanda Island and Beinn Ghulean. He added that he had concerns over impact on the recreational use of the land and noted that this area was valued for its panoramic views. The wind farm would interrupt views to and from these areas and would be a dominant feature in the land. With regards to ornithology he highlighted that SNH were not objecting on the basis of this but because there had been insufficient information available to give an assessment on the impact on hen harriers. Mr Phillips highlighted that between the months of July and October 2008 there had been a substantial gap in data collection, he added that this was a crucial time in the life cycle of hen harriers and that with the missing information he could not give a confident assessment on the impact the site would have on them. Mr Phillips advised that a further study carried out had revealed 9 pairs of hen harriers in the surrounding area and that 4 pairs had been within 4km of the site. Finally he said that a peat survey had been carried out and that SNH had concerns over the wet heath. To conclude Mr Phillips reiterated that SNH were opposed to the application due to inadequate assessments being carried out and should the application was approved then he would recommend that appropriate legal agreements are put in place with regards to a habitat management programme and grouse and habitats. He also recommended that an ecological clerk of works be employed during construction.

Mr Bakes of Southend Community Council introduced himself and advised that the Community Council were in support of the application due to the long term benefits of the wind farm. He advised that this had been a difficult decision for the Community Council to make due to mixed opinions in the community. Mr Bakes referred the Committee to paragraph W within the report by the Planning Authority and commented on the fact that an assessment of the economic benefits to the community had not been carried out. He highlighted that the community would benefit from opportunities for work, the increased use of hotels and shops during the construction period and an upgrade to the road network. Mr Bakes advised that many other communities in the surrounding area had benefited from wind farms and that the £27,000 per annum that the community

would receive from the wind farm could be used for the maintenance of tourist attractions and play parks and for recreational clubs. He added that these would be significant benefits to the community. Mr Bakes highlighted that turbine manufacture was one of the largest employers in the area, that local industry should be supported and a good example of this was to build wind farms locally using locally manufactured products. He added that there was a need for power everywhere and that the way forward was renewable energy. With regard to visual impact Mr Bakes advised that a large percentage of views of the wind farm would be from the sea and that people come to the area to view seascapes, not hills and in this case the wind farm would be behind them. He said that the visual impact had been blown out of proportion, that the view of the area 30 years previous was very different to that of present. He made reference to the planting of forests in the last 30 years and noted that as time passes these things become less noticeable. Mr Bakes refuted the claim that approving the wind farm would open the door for other farms to be built in the area as each application would be looked at separately. Mr Bakes concluded by saying that the financial benefits would be tremendous and that tourism would benefit from the wind farm rather than take away from it. He agreed that there were visual impacts but added that they were outweighed by the financial benefits.

Supporters

Susan Patterson introduced herself and advised that she had stayed in Southend for 51 years and in that time had seen many changes. She added that change was a part of life and that the community needed to adjust to change. She expressed her view that the impact on visual amenity was opinions based and the house that had been previously mentioned as being in close proximity to the site were actually in favour of the application. Ms Patterson advised that she had spoken to people on the Kintyre Way and at the golf course regarding the impact of the proposed wind farm and they had not expressed any objection. She gave an example of how Machrihanish Golf Course had not been affected by Tangy wind farm which was clearly visible from the course. Ms Patterson told the Committee that wind farms were global and asked if they were not wanted why there were so many of them. She advised that many had incorporated visitor centres. She added that the proposed wind farm was a lot smaller than those in the surrounding area and that other developments could be seen from other areas in Kintyre. Ms Patterson referred to the community bought turbines on Gigha and how successful they had been, she highlighted the financial gain to the community. In response to the objection by SNH that the wind farm would be dominant in the landscape she advised that Southend was not an area that had stopped in time, that the landscape and buildings are changing constantly and that the turbines would not change the cultural heritage, they would show progress in time. Ms Patterson made reference to the views of the turbines from the sea and advised that turbines could be seen on other sites from the sea, that tourists passing on liners from Greenock do so at night and that the sea views would not be interrupted as the turbines would be to a persons back. With regard to hen harriers she advised that she was not an expert but the surveys done had found the birds to be in the areas surrounding the site, not on the site. She added that programmes had been put in place on other wind farms to benefit birds. Ms Patterson spoke of the benefits the wind farm would bring to the community, that it would create jobs in the area, bring money to the local economy and road improvements would be done which wouldn't happen without the wind farm. She added that the £27,000 received by the community could be

used to improve the culture. Ms Patterson concluded by saying that she loved Southend, that the community had fought together against the school closure and that the wind farm was supported by the majority of the community, that it would bring many benefits to the community. She advised that the project would improve Southend and there was beauty in it knowing that the wind farm would be contributing both locally and nationally through the production of energy.

Objectors

Robert Kidd advised that he had been in the area for 11 years and that he stayed in one of the 72 properties within 2km of the wind farm. Mr Kidd refuted the claim by the Community Council that the site would only be seen from the sea as it would be clearly seen from the village of Southend. He advised that concern had been expressed over the application over the previous 3 years and that the community had been split over the proposal. He advised that Wind Prospect had offered £13,000 per annum at the point of application which had now been increased to over double at £27,000 per annum. He advised that the Council recommended a minimum community benefit of £2,000 per mega watt per annum and asked why the applicant was not offering more than the minimum. He highlighted that Gigha Community Trust earned £100,000 a year from their 3 turbines which was 75% more than what Southend would earn. He added that on the developers website the site was described as being on the Island of Argyll which suggested they were not familiar with the area. Mr Kidd also advised that the second partner was part of EDF which was a massive French company and therefore Kilchattan would be a very small insignificant project to them. Mr Kidd expressed his concern over the effects on tourism and advised that other wind farms were sited on the spine of Kintyre where as this one was not. He referred to the proposed site being on the road to the famous Mull of Kintyre and Dunaverty Golf Club and refuted claims the developers had made that improvements to the road network would benefit these areas. He further advised that the developers had dismissed important tourist sites such as the Mull of Kintyre, Golf Courses, Kintyre Way and beaches, only mentioning Glenbarr Abbey in their presentation. He expressed concern over the seascapes and landscapes being destroyed by the prominently placed wind farm. Mr Kidd told the Committee that it was proposed that 4 of the turbines were to have red lights on the top which would interrupt the views of those interested in star gazing. Mr Kidd asked that Members respect the expertise of the planners and refuse the application.

Anthony Davies introduced himself to the Committee and advised that he lived on a farm less than one mile from the site. The farm had been in existence from the 1700s and Mr Davies advised that he had never been approached by the developers for his opinion on the proposal. He highlighted that at 81m high the turbines would be twice the height of the Statue of Liberty. Mr Davies advised that he had done some research into wind farms and informed the Committee that turbines are turned off when there is no wind and turned off when there is too much wind and that they work on a maximum efficiency of 30%. He asked what other piece of equipment would be bought with an efficiency of 30% and told Members that this was the wrong type of product in the wrong place. He said that he endorsed the opinions over visual impact on a small community. Mr Davies told the Committee that on 18 July 2007 he and his wife had begun a survey of wildlife in the two acres of land surrounding his property and he had found 46 different species of wildlife which was considerably more types of

species than just hen harriers. He advised that there were 4 confirmed sightings of hen harriers to the south of the site, that the applicant's survey had been done to the north of the site and it would be likely that they would fly across the site. Migratory Swans and Geese had also been sighted and would also be at risk of flying across the site. He advised that he had also seen otters and bats. He questioned how many nocturnal animals would be affected and advised that the turbines affected bats lungs.

The Committee adjourned for lunch at 1.00pm and reconvened at 1.45pm.

Heather McKinlay told the Committee that she was deeply rooted in Kintyre. She spoke of the benefits to the economy and advised that the local factory manufactured 300 turbines a year and that the 16 turbines to be used for this proposal was not a significant number compared to the number that are produced annually. With regard to the National Grid connection mentioned by the applicant she advised that she had checked the internet and the only proposed connection was a 10kw connection in Carradale in 2019, she questioned if this was the same application. She questioned if the projected CO² savings had taken account of the effects of construction. Ms McKinlay said that wind energy operates at under 30% efficiency and was unreliable, that there was always a need for back up energy. She advised that this was a highly subsidised project which prevents developers looking at other methods of energy production, that it was about profit and not the environment and that wind farms do not need to be approved in inappropriate areas as the Government would still reach their targets without the Kilchattan site. Ms McKinlay made reference to the 368 representations that had been made by people out with Argyll and Bute and advised that these representations had been made by people who knew and visited the area regularly. With respect to visual impact she advised that from her own calculations the site would be visible from 80km² of panoramic quality areas and would be a dramatic loss to the landscape. She told the Committee that the Keil Hotel was a prominent landmark in Southend, she produced a picture of the Keil Hotel as it would look if it were 81m high and asked the Committee to visualise the impact if it really was that height.

Donald MacLean introduced himself as a local resident who had moved to Southend 25 years ago. He apologised for his late representation and advised that he had found it hard to speak out and had hoped the application would have gone away. He advised that the claims made by the Community Council that the locals were in support of the application were not true. Mr MacLean told the Committee that he had been surprised to see the montage of the Keil Hotel that Ms McKinlay had produced and advised that he had recently bought the Keil Hotel with a view to developing it into an attraction for visitors, to create jobs and support the economy. Mr MacLean expressed his love for Southend as it was an outstandingly beautiful area and urged members to take the views of the planning department and consultees and refuse the application.

Jane Taylor introduced herself as a resident on a nearby farm. She told the Committee that the Community Council had not accurately expressed the views of local people and that they were only interested in the financial benefits from the wind farm. She advised that Kintyre has its fair share of windfarms in its "back garden" but this proposal was for one in the "front garden". She urged refusal of the application.

Question Time

Councillor McCuish asked Mr Kerr why the Roads Section had changed their objection on 22 July 2010 to approval on 22 February 2011. Mr Kerr advised that Mr Weston of the Roads Section had advised that the roads improvements were practical in physical terms if the applicant could acquire the land needed to do this but he did not see this as a viable option due to the cost. Councillor McCuish then asked the applicant if they had looked into acquiring the land. Ms Dooley advised that analysis had been carried out into road improvements and that discussions had taken place with land owners regarding acquisition.

Councillor Reay asked Dr Percival if an assessment would be carried out on hen harriers during construction. Dr Percival advised that SNH guidance states that surveys are to be carried out before, during and after construction and that no construction works can take place during the breeding season and that this would also be taken into account. Councillor Reay asked him what the expected construction time was and Dr Percival replied that it would be approximately 9 months. Councillor Reay then asked the applicant why the original offer of £1,000 per mega watt had been increased to £2,000 per mega watt and Ms Dooley advised that this was to bring it in line with the Council's minimum recommendation. Councillor Reay asked the applicant what the maximum predicted output from the wind farm was and Ms Dooley replied that she did not have the figures available at the meeting.

With regard to turbine density Councillor McKay asked Mr Kerr if 16 turbines was a high number to be placed on a site the size of Kilchattan. Mr Kerr informed him that the separation distance between the turbines is determined by their height, that normally a developer will fit as many turbines on a piece of land as possible and therefore the number of turbines was typical for a site the size of Kilchattan. Councillor McKay asked Mr Kerr why the switch building was sited half way up the hill and how the height of the building relates to the size of the turbines. He also asked if the Planning Section would be happy to approve a building that size on the top of a hill. Mr Kerr advised that the control building was to be sited down the hill from the turbines and would be absorbed in the landscape, that it was a height of 4.5m and siting it on a crest of a hill would not be considered.

Councillor McKay asked Dr Percival if the 272 hours of observation on hen harriers had been carried out by himself for the applicant to which he replied yes.

Councillor Kelly stated that he was surprised to see a proposal for turbines on top of a hill and asked Ms Dooley if they had submitted any similar applications to this one. Ms Dooley advised that they had submitted similar applications on similar hilltop sites and that a conscious decision had been made to chose smaller turbines. Councillor Kelly asked if any consideration had been given to hiding the turbines and Ms Dooley replied that the scale of the windfarm was suitable to the hillside site.

Councillor Kelly then asked Mr Kerr if he had dealt with any similar applications on hilltop sites. Mr Kerr informed him that other wind farms were sited on the Kintyre spine and were hidden by landform. He advised that the site in question was very different, did not benefit from landscape mitigation and was not hidden by topography.

Councillor Kinniburgh asked Dr Percival if it was normal to miss out months of data collection during a survey. Dr Percival replied that the months of July to October had been omitted due to the breeding season, that he had confidence in the results of the survey due to the low levels of activity during the months surveyed. He advised that the activity levels during the missed months would have needed to increase significantly to have any effect on the overall conclusions.

Councillor McCuish asked Ms Dooley if the land owners had agreed to the acquisition of the land for road improvements. Ms Dooley confirmed that they had agreed in principal. Councillor McCuish then asked Ms Dooley if there were smaller turbines available and if smaller ones were used would they reduce the impact on the size. Ms Dooley advised that there were smaller ones available but in limited supply and confirmed that smaller turbines would reduce impact on the site.

Councillor Reay asked Mr Kerr for details on the size of the foundations, borrow pits and environmental impact. Mr Kerr advised that the borrow pits are dealt with by a separate minerals application after planning permission is approved as the precise requirements of the pit are not known until more surveys are done. He advised that the foundations would be 16m x 16m and that the depth depended on the site. Councillor Reay asked Ms Dooley the same questions. Ms Dooley informed him that the foundations would be 250m² per turbine and that potential sites had been identified as borrow pits and that surveys would be carried out should the application be approved.

Councillor Kelly asked Mr Kidd if there would be a significant impact on tourism and if surveys had been carried out to measure this. Mr Kidd advised that surveys on tourism had ceased to be carried out on the effects of wind farms on tourism which suggested to him that there is a significant impact. He further advised that visitor centres would not be suitable in the Kintyre area as visitors come for the views in the area.

Councillor McKay questioned Ms Dooley over her claim that the wind farm was consistent with planning policy. He advised that 33 policies had been listed in the report by Planning and a considerable amount were not consistent with policy. Ms Dooley replied that many of the policies relate to visual and ornithology impacts and stated that she did not believe that consideration had been given to the responses to these contained within the addendum report.

Councillor McKay asked Mr Kerr why no reference had been made to coastal policies in the report. Mr Kerr informed him that there were so many policies against the proposal he did not see merit in including coastal policies and added that the site was not on the coastal strip.

Councillor McKay asked Mr Kidd if there had been any consultations carried out by the Community Council. He advised that there had been a public meeting and presentation but no further discussions had taken place and no questionnaires issued.

Councillor McCuish asked Ms Dooley where turbines were usually purchased from. She advised that purchase of turbines normally went out to tender and

was dependant on factors such as timescales, cost, availability and haulage costs. Councillor McCuish asked for some examples of companies they had used in the past to which she replied Vestas and Re-Power. Councillor McCuish then asked which countries she usually bought from to which she replied Germany and Denmark. Councillor McCuish asked if she would be able to guarantee that the turbines would be sourced locally for the wind farm to which she replied no, that it was dependant on the factors she had listed before.

Councillor Kelly asked Mr Kerr if the community benefit was a material planning consideration to which he replied no, it could not be assured as part of planning consideration.

Councillor MacAlister asked Ms Dooley if a wind research survey had been carried out and if so what was the percentage output achieved from the site. Ms Dooley advised that a mast had been erected on site in 2007 and was presently showing efficiency of 36% and a speed of 8.3m per second. Councillor MacAlister commented that the most successful wind farm in Scotland, in Ardrossan, operates at 28% efficiency. Ms Dooley advised that it was not unusual to obtain high readings from masts.

Councillor McKay made reference to the Renewable Energy Action Plan and asked Mr Kerr if tourism was an included factor to which he replied yes.

Councillor Kelly questioned the figures that Ms Dooley had quoted during her presentation regarding the support for wind farms in Scotland and the opinions of those living near them. She advised that 82% of people in Scotland were in favour of wind farms and that 92% of people living near wind farms were in favour of them.

Summing Up

Planning Authority

Mr Kerr advised that the Planning Section try hard to support renewable energy projects and that he had seen companies select sites in Argyll and Bute with a range of sizes of turbines. He advised that they had achieved a lot in Kintyre without ruining landscapes with the siting of the existing farms on the Kintyre spine which are well hidden. He advised that this application was not on the spine, would impinge and be dominant on the landscape. He advised that the Community Council report under-represented the community benefit, asked that members noted that this was not a material planning consideration and that they should not base any decision on this. He asked that Members also note that the sourcing of turbines locally was not a material planning consideration and that Members should not base any decision on it. He advised that the community had been split over the proposal. Mr Kerr highlighted that there was insufficient information available to assess the cumulative impact and ornithology impact and advised that they were recommending refusal on the basis of visual and landscape and inability to assess cumulative impact. Mr Kerr commented that although financial benefit was not a material planning consideration, community farms were much more beneficial than commercial farms.

Applicant

Ms Dooley highlighted that the Kilchattan site was suitable for development, that the proposal would not impinge or dominate the landscape and was scaled to fit in with the landscape. She advised that approval of the site would not prevent further farms as each application is looked at separately. With regard to the comments made on turbine lighting she advised that this was for aviation purposes only and could only be seen from the air. With regard to tourism she said that there was nothing to suggest any adverse effects on this and apologised for omitting areas such as the Mull of Kintyre from her presentation. She advised that Glenbarr Abbey had been used as an example as it was the only paid tourist attraction in the area. With regard to the grid connection she confirmed that a grid connection of 13.6MW capacity with a date of 2015 had been agreed with the National Grid and Hydro Electric and that this had been increased from 10MW and brought forward from 2019. Ms Dooley advised that should the application be approved that every effort would be made to source turbines locally but this could not be guaranteed.

Consultees

Stan Phillips of SNH reiterated that SNH were objecting on the basis of the inability to assess ornithological effects due to missing information.

Objectors

Mr Kidd summed up by saying that the representation made by the Community Council had been poor and that they supported the application purely for the financial gain. He highlighted that tourism would be damaged by the windfarm and asked for support of the planners recommendation.

Mr Davies summed up by saying that wind farms were inefficient as 30% was about the right mark for all of them. He advised that he had learnt a lot about wind farms recently and that they need back up power. He advised that this was the wrong product in the wrong place. He highlighted that the wind farm would dominate and overwhelm the area and would be exposed. Mr Davies commented that on a clear day he could see people and cars on Ireland with the naked eye which would mean that they would see the windfarm. He concluded by saying that he hoped the community would not be split over the application after determination.

Ms McKinlay summed up by questioning if Members would not approve an 81m high Keil Hotel why they would approve the wind farm.

Mr MacLean summed up by saying that he was in favour of suitably sited wind farms and asked that Members remember the sites and panorama they had seen that day in Kintyre when determining the application.

Ms Taylor summed up by saying that this wind farm, if approved would be in the "front garden" and not the "back garden".

Councillor Kelly asked all parties if they considered that they had received a fair hearing to which they confirmed was the case.

Debate

Councillor McCuish advised that he supported refusal of the application, that it was not in keeping with the local landscape and would be detrimental to it. He advised that £27,000 benefits would not make up for the losses to the landscape.

Councillor Reay advised that Members had a responsibility to protect landscapes within Argyll and Bute, that the application would cause significant damage to the landscape. He advised that the application was by a large company and the benefit to the community would be small in comparison to what they would earn from the wind farm. He advised that he supported refusal of the application, that there was no firm decision over the roads, no firm decision over the borrow pits and that the site was in the wrong place.

Councillor McNaughton commented that the benefits would be significantly out done by the impact on landscape and visual and advised that he supported the recommendation by the planners.

Councillor McQueen advised that he supported the planner's recommendation due to the impact on landscape and visual amenity.

Councillor Kinniburgh advised that the application was not designed to be in keeping with the landscape, that the area was one of natural beauty and that he supported the recommendation by planners.

Councillor MacAlister advised that the site was in an area of panoramic quality and scenic beauty and the application would have a significant visual impact on the land. He advised that he supported the planner's recommendation.

Councillor MacMillan advised that of all the areas they had visited that morning the site had been very prominent from each one. He advised that the wind farm would have a visual impact and that he supported the planner's recommendation.

Councillor McKay advised that he supported renewable energy, that it was the main driver of the economy in the Kintyre area but there was a need to also consider tourism. He commented that the Mull of Kintyre was internationally renowned. He advised that the position of the wind farm would have a dominant presence and that it was in the wrong place, that there were acknowledged areas for wind farms on the spine of Kintyre. He advised that he supported the recommendation by the planners.

Decision

The Committee agreed to refuse the application for the reasons specified in the Planning Officer's report.

(Reference: Report by Head of Planning and Regulatory Services dated 28 January 2011, Supplementary Report 1 dated 16 March 2011 by the Head of Planning and Regulatory Services, Visual Document supplied by the Applicant, submitted)

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**ARGYLL AND BUTE COUNCIL
DEVELOPMENT &
INFRASTRUCTURE SERVICES**

**PROTECTIVE SERVICES &
LICENSING COMMITTEE
20 APRIL 2011**

STATUTORY APPOINTMENTS WITHIN REGULATORY SERVICES

1. PURPOSE

1.1 Argyll and Bute Council's Regulatory Services provides the statutory regulation role for Animal Health and Welfare, Environmental Health and Trading Standards. To fulfil this duty, there are a number of formal statutory appointments which require to be formally approved by Council.

2. RECOMMENDATIONS

2.1 Members are asked to formally approve these statutory appointments.

3. STATUTORY APPOINTMENTS

3.1 The recent service review of Regulatory Services has resulted in a radical redesign of management, with alternative service delivery arrangements. The new arrangements provide for a Regulatory Services Manager supported by an Environmental Health Manager (East), Environmental Health Manager (West), and a Trading Standards Manager.

3.2 The following statutory appointments are required to reflect these structural changes and to ensure that the work of Regulatory Services remains compliant with statute.

(i) The Council's Head of Food Safety

The Food Framework Agreement prescribes the statutory arrangements for food safety and requires the Council to appoint the most Senior Environmental Health Officer to the position of Head of Food Safety. Accordingly, the Council's Head of Food Safety is Alan Morrison, Regulatory Services Manager, supported by Andrew MacLeod, (Lead Officer-Food Hygiene and Food Standards), and Lee Roberts (Lead Officer - Feeding-stuffs)

(ii) Chief Weights and Measures Officer

The Weights and Measures Act requires the appointment of a Chief Weights and Measures Officer. This appointment must be a qualified Trading Standards Officer with appropriate experience. Accordingly, the Council's Chief Weights and Measures Officer is Lee Roberts, Trading Standards Manager.

(iii) Local Authority Lead Competent Persons

The Public Health etc (Scotland) Act 2008 requires Local Authorities and NHS Boards to make adequate arrangements to secure public health in their areas. Formal appointments are required for “Lead Competent Persons” and “Competent Persons” under the Act. It is proposed that

- (a) The Council’s Lead Competent Person be Alan Morrison, Regulatory Services Manager, supported by Depute Leads in Iain MacKinnon, Area Environmental Health Manager (West) and Jo Rains, Area Environmental Health Manager (East)
- (b) The Regulatory Services Manager authorise suitably qualified Environmental Health officers as Competent Persons through the Council’s authorisation process.

4. CONCLUSIONS

- 4.1** The competence of the service’s enforcement actions can be compromised by the Council not formally designating officers to statutory posts.
- 4.2** The appointments detailed in this Paper will ensure that the Council meets its statutory duties.

5. IMPLICATIONS

- 5.1** Policy : None
- Financial : None
- Equal Opportunities : None
- Personnel : None



ALAN MORRISON
Regulatory Services Manager

AM/KT/7106 MAR 2011

For further information contact: Alan Morrison, Regulatory Services Manager, on 01546 604292 (Alan.Morrison@argyll-bute.gov.uk)

**ARGYLL AND BUTE COUNCIL
DEVELOPMENT &
INFRASTRUCTURE SERVICES**

**PROTECTIVE SERVICES &
LICENSING COMMITTEE**
20 APRIL 2011

FOOD SAFETY LAW ENFORCEMENT PLAN 2011/12

1. SUMMARY

1.1 The Council, as a statutory food authority under the Food Hygiene (Scotland) Regulations 2006 and under the Food Safety Act 1990, is required to formally approve its food safety law enforcement plan on an annual basis. This report presents the Food Safety Law Enforcement Plan for approval by Committee.

2. RECOMMENDATIONS

2.1 That Members recognise the extent of the work being undertaken by Regulatory Services staff, principally Environmental Health professionals, in respect of food safety and the achievements in 2010-11.

2.2 That Members formally approve

- (i) The Food Safety Law Enforcement Workplan 2011/2012
- (ii) Revisions to the Food Law Enforcement Policy
- (iii) Formal appointments of the Council's Public Analyst, Agricultural Analyst and Food Examiners
- (iv) The authorisation status of all Officers in respect of food safety

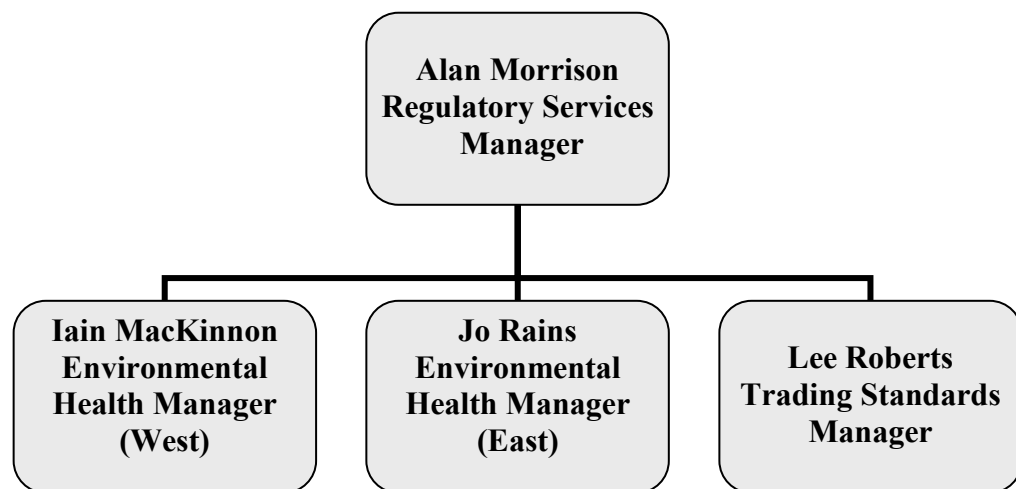
3. FOOD SAFETY ENFORCEMENT

3.1 Local Authorities have a statutory responsibility for monitoring and promoting the safety of food through the use of the statutory enforcement powers available under the Food Hygiene (Scotland) Regulations 2006 and under the Food Safety Act 1990. This work relates to food hygiene, food standards, primary production and feeding-stuffs.

3.2 The context of the Council's food law enforcement work largely remains unchanged and it is difficult to anticipate the level of enforcement outcomes from proactive and reactive work at this stage. We proceed with competent and professionally qualified staff and the

2011/2012 Workplan identifies the service priorities and targets to be achieved (Appendix 1).

- 3.3** The existing work undertaken by the service continues in 2011/2012, with an added focus being to implement the new “Cross-Contamination Guidance” published by the Food Standards Agency (FSA) following the outcome of the *E.coli* 0157 outbreak in Wales. In addition, we will continue to promote the informed consumer through the highly successful national EatSafe Awards and Food Hygiene Information Scheme (FHIS).
- 3.4** The recent service review has introduced alternative service delivery arrangements and a new model for the management of the service. The design has been to protect front-line resources and rationalise management. In doing so, the following structure is now in place.



- 3.5** Through the service review, we would hope to ensure that there will be adequate resources to fulfil our statutory activities. During the transitional stage in 2011/2012, until all posts and working arrangements are in place, the service will prioritise its work on a risk-based approach with resources allocated to areas of greatest food safety risk. This is reflected in the Workplan.

4. ENFORCEMENT POLICY

- 4.1** The service ethos is to secure compliance with statutory duties on a risk-based approach with proportionate enforcement. In doing so, we seek to work with businesses and support businesses unless there are risks to food safety or a reluctance on behalf of the business to co-operate.
- 4.2** Having reviewed the Food Law Enforcement Policy, it is my considered opinion that it remains appropriate and it has been externally audited (and accepted) by the FSA in Scotland. Some minor changes (detailed in Appendix II) are required, including
- (i) The implementation of the FSA’s “Cross-Contamination Guidance”

- (ii) Revisions to the policies and procedures to reflect the new service structure and service delivery arrangements.

5. CONCLUSIONS

- 5.1 The Food Safety Law Enforcement Policy and Food Law Enforcement Workplan 2011/2012 require formal approval by Committee.
- 5.2 The Workplan details the service priorities and targets for 2011/2012 which focus on delivering our statutory work on a risk-based, proportionate manner. Included in the Plan are improved alternative enforcement to business, the development of the concept of the informed consumer, and ongoing partnership working with the industry/ FSA and other Local Authorities.

6. IMPLICATIONS

- 6.1 Policy : None
- Financial : Within existing service budget
- Equal Opportunities : None
- Personnel : None



ALAN MORRISON
Regulatory Services Manager

AM/KT/7105 MAR 2011

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**FOOD SAFETY
LAW ENFORCEMENT PLAN 2011/12**

1. SERVICE AIMS AND OBJECTIVES

1.1 Aims and Objectives

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

As a statutory Food Authority the Council seek to ensure that all food and drink intended for sale for human consumption which is produced, stored, distributed, handled or consumed within Argyll and Bute is without risk to the health or safety of the consumer

Regulatory Services achieve this through the following aims and objectives:-

Undertaking the statutory enforcement role of the "Food Authority", working with and in accordance with Service standards and specific requirements and guidance from the Food Standards Agency Scotland. This includes the Framework Agreement which outlines the responsibilities of the "food authority" and the Food Law Code of Practice.

Provision of an effective, quality food service focusing resources on a risk-based approach and ensuring that all enforcement activity is proportionate, consistent and undertaken by competent and authorised officers.

Developing, and working to, a service plan, which will describe the work to be undertaken and identify the resources available to the Service.

Providing food safety advice and responding appropriately to requests from the public, voluntary groups and businesses and providing advice on food safety issues.

Working with local businesses in an open and transparent manner, to improve the safety of food and the level of compliance with relevant legislation, in line with the Service's Food Safety Enforcement Policy, the Enforcement Concordat and the principles of Hampton and better regulation.

Ensuring the effective ongoing performance appraisal of the Council's food safety law enforcement service, and through effective management

Contributing as a participant where it is relevant and appropriate, having regard to local and national food safety issues as a member of the West of Scotland Food Liaison Group, the Scottish Fish Hygiene Working Group and similar fora, recognising their role in the promotion of consistency and best practice among Local Authorities.

Maintaining adequate systems, including a computer-based inspection and reporting system, designed to improve the quality of food law enforcement activity data, management information and reporting

1.2 Links to Corporate Objectives

This plan links to the wider Council's Corporate policies and the Single Outcome Agreement in terms of protecting the environment, the economy through supporting new and existing business and protecting health. In addition, it allows the Council to meet its regulatory duties as a food authority.

2. BACKGROUND

2.1 Profile of the Local Authority

Argyll and Bute Council is a unitary authority, with a resident population of 90,550 and a geographical area of 693,500 hectares, including 26 inhabited islands, located within the west highlands of Scotland.

The Food Safety Law Enforcement role of the Council is delivered through the Regulatory Services, which embraces the Animal Health, Environmental Health and Trading Standards functions of local government. The service is incorporated within the Planning and Regulatory Services remit.

2.2 Organisational Structure

A service review has been carried out and approved by Council on 10th February 2011 which has achieved corporate savings targets.. This review provides for a redesigned structure and alternative means of service delivery and comes into effect on 1st April 2011. Notwithstanding this, the Council will continue to meet the statutory duties of a food authority through the appointment of the Head of Food Safety, the Lead Officer(s) for food hygiene, food standards and feed stuffs; and appoint the required specialist services

The work of Regulatory Services can be directed to the Council's Executive Committee or the Planning, Regulatory Services and Licensing Committee, as determined by the nature of the report. In addition, the Service has access to the Area Committees and the Argyll and Bute Licensing Boards.

The statutory appointments required under the Food Safety Act 1990 are:-

Head of Food Safety	Regulatory Services Manager
Lead Officer Food Hygiene and Standards	Environmental Health Officer (Food Control and Service Support)
Lead Officer- Feed	Trading Standards Manager

2.3 The Scope of the Food Service

Food Safety law enforcement is undertaken principally by authorised Environmental Health staff, although some work is undertaken by Animal Health and Trading Standards professionals. The current design of the service is detailed below and in the course of this plan, we will be striving for integration of activities where resources and the Code allows.

- /....

- Environmental Health professionals are responsible for the Council's Food Safety law enforcement work, which encompasses food hygiene, food standards and control, (which includes food premises inspection, food quality, composition and labelling inspection and certification). In the event of systems failures, the team will respond by investigating and controlling communicable disease, investigating complaints and reports and withdrawing unsafe/unsound food.
- Trading Standards staff undertakes work in relation to animal feeding-stuffs controls
- Animal Health Officers undertake primary production activities.

Service priorities are detailed in the Food Law Service Plan and are determined through statutory activities; the Code; national, local and service priorities.

The Council's Enforcement Policy, food safety procedures and internal monitoring and standards inform the standards for this work.

2.4 Laboratory Arrangements

The Council contracts with Glasgow Scientific Services (GSS) for the provision of laboratory services, including the microbiological examination of foodstuffs. We are required to provide specialist support services and this plan seeks approval of Glasgow Scientific services and named staff to meet the requirements for a public analyst; food examiner and agricultural analyst.. These arrangements will continue for 2011-12 and these appointments (detailed in Appendix 2) are reaffirmed by the approval of this Service Plan.

2.5 Professional Support Network

The Service works closely with the Food Standards Agency Scotland, the Scottish Food Law Enforcement Liaison Committee, the Crown Office (Procurators Fiscal) and NHS Highland. The Service benefits from the support of the Royal Environmental Health Institute of Scotland, the Society of Chief Officers of Environmental Health, LACORS and the Trading Standards Institute.

The Service values and participates as is appropriate and relevant to do so, within established inter-authority liaison and professional network mechanisms operating within Environmental Health and Trading Standards in Scotland. Of specific note are the FSA Shellfish Enforcement Group, the SFELC Approved business Inspection Working Group, the Food Hygiene Information Scheme Working Group, West of Scotland Food Liaison Group; Environmental Health/ NHS Highland Liaison Group; the Scottish Fish and Shellfish Hygiene Working Group and SCOTSS Animal Feedstuff Group. The Service is also a subscribing member of Camden BRI.

2.6 Food Safety in Argyll and Bute

The nature, type and scale of food businesses in Argyll and Bute are influenced by its geography and infrastructure and these factors can create some difficulties in delivering the Environmental Health service. Examples of these are:-

A high number of incidents and trade withdrawals with a regional and international scope. This also has a significant impact on the work of the Service.

A high number of approved manufacturing and processing food establishments, utilising specialist processing techniques and technology and Home Authority requests for assistance and advice.

A significant seafood industry which has a significant impact on the work of the Service and includes a separate shellfish team which delivers the biotoxin and classification of shellfish harvesting waters.

Decentralised Area offices pose specific challenges to ensure that there is adequate support provided to field staff and to ensure and promote consistency. This support includes training, specialist support, quality auditing and the management and direction of staff within the decentralised Area offices.

Travelling accounts for approximately 20% of officer resource. The Service is seeking to reduce this through the mobile working project and issues are being considered to improve productivity.

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

2.7.1 The Service has responsibility for 1857 food premises in Argyll and Bute (figures as of 31st March 2011) excluding the businesses which operate on a temporary or ad-hoc basis. The premises are divided into risk inspection bands.

The premises which will be subject to a formal intervention in 2011-12 are:-

Category	Minimum Inspection Frequency	Number of premises to be inspected 2011-12
A	Every 6 months	26
B	Every 12 months	104
C	Every 18 months	518
D	Every 2 years	190
E	Use other intervention strategies	-

2.7.2 There are 61 approved establishments (shellfish processors, harvesters etc) compared to other Scottish Local Authorities. These operate processes which potentially pose a higher risk to food safety and fall to be inspected by the Service more frequently and in greater depth.

Fish processing	Shellfish Processing	Dairy	Meat and meat products	Egg Products
23	23	7	5	3

Consistent /....

Consistent with the industry in Argyll and Bute, the Service will continue to work with these businesses to promote food safety standards.

- 2.7.3** Argyll and Bute Council has 52 classified shellfish harvesting sites (the highest in Scotland, with Shetland Islands with 48). These waters are classified for the growing and harvesting of shellfish and there may be restriction in their use due to the micro-biological quality of water or shellfish flesh. The Service undertakes a monitoring programme which is designed to ensure that shellfish being harvested are safe in food safety terms. These also require businesses to continue trading as there is a requirement for all waters to have a minimum of six samples annually to maintain their classification. This work is undertaken by a dedicated team of four Officers who also carry out the shellfish biotoxin sampling work which is funded directly by the Food Standards Agency Scotland.

3. SERVICE PLANNING PROCESS

3.1 Service Plan

The Food Safety Service Plan is submitted to the Planning, Regulatory Services and Licensing Committee for approval. The Plan represents the recommendations of the Regulatory Services Manager as to the level of service and scope of work required to meet the statutory obligations placed on the Council.

3.2 Review

The Service Plan is reviewed annually and otherwise in light of indicated need having regard to many issues including performance standards, service management and auditing; areas identified for improvement and emerging or new demands specific tasks and targets.

4. SERVICE REVIEW – PAST YEAR (2010-11)

4.1 Summary Service Review 2010-11

The main achievements delivered by the service in 2009-10 against the Service Plan are:-

1. The Service has met its targets for programmed workload of 100% for high risk premises and 70% for medium risk premises in respect of food hygiene. We have achieved 100% and 76% respectively
2. We have successfully implemented the Food Hygiene Information Scheme to all caterers across Argyll and Bute. Of the 830 premises, 96% had sufficient standards of food hygiene to be issued with a “PASS” certificate.
3. /....

3. We have delivered the service review of Regulatory Services in accordance with corporate standards and identified the required savings target.
4. We have supported the economy of Argyll and Bute through our regulatory work and in particular:-
 - The export of salmon to the new market of China through fish inspection and the issue of export certificates. This resulted in the first exports to China from Scotland originating from Argyll and Bute.
 - We have assisted in the establishment of new businesses including 6 manufacturing. Processing plants
 - The broadly compliant food businesses (i.e. those who have adequate standards of food hygiene and management) have increased from 88% to 90.3% for food premises risk rated by the service. This indicates increasing standards of food hygiene
5. The successful prosecution of an unsatisfactory food business who were found guilty and fined £1150. The premises have also significantly improved food safety standards within their premises to acceptable levels

4.2 The Service achievements in 2010-11 against the Service priorities are as the following table.

Activity	Achieved 2010-11
Successes	
Programmed inspection and audit of premises Target High 100% Medium 80%	High 100% Medium 89%
Promoting the concept of the <i>“informed consumer”</i> through - Eat Safe award scheme Implement the Food Hygiene Information Scheme).	We have 99 EatSafe awards, the third highest of all authorities in Scotland The FHIS has been introduced to all caterers in Argyll and Bute
Ensure the Council have adequate regard to the outcomes in the second Pennington report on <i>E.coli0157</i> .	Completed
Continue to deliver the shellfish monitoring programme and to develop working relationships with the sector	Met the contracted performance targets
Implemented the interventions strategy which has provided efficiencies within the service without any reduction in food safety enforcement standards	Completed
Greater focus on performance management arrangements across the service	Achieved and new internal monitoring system developed
Support “Food from Argyll” initiative	This is integral to the work of the service
Unplanned work	
Prosecution	One successful prosecution
Approved 6 new processing premises	Significant time allocation (206 hours)
Not achieved	
/....	

Activity	
Not achieved	
Introduce mobile workforce in environmental health and documented management systems	System not yet proven. In testing in Fife Council
Exercise current emergency Outbreak Control Procedures in conjunction with NHS Highland	Arranged for 2012
Integrate to produce a comprehensive and overarching 'Farm to Fork' approach to the Enforcement Policies and practices of Food Safety, Food Standards, Feeding stuffs and Primary Production	Delay due to service review

4.3 Food Monitoring

The focus of the monitoring was on locally produced high risk produce. This includes smoked produce and dairy produce manufactured locally and sold to national and international markets. Formal action, as appropriate, was initiated where the results were unsatisfactory. The table indicates that there was an increase in the quality of the food sampled than in 2010-11

FOOD SAMPLES	2008/09		2009/10		2010/11	
	No. taken	No. satisfactory	No. taken	No. satisfactory	No. taken	No. satisfactory
Food – Composition	68	64	40	27	21	18
Food - Microbiological	199	187	121	91	65	52

4.4 Shellfish

The shellfish biotoxin and classification of shellfish harvesting areas continues. This work has been funded by the Food Standards Agency Scotland and there is a team of four dedicated staff which has implemented and deliver this programme working in conjunction with the shellfish industry. The work undertaken in 2010-2011 was as follows:-

	Number of sampling sites	Number of samples taken	Number of satisfactory samples
Shellfish Biotoxins	21	829	777
Classification of shellfish waters	60	626	580

Narrative

Shellfish is an important sector in the food industry in Argyll and Bute Council. Of the samples taken, 93% met the required standards for biotoxins and water classification. Of the samples which failed to meet the standards, action was taken by the service in conjunction with the harvesters or operators to ensure that the shellfish did not enter the food chain. This resulted in the service of 18 Temporary Closure Notices (biotoxins) and 15 voluntary closure agreements. These sites remained closed until standards had been met and the shellfish did not pose a risk to food safety.

4.5 Food Complaints Investigations

The Service received a 22% increase to 82 food related complaints which required action. By comparison previous figures have been 64 (2007-08); 52 (2008-09) and 66 (2009-10). These complaints range for the sale of out of date food to foreign bodies in food.

4.6 Communicable Disease Investigations/Food Alerts

The Service continued to respond to suspected or confirmed cases of food-borne disease and also to the formal Food Alerts issued by the Food Standards Agency.

4.7 External Audit and Internal Monitoring

No external audits of the service was undertaken in 2010-11

Monitoring against our own internal monitoring plan has been undertaken. This established an inadequate level of compliance. Subsequent monitoring continues to show growing improvement. The internal monitoring procedures have been reviewed and re-invigorated for 2011-12

4.8 Enforcement Action

The Service seeks to achieve statutory compliance and protect food safety through the ethos of supporting business. In the period 2009-10, this work entailed –

	2008/09	2009/10	2010-11
Total number of visits:-			
Programmed inspections	727	515	794
Other inspections	76	197	64
Revisits	95	61	47
% of premises broadly complaint	83%	88%	90.3%
Number of Hygiene Improvement Notices served	58	39	34
Number of Hygiene Prohibition Notices served	0	0	0
Number of Remedial Action Notices served	6	0	1
Number of prosecutions	0	0	1

Of note is the increase in the premises which are broadly compliant which indicates good standards of food safety and management in the premises which were investigated in 2010-11. We increased the number of inspections undertaken and secured a successful prosecution for poor food hygiene practices and conditions within a food business

5. SERVICE PRIORITIES AND WORKPLAN 2011-12

- 5.1 The service plan details the planned activities and priorities for 2011-12 but cannot identify the reactive work which may arise which may include communicable disease and food related illness, significant enforcement activity; national and local; food withdrawals and emerging issues.

It should be noted that these reactive demands will be assessed based on risk, and adequately resourced. In certain circumstances, this work will be undertaken at the expenses of planned activity

- 5.2 The design of this Service is based on the Council's statutory duties that devolve from Regulation (EC) 882/2004, and the Food Safety Act, 1990, to monitor and ensure minimum standards of food safety within Argyll and Bute. The principal food safety enforcement activity undertaken by the Council is that done by Officers in carrying out planned food hygiene and food standards inspections.

- 5.3 Current resources do not permit the inspection of all premises and the service takes a risk-based approach, allocating resources to those premises or activities which have a greater risk to food safety or to activities which will provide the greater level of protection of the public. We also have adopted the alternative enforcement strategy which provides low risk businesses with a variety of other interventions which does not include inspections. This may include the issue of information and guidance on food safety issues, specific correspondence to ensure that there are no changes to the business which would bring this into a higher risk category which would fall for inspection.

This approach does not, however, meet the requirements of the Food Law Code of Practice from the Food Standards Agency. The targets set by the service for Members approval are:-

- High risk visits 100%
- Medium risk visits 80%
- 70% completion of the alternative enforcement workplan

- 5.4 The priorities for the food service plan for 2011-12, including 5.3 above, are:-

1	Implement the new service review model for service delivery and modernise the delivered service,
2	Ensure that the delivered food safety service and the Council have adequate regard to the outcomes in the second Pennington report on <i>E.coli 0157.</i> ,
3	Develop and implement a strategy to introduce the requirements of the Guidance on the Prevention of Cross Contamination, published by the Food Standards Agency through 2011/14. This will be subject to a separate statement of strategy and project plan
4	Undertake the interventions programme for food hygiene, food standards and primary productions with eth target of 100% of high risk premises and 80% of medium risk
5	Undertake an investigation into the wider extent of Food Fraud within the shellfish sector, with the intention of reporting to the Food Fraud unit of the Food Standards Agency in 2012.
6	/....

6	Review policies and procedures to reflect emerging operational realities, new service delivery arrangement and changes to code of practice or internal service issues
7	Identify and implement a strategy to ensure that the food standards work of the service meets statutory requirements. Included in this strategy will be working with businesses, and supporting the “Food from Argyll” initiative
8	Continue to deliver the shellfish monitoring programme and to develop working relationships with the sector,
9	Integrate to produce a comprehensive and overarching ‘Farm to Fork’ approach to the Enforcement Policies and practices of Food Safety, Food Standards, Feeding stuffs and Primary Production on the basis of scientific Risk Assessment.
10	Introduce measures to provide and support a mobile workforce in environmental health and documented management systems
11	Exercise current emergency Outbreak Control Procedures in conjunction with NHS Highland
12	Implement our alternative enforcement strategy which is aimed at supporting businesses through the provision of advice, and support other than through inspections where it is appropriate to do so.
13	Partnership working for Argyll and Bute Working with SEPA, prioritise the published sanitary surveys for the Argyll and Bute, and consider what measures can be taken to address any identified pollutant risks. Working with the Marine Coastal Development unit to integrate Food Safety into Planning and ICMZ activities. Working with Business Gateway
14	Engage with stakeholders to identify improvements to service delivery
15	Ongoing commitment to staff training to ensure a competent and authorised workforce

5.5 Other service issues

We will continue to:-

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

6. RESOURCES

6.1 Financial Resources

The table below provides an indication of the Food Safety Law Enforcement budget for 2011-12 and illustrates a reduction in 10%. This excludes the shellfish biotoxin project which is wholly funded through a contract with the FSAS for a further year

Employee costs	290,000
Training & Resource Materials	2000
Furniture, Materials & Equipment	1500
Transport & Carriage Costs	25,000
IT & communications	1,000
Laboratory costs	40,000
Total Costs	£359,500

6.2 Staffing Allocation

All Enforcement Officers hold the qualifications described in the Food Safety Codes of Practice for Food Safety and Food Standards. The Service has an established procedure for the Authorisation of Enforcement Officers and Appendix III details the specific authorisations for Officers. These fall to be reviewed on a regular basis depending, and may change in the course of the period of the Service Plan. The specific authorisation of Officers is delegated under the Council's Scheme of Delegation.

6.3 Staff Development Plan

The Council operates a Performance Development and Review scheme, which is designed to identify and progress required training and development opportunities for its employees. The Council welcomes the requirements within the COP in relation to Food specific CPD and undertakes to maintain the currency of all Officers accordingly i.e. by providing at least 10 hours of Food Specific CPD over the ensuing 12 months.

7. MANAGEMENT

7.1 Quality Management

The Regulatory Services service is committed to the provision of a quality service founded upon policies, procedures, performance management and auditing.

8. SUMMARY

8.1 Targets for Year 2011-2012

The targets are:-

1. The Service aims to meet the following inspection targets for food hygiene and food standards

High risk premises (category A and B)	100%
Medium Risk (category C and D)	85%
Alternative enforcement strategy	75%
2. The Service will respond to 100% reported food complaints.
3. The Service will undertake to investigate 100% cases of infectious disease as notified by the Consultant in Public Health Medicine and any other suspected cases where food safety or the public may be at risk
4. The Service will meet 80% of its sampling programme
5. The Service will respond to 100% “for action” Food Alerts
6. Respond to 90% of service requests within 20 working days

APPENDIX I

**REGULATORY SERVICES
SERVICE CONTACT ARRANGEMENTS**

The Service operates a decentralised model with two geographical area teams which provide the front-line food safety enforcement activities supported by the service management and specialised resource based within the Headquarters team. The Offices are at:-

HEADQUARTERS	Kimory Lochgilphead PA31 8RT Tel 01546604131/ fax 01546 604410 Email envhealth@argyll-bute.gov.uk
EAST	Hill Street, Dunoon PA23 7AP Tel: 01369-707120/ Fax: 01369-705948 Blairvadach, Shandon, By Helensburgh G84 8ND Tel: 01436-658918/ Fax: 01436-658919 Eaglesham House, Mount Pleasant Road, Rothesay PA20 9HQ Tel: 01700-501350/ Fax: 01700-503095
WEST	Manse Brae, Lochgilphead PA31 8QU Tel: 01546-604780 Fax: 01546-604769/604758 Municipal Buildings, Albany Street, Oban PA34 4AW Tel: 01631-567900/567947

The Service can be contacted through the Council's website at, or by emailing envhealth@argyll-bute.gov.uk

All Council Offices are open 09 00-17 00 hours, Monday to Friday, with the exception of local and public holidays. Some of the smaller Offices may, from time to time be closed to the public over the lunch period, which is normally 13 00-14 00 hours.

APPENDIX II

APPOINTMENT OF FOOD EXAMINERS

In terms of the Food Safety (Sampling and Qualifications) Regulations 1990, the following staff members hold the Mastership in Chemical Analysis qualifications awarded by the Royal Society of Chemistry and are eligible for appointment as Public Analysts:

Gary Walker Scientific Services Manager
Jane White Public Analyst

4.3 Food Examiners

In terms of the Food Safety (Sampling and Qualifications) Regulations 1990, the following staff members hold academic qualifications listed in Part 1 of Schedule 2 and have attained the minimum three year experience requirement in the laboratory listed in Part II of the Schedule:

Gary Walker Scientific Services Manager
Jane White Public Analyst
John Waddell Microbiology and LIMS Group Manager
Karen Platt Microbiologist
Dawn Neeson Microbiologist
Alison Laird Microbiologist

4.4 Agricultural Analyst

Under the terms of the Feeding Stuffs (Sampling and Analysis) Regulations 1999, the following staff members, holding the Mastership in Chemical Analysis awarded by the Royal Society of Chemistry and whose practical experience as agricultural analyst, has been attested, are eligible for appointment as Agricultural Analyst or Deputy Agricultural Analyst.

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

4.5 Continuing Professional Competence

For information. In keeping with the requirement that these appointees meet all relevant legal requirements and Food Safety Act Codes of Practice shall be satisfied, the Scientific Services Manager, Gary Walker, reports that the following holders of the Mastership in Chemical Analysis qualification have successfully satisfied the audits of the scheme operated by the Association of Public Analysts during the calendar year to December 2010.

Gary Walker Scientific Services Manager
Jane White Public Analyst

4.6 Approved Signatories

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

Gary Walker Scientific Services Manager
Jane White Public Analyst
Duncan Scott Consumer Group Manager

APPENDIX III

Authorisation of Officers

The following Officers are appointed under the Food Safety Act 1990 as “authorised food officer”. Their powers of authorisation vary depending upon qualifications, experience, post and competency. The undernoted details the specific authorisation levels for Authorised Officers.

Powers		Visit, access and inspection		Sampling		Seizure and detention		Service of Hygiene Improvement Notice		Service of Temporary Closure Notice		Service of Remedial Action Notice		Service of Emergency Prohibition Notice		Approval of Businesses Regulation (EC) 853/2004
		Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	
Alan Morrison	Operations Manager Environmental Health	√	√	√	√	√	√							√*	√*	√*
Andy MacLeod	Specialist Environmental Health Officer (Food Safety)	√	√	√	√	√	√	√		√	√		√	√	√	√
Jo Rains	Area Environmental Health Manager	√	√	√	√	√	√	√		√	√					
Jim Rennie	Environmental Health Officer	√	√	√	√	√	√	√		√	√					
Richard Gorman	Environmental Health Officer	√	√	√	√	√	√	√		√	√		√			
Jacqui Middleton	Environmental Health Officer	√	√	√	√											

APPENDIX III (Cont'd)

Powers		Visit, access and inspection		Sampling		Seizure and detention		Service of Hygiene Improvement Notice		Service of Temporary Closure Notice		Service of Remedial Action Notice		Service of Emergency Prohibition Notice	
		Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards
Christine McLachlan	Regulatory Services Officer	√	√	√	√					√					
Marci Gillan	Regulatory Services Officer	√	√	√		√	√	√		√					
Mary Watt	Environmental Health Officer	√	√	√	√	√	√	√	√	√		√			
Dave Chapman	Regulatory Services Officer	√	√	√	√	√	√	√		√					
Patrick Mackie	Area Environmental Health Manager	√	√	√	√	√	√	√	√	√					
Andrew Hill	Environmental Health Officer	√	√	√	√	√	√	√*	√*	√*					
Wendy Lilico	Environmental Health Officer	√	√	√	√	√	√	√	√	√		√			
Iain MacKinnon	Area Environmental Health Manager	√	√	√	√	√	√	√	√	√					
Paul Reynolds	Environmental Health Officer	√	√	√	√	√	√	√	√	√		√			
Sue Stefek	Environmental Health Officer	√	√	√	√	√	√	√	√	√					
Karen MacLeod	Regulatory Services Officer	√	√	√	√	√	√	√		√		√			
Ian Campbell	Technical Officer	√	√	√	√										

APPENDIX III (Cont'd)

Powers		Visit, access and inspection		Sampling		Seizure and detention		Service of Hygiene Improvement Notice		Service of Temporary Closure Notice		Service of Remedial Action Notice		Service of Emergency Prohibition Notice	
		Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards
Willie Macquarrie	Shellfish Sampling Officer	√	√	√	√										
Ewan McDougall	Shellfish Sampling Officer	√	√	√	√										
VACANT	Shellfish Sampling Officer														
Karen Goodchild	Technical Officer	√	√	√	√										
David Kerr	Senior Animal Health and Welfare Officer	√	√	√	√										
William Young	Animal Health and Welfare Officer	√	√	√	√										

Alan Morrison:- √* In discussion with advice from the EHO (Food Control and Service Support) and other authorised officers
 Andrew Hill:- √** Under direct supervision of the Environmental Health Manager and EHO (Food Control and Service Support) in relation to the drafting of HIN's and/or the Regulatory Services Officer (Shellfish) in relation to TCN's for a period of 6 months from 23rd March 2011 (and for the first 3 HIN's in relation to Article 5 of Regulation (EC) 853/2004 whichever is the longer in relation these notices).

**ARGYLL AND BUTE COUNCIL
DEVELOPMENT AND
INFRASTRUCTURE**

**PLANNING, PROTECTIVE SERVICES
& LICENSING COMMITTEE**

20 APRIL 2011

WORKPLACE SAFETY LAW ENFORCEMENT PLAN 2011-12

1. SUMMARY

- 1.1** The Council provides a statutory workplace safety law enforcement service in terms of the Health and Safety at Work etc Act 1974, undertaking similar work to that of the Health and Safety Executive, albeit with different business sectors. The enforcement duty of the local authority is undertaken by environmental health staff within Regulatory Services.
- 1.2** The Council is required in terms of the Section 18 Guidance issued by the Health and Safety Executive to formally approve a workplace safety law enforcement plan annually. This report presents the Workplace Health and Safety Law Enforcement Plan 2011-12 and the Enforcement Policy, for approval by the Committee.

2. RECOMMENDATIONS

- 2.1** Members approve the attached plan and the enforcement policy relating to Workplace Health and Safety Law Enforcement which details the service priorities for 2011-12 and note the drive to revitalise health and safety enforcement in Argyll and Bute Council.

3. WORKPLACE SAFETY LAW ENFORCEMENT

- 3.1** The work undertaken to assess and regulate standards of health and safety and welfare in the workplace is an important element of the work of the environmental health service as it provides for the protection not only of employees but of self-employed persons and members of the public.
- 3.2** Enforcement activity is expected of an enforcement service. Members will be aware of the Service's prevailing policy and approach which seeks to ensure that any enforcement action is proportional to the risk, statutory compliance; the record of the business (eg, previous history, management standards, etc) and the severity of the non-compliance. The Service is not, therefore, exclusively about formal enforcement but about working with businesses through the provision of support, guidance and information to ensure regulatory compliance

- 3.3** A risk-based approach is in place with resources being focused on the areas of greatest risk. We seek to achieve compliance with regulatory requirements by supporting business through the provision of advice, support and guidance on sensible risk management to ensure that risks to health and safety are controlled. This work includes the inspection/audit of businesses, the investigation of accidents or reported incidents and through our alternative enforcement plan (e.g. specific projects, information and advice etc.)
- 3.4** The Workplace Health and Safety Law Enforcement Policy has been reviewed and there are NO changes from the Policies agreed by Members in April 2010. Members should note that all policies and procedures for health and safety will be reviewed in detail as part of our work required to demonstrate compliance with the revised Section 18 Guidance.

4. CHALLENGES

- 4.1** Last year, I reported that there was a national drive to revitalise health and safety enforcement and this is set against a background of reducing the burden of regulation on business and also budget savings within the Health and Safety Executive. There is an increased level of partnership working between the Health and safety and Local Authorities (as enforcement agencies) and this will be further developed in the coming years.
- 4.2** A challenge for Argyll and Bute has been the need to review the service against the national Section 18 Guidance which considers the design of our enforcement services. Whilst we have policies and procedures in place and have a focus on high risk premises, we have not achieved our alternative enforcement strategy which is aimed at providing businesses generally with information to allow them to better manage their business against the health and safety demands.
- 4.3** The recent service review of Regulatory Services has addressed this issue through the redesign of posts and responsibilities. We have now an allocated resource to focus on health and safety enforcement across the service, and to undertake alternative enforcement activities across regulatory Services. This will ensure that we deliver the Section 18 workplan, improve regulation, protect the public, support business and modernise health and safety enforcement in Argyll and Bute.

5. CONCLUSIONS

- 5.1** The service as part of the service review process and efficiencies, has managed to implement new arrangements which will provide a greater focus on and “modernise” health and safety enforcement within Argyll and Bute
- 5.1** The Council is required to formally approve its Workplace Safety Law Enforcement Plan each year. The attached Plan provides the basis of the work of Environmental Health function for 2011-12.

6. IMPLICATIONS

Policy :	None
Financial :	None
Personnel :	None
Equal Opportunities	None



ALAN MORRISON

REGULATORY SERVICES MANAGER

For further information contact: Alan Morrison Tel: 01546 604292

LIST OF BACKGROUND PAPERS :

Argyll and Bute Councils Workplace Health and Safety Law Enforcement Plan 2011-12
Argyll and Bute Councils Workplace Health and Safety Law Enforcement Policy

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WORKPLACE HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2011/12

ARGYLL & BUTE COUNCIL WORKPLACE HEALTH AND SAFETY SERVICE PLAN 2011-12

1. SERVICE AIMS AND OBJECTIVES

1.1 Aims and Objectives

The aims and objectives of Argyll and Bute Council with respect to Workplace Health and Safety are:-

The Argyll and Bute Council is committed to the protection of the public. As an enforcing authority for occupational health and safety within specific workplaces, the service seeks to attain adequate standards within these premises to protect the health and safety of employees and members of the public and the welfare of employees.

Regulatory Services will:-

- exercise of the Council's statutory enforcement role
- operate a risk-based approach to the management in line with the Service's Health and Safety Enforcement Policy and the Health and Safety Executives Section 18 guidance
- work to support business to ensure that they are aware of their responsibilities and of new challenges or requirements introduced from legislative changes,
- work in an open and transparent manner, with fair and proportionate enforcement.
- identify and develop opportunities for joint working with the Health and Safety Executive and other local authorities, including the West of Scotland Health and Safety Liaison Group and similar forums.
- manage and provide an effective service for workplace health and safety, based on a culture of service planning and performance management.
- Ensure that enforcement staff are competent and proficient.

1.2 Links to Corporate Objectives and Plans

This service remit is consistent with the Councils Single Outcome Agreement and Corporate outcomes as it seeks to protect the public, and to support the economy of Argyll and Bute by supporting business, organisations and the public to provide workplaces which are safe, so far as is reasonably practicable, for employees and the public

2. BACKGROUND

2.1 Profile of the Local Authority

The Argyll and Bute Council is a unitary authority, with a resident population of 90,550 and a geographical area of 693,500 hectares, including 26 inhabited islands, located within the west highlands of Scotland.

The Workplace Health and Safety Enforcement role of the Council is delivered through Regulatory Services, which embraces the animal health, environmental health and trading standards functions of local government. The health and safety enforcement work is principally undertaken by environmental health professional

The service reports to the Planning, Regulatory Services and Licensing Committee where items can be referred to either the Executive as determined by the nature of the report. The approval of the Service Plan falls to be approved by the Planning, Regulatory Services and Licensing Committee.

2.2 Organisational Structure

The service has completed its service review and has rationalised management. The service is led by the Regulatory Services Manager supported by two geographical Environmental Health Managers and a Trading Standards Manager.

2.3 The Scope of the Service

Environmental Health professionals undertake the health and safety enforcement work. This work includes specific health and safety audits to high and medium risk premises. In addition to other interventions are undertaken to low risk premises where health and safety issues are considered in conjunction with other related work including food hygiene and standards inspections, smoking enforcement and licensing, depending on the authorisation of the officers.

The scope and projected extent of the occupational health and safety enforcement workload in Argyll and Bute is as follows:

Total No. Premises	3028 premises
Projected planned Inspections	133
Investigation of Accident investigations	Estimated 70 accidents
Number of premises to be subject to the alternative enforcement strategy	2754

2.4 Enforcement Policy

The Service seeks to support business and work with employees, and other agencies to protect health and safety in the workplace. The policy ensures that enforcement actions are appropriate, consistent and proportionate to the risk. This policy is presented with this plan for approval by Committee (Appendix II).

In addition to the enforcement policy, the service are reviewing all their existing policies and procedures as part of its assessment against the Section 18 Guidance

3. SERVICE DELIVERY

3.1 Health and Safety in Argyll and Bute

Work is categorised as proactive and reactive. **Proactive** work includes the routine inspection of premises, appraisal of licensing applications and renewals, sampling and monitoring of the environment, food and water. **Reactive** work includes the investigation of accidents at work and reports of communicable diseases etc.

The design of this service is based on the Council's statutory duty under the Health and Safety at Work etc Act 1974, to monitor and ensure minimum standards of health and safety within Argyll and Bute. The principal activity, which realises this duty, is the routine monitoring of standards of health and safety by inspection and risk assessment.

The programmed workload is determined by the degree of risk associated with each of the businesses where we have the responsibility of enforcement. The risk rating system seeks to focus the number of programmed inspections to the higher risk premises and wishes enforcement agencies to increase awareness of workplace health and safety through partnership working, initiatives and projects and through improved promotion and education

3.2 The premises are divided into Risk Category Bands. The numbers in each category are:-

Category	Inspection Frequency	Number of premises
A	Every 12 months	12
B1	Every 18 months	46
B2	Every 2 years	188
C	Use other intervention strategies	1035
Unrated or to be reviewed		1747

3.3 Formal inspections will be undertaken where the risk is categorised as A, B1 and B2. The types of premises which fall within these categories (A and B1) are identified as “potentially high risk” in health and safety terms. These include premises operating as tyre and exhaust fitters, builder’s merchants, and leisure facilities (includes swimming pools and golf courses and dry cleaners).

3.4 Home Authority Principle

The Service supports the "Home Authority Principle". However, there are no arrangements in place and no formal intention to become a “Home Authority”. We also support the Large Organisations Partnership arrangements introduced by the Health and Safety Executive

3.5 Advice to Business

It is the Service ethos to work with business to secure compliance with health and safety law where practical. The Service, therefore, welcomes approaches from business at any time. The Service's policy promotes the aim of securing compliance with legislation "through the giving of information and advice, rather than achieving compliance through the use of formal enforcement action" and embodying the principle of ‘Sensible Risk Management.

**3.6 Health and Safety Promotion/
Alternative Intervention Strategy**

The inspection and the alternative intervention strategy provide an ideal opportunity for businesses to explore areas of concern or further enquiries. There is also the ability to contact Council offices at other times for specific advice and guidance on occupational health and safety issues. All correspondence issued by the Service invites the recipient to contact the author's line manager, should they wish for advice or to raise specific issues or concerns regarding the inspection.

4. REVIEW OF SERVICES OBJECTIVES AND PRIORITIES FOR 2010-11

4.1 In reviewing performance against the Workplace Health and Safety Plan approved for 2010/11, the following should be noted

Work Task	Achievements
Achieve the targets for the inspection of premises	We have achieved the targets of 100% for high risk premises and 65% for medium risk (target was 70%)
Resolve /....	

Work Task	Achievements
Resolve 85% health and safety service requests within 20 working days from receipt	30 service requests pertaining to health and safety issues were received. 92% were resolved within 20 working days against the target of 90%
Investigate 100% of all incidents etc	31 accident reports received requiring intervention. 100% achieved.
Promote improved standard and awareness of health and safety through partnership working with other Local Authorities and the Health and Safety Executive through the West of Scotland Health and Safety Liaison Group	This work is ongoing and there are strong links and joint working intuitive with other Councils through the Health and Safety Liaison Groups and with the HSE.
Review procedures and policies having regard to the pending revision of the Section 18 Guidance from the Health and Safety Executive	This has been reviewed and an action plan identified for delivery in 2011-12
Review the mobile working solutions project and where appropriate, prepare a strategy for the extension of the project throughout the service.	Pilot completed and benefits realised. Key priority for 2011-12 to develop and extend across service
Alternative enforcement strategy and promotion of health and safety	We participated in the following initiatives:- slips and trips in the catering sector; entertainment noise, and manual handling
Introduce publications scheme	Not delivered due to other service demands

4.2 In reviewing the 2010/11 priorities, achievements of note are:-

The programmed inspection work was completed with all high risk premises having been inspected

A customer survey of businesses identified that 100% were satisfied with the service and 97% satisfied at the outcome.

We secured through the service review, a resource to deliver the significant workload which is required to revitalise health and safety enforcement in Argyll and Bute Council

4.3 We did not deliver our alternative enforcement strategy and failed to meet the inspection target for medium risk premises. This was as a result of the service review workload and to lack of resources

5. SERVICE PRIORITIES AND OBJECTIVES

FOR 2011-12

5.1 The work of the service will focus on:-

- (i) Undertake topic-based inspections in accordance with the programmed inspections required by the Local Authority Circular 67/2 (rev 2 dated Mar 2010) “Advice to Local Authorities on Intervention Programmes and an Inspection Rating System”. The programme is currently being agreed.
- (ii) Undertake reactive service complaint work associated with accident investigations and service requests
- (iii) To deliver the Section 18 Action plan which has been developed by the service to attain a level of compliance of ‘adequate arrangements’ and aspiring to ‘adequate arrangements with elements of best practice’ with the Section 18 audit standards

5.2 The key priorities and targets for the workplace health and safety enforcement work plan are:-

	Target
To meet the services intervention programme of programmed audits to premises	100% of category A and B1 75% of Category B2
To investigate all formal reports of injuries, diseases and dangerous occurrences which require a formal service intervention	100%
To deliver the alternative enforcement workplan relating to workplace health and safety	70%
To promote Sensible Risk Management in Argyll & Bute by committing to the Strategy, Health & Safety of Great Britain – Be Part of the Solution campaign	
To participate in the programme of Joint National Priorities focussing on those with a local dimension (i.e. storage and sale of LPG; asbestos and duty holders management of risk)	Identify projects of particular significance to the local/national priorities
To deliver the Section 18 Action plan which has been developed by the service to attain a level of compliance with the Section 18 audit standards	Achieve Audit level 3
The /....	

	Target
The Service will ensure that Officers undertaking occupational health and safety enforcement activities are competent and aware of developing issues in that field of environmental health	REHIS CPD scheme
Partnership working. Promote improved standard and awareness of health and safety through partnership working with other Local Authorities and the Health and Safety Executive through the West of Scotland Health and Safety Liaison Group	
Review the appropriateness of the RDNA (Regulators Development Needs Assessment) tool and its applicability within Argyll and Bute	Produce evaluation report
Customer management. review the content of the inspection reports and correspondence to make them simpler to understand	Improve customer feedback from 94% to 97%
Review the unrated premises and identify their risk rating category	

6. RESOURCES

6.1 Financial Allocation

Health and Safety Enforcement Budget

Employee costs	£95,000
Training & Resource Materials	500
Furniture, Materials & Equipment	300
IT & communications	1000
Total Costs	£96,800

Note: No element has been included at this time to represent corporate support, including office services, finance, IT or legal.

6.2 Staffing Allocation

Section 2.2 details the status and deployment of the Service's staffing resource.

Environmental /....

Environmental Health Officers and a Public Protection Officer are authorised to undertake occupational health and safety enforcement activities. 12 officers are authorised to carry out occupational health and safety work in addition to their other general environmental health duties.

To revitalise health and safety enforcement we have identified a “lead” officer role who will undertake this function together with other service support issues This will augment the existing 1.8FTE staff working in this area.

All enforcement officers are competent and meet the requirements set by the Health and safety Commission for “authorised inspectors” under the Health and safety at Work etc Act 1974. The Service has an established procedure for the Authorisation of Enforcement Officers and this is an ongoing process which is delegated to the service under the Councils Scheme of Delegation. The officers authorised under the Act as of the date of this report are detailed in appendix IV and these will be reviewed and amended as appropriate by the Regulatory Services Manager.

6.3 Staff Development Plan

The Council operates a Performance Development and Review scheme, which is designed to identify and progress, required training and development opportunities for its employees.

7. QUALITY ASSESSMENT

7.1 Quality Assessment

The service is committed to the concept of quality systems and to the auditing of these in accordance with the Commissions Section 18 Guidance. We will undertake a review against these standards.

Internal monitoring systems to review our occupational health and safety work will be improved in 2011-12. This will identify issues relating to personal development, non-adherence to and in some cases to improvements to existing policies and procedures; and promote consistency.

7.2 Equality

The service seeks to engage with and communicate with all businesses in an effective manner which promotes and secures food safety and meets statutory requirements. There are many levels of communication from face-to-face to the written correspondence and formal statutory Notices.

We /....

We will repeat the exercise and engage with businesses to ensure that communication is effective and they are able to understand and take appropriate action, as necessary.

8. REVIEW

8.1 Review against the Service Plan

The Service Plan will be reviewed annually and otherwise in light of indicated need. The Service plan will be subject to specific approval by the Planning, Protective Services and Licensing Committee.

APPENDIX I**Contact arrangements and details**

The Environmental Health service is accessible at offices of the Council located in all larger towns within the Council area. Service requests can be initiated by telephone, fax, video conference, e-mail or in person. The various office locations are as follows:

Offices where environmental health staff are based

EAST	22 Hill Street, Dunoon Tel: 01369-707120 Fax: 01369-705948
	Blairvadach, Shandon, By Helensburgh Tel: 01436-658918 Fax: 01436-658919
	Eaglesham House, Mount Pleasant Road, Rothesay PA20 9HQ Tel: 01700-501350 Fax: 01700-503095
WEST	Municipal Buildings, Albany Street, Oban Tel: 01631-567900/567947
	Manse Brae, Lochgilphead Tel: 01546-604776 Fax: 01546-604758

Offices where environmental health staff can be seen by appointment

BOWMORE	Jamieson Street, Bowmore, Islay Tel: 01496-810332
CAMPBELTOWN	Council Offices, Dell Road, Campbeltown Tel: 01586-552366

The Service's senior managers are located at Council Headquarters Offices, Kilmory, Lochgilphead Tel: 01546-604131 Fax: 01546-604410

The service can be contacted through the Council's website at www.argyll-bute.gov.uk or via email at envhelath@argyll-bute.gov.uk



1. SCOPE OF ENFORCEMENT OPTIONS

1.1 The Authority recognises that enforcement decisions must be consistent, fair, proportionate to risk(s) and based on objective standards. Regulatory Services will adopt and comply with guidance in HSC/HSE publications and guidance as appropriate.

1.2 Prior to deciding on any action relating to enforcement, the inspecting Officer shall consider :-

- a.** The seriousness or gravity of the offence;
- b.** The past history of the business/person and their previous record of compliance;
- c.** Confidence in management;
- d.** Consequences of non-compliance;
- e.** The likely effectiveness of available enforcement action.

These may be done in consultation with the lead Authority for the business where appropriate.

1.3 Once all the above-mentioned criteria have been considered, the Inspector may decide:-

- a.** That there is no need for action;
- b.** To take informal action;
- c.** To use statutory Notices, e.g. Improvement & Prohibition Notices;
- d.** To submit a report to the Procurator Fiscal.

APPENDIX II (Cont'd)

- 1.4 Inspecting Officers shall not initiate action which is inconsistent with the Council's enforcement policy and procedures without prior agreement of the Area Environmental Health Manager or Operations Manager Environmental Health.

Where there is a matter of national importance, the matter will be raised with the Health & Safety Executive

- 1.5 Where appropriate, the lead Authority will be appraised of enforcement action against a business in which they have an interest.

2. CRITERIA FOR ENFORCEMENT ACTION

- 2.1 The criteria to be considered in determining the most appropriate form of enforcement action is as follows.

a. Gravity or Seriousness of Offence.

This relates to a breach in the legislation and the impact it will have to the health, safety and welfare of the employees or risks to the public. For example, a contravention of the requirement to provide guarding to equipment is of higher severity than failing to display the Health & Safety Information to Employees Notice.

b. Previous History

This relates to previous interactions with the offender and to their level of compliance with the legislation, co-operation with the Service and the time period that the offence has existed.

c. Confidence in Management

This relates to the level of confidence the inspecting Officer has in the offender's ability to respond to and initiate corrective actions, their level of awareness of and responsibility for health and safety.

d. Consequence in Non-Compliance

If corrective action was not taken, what would be the consequences on employees/members of the public?

e. Effectiveness of Enforcement Action

The inspecting Officer must consider the effectiveness of enforcement action and whether it is commensurate with the risk.

- 2.2 In all cases, the enforcement action chosen will be recorded in the inspection report form and/or premises action record.

APPENDIX II (Cont'd)

3. ENFORCEMENT DECISIONS

3.1 Precautionary Principle

3.1.1 It is the policy of Regulatory Services to require inspecting Officers, in making enforcement decisions, to have regard to - but not exclusively - the criteria specified in Section 4 above.

3.1.2 In circumstances where the information is lacking to inform an enforcement decision based upon the protection of public health, Officers are required to exercise a precautionary approach.

3.1.3 The precautionary approach, with the objective of protecting public health, requires the inspecting Officer to act as if the hazard and a risk have been confirmed, based upon available objective evidence.

This is in recognition that to await absolute evidence may endanger public health in certain circumstances. In such cases, the inspecting Officer's Line Manager shall be advised of the actions proposed.

4 ENFORCEMENT ACTION TYPES

4.1. There are a number of enforcement options available to an authorised officer to secure compliance with the Health and Safety at Work etc Act 1974. These actions are dependant upon the extent of the Officers findings, the contravention, the inherent risks to the employees or the public and the confidence in management systems.

4.2 The inspecting Officer must have objective evidence to support decision-making and must be able to justify the extent of the actions taken.

The officer has the following actions available:-

4.3 No Action

The decision to take no action will be at the discretion of the inspecting Officer where any of the following applies :-

- a.** The gravity of the offence is/was negligible in relation to risk of injury, disease to persons;
- b.** Effective action was taken to remedy the offence and/or;
- c.** The offence is unlikely to recur.

APPENDIX II (Cont'd)

4.4 Informal Action

Informal action is used to secure compliance with legislation, and includes the use of verbal cautionary advice, information notes, letters and written inspection reports. Informal action also includes verbal advice and guidance issued by the Inspecting Officer in respect of best practice for occupational health.

Informal action will be initiated where one or more of the following criteria is met :-

- a. The contravention is minor;
- b. The act or omission is not serious to warrant formal action;
- c. Where, having regard to past history of the individual/person(s) responsible, it is deemed that informal action will achieve compliance;
- d. The Officer has confidence in the management approach to health and safety;
- e. The consequences of non-compliance will not pose a significant risk to public health.

4.5 Formal Action

Formal enforcement action will be initiated under the following circumstances: -

- (i) Where there is a significant risk to public health or safety.
- (ii) Where the criteria for informal action is not considered appropriate to ensure compliance.
- (iii) Contravention of a licensing condition.

The inspecting Officer must have objective evidence to support decision-making and to justify the extent of the actions proposed.

4.5.1. All formal actions initiated must be agreed with the inspecting Officer's Line Manager, who has responsibility for assessing the objective evidence, the appropriateness of the actions proposed and the competency of the formal Notices.

4.5.2 Formal action includes: -

- (i) The service of Improvement Notices under Section 20 of the Act.
- (ii) The Service of Prohibition Notices under Section 21 of the Act.
- (iii) Prosecution.

APPENDIX II (Cont'd)

4.5.3 Improvement Notices

An Improvement Notice will be served where

- (i) There is a contravention of a relevant statutory provision, or
- (ii) The contravention will continue or is likely to recur, or
- (iii) The contravention does not present an imminent risk of danger or to health and safety.
- (iv) An informal approach has failed previously.
- (v) The policy otherwise directs that it be served.

Improvement Notices will not be issued where there is a continuing offence where the Notice would only achieve an improvement at one point in time or where swift, effective enforcement is required. (Prohibition Notice.)

4.5.4 Prohibition Notices

A Prohibition Notice shall be served where

- (i) There is an imminent risk of injury or danger to health, or
- (ii) Immediate and decisive action is required to protect public health.

A Prohibition Notice can take immediate effect or be deferred where

- (a) An activity, which presents a risk of serious personal injury, will not be undertaken before intended action to comply with the Notice has been completed and an immediate Prohibition Notice would affect other activities not presenting a risk to health or safety.
- (b) An inspection report from a competent person (e.g. lift engineer, electrician, competent gas safety registered engineer) has expired but a new report is due, a Notice may be deferred until the expiry of the period agreed for the provision of the report.

4.5.5 Service of Notices

- (i) Improvement or Prohibition Notices shall only be served by Officers authorised to do so.
- (ii) The format of the formal Notices issued by the Service is attached (see Appendix C) to this Policy.
- (iii)

APPENDIX II (Cont'd)

- (iii)** In considering the service of a Notice, and in drafting the Notice, the Officers shall have regard to HELA guidance (LAC 22/6 or any revision), best practice, and any guidance issued under this Policy.
- (iv)** Prior to service of the formal Notice, all circumstances relating to the decision and the draft Notice shall be discussed and agreed with the inspecting Officer's Line Manager or the Operations Manager Environmental Health.
- (v)** In circumstances where an immediate Prohibition Notice is required during an inspection to prevent persons being exposed to imminent danger, the inspecting Officer requires to contact their Line Manager or the Operations Manager Environmental Health prior to service of the Notice. Where contact cannot be made, the precautionary principle applies and the Notice shall be served.
- (vi)** Where an Officer not authorised to serve Notice undertakes an inspection and is of the opinion that a Notice is appropriate, the Notice shall only be signed by an authorised Officer who has witnessed the contravention(s) or circumstances which merit this action.
- (vii)** Formal Notices must include the following: -

 - (a)** The Council's reference number
 - (b)** The Notice is to be served on the proprietor of the business/ person(s) responsible. Where these are unknown, the Notice will be addressed to the "owner"/"responsible person" and left on the premises.
 - (c)** The statute contravened shall be detailed, together with the Officer's opinion why the Notice is appropriate.
 - (d)** The timescale for compliance.
 - (e)** The Notice must be signed by an Officer authorised to sign Notices.
 - (f)** Specify whether the Environment and Safety Information Act 1988 is relevant.
- (viii)** The time specified for compliance with the Notice must be reasonable and discussed with the person/business on which the Notice is to be served. In determining the timescale, Officers must have regard to the nature of the works required and the risks.

(This should negate the need for a Notice to be appealed in respect of insufficient time to comply).

APPENDIX II (Cont'd)

- (ix) Where Notices are served on a national company with a Lead Authority, the authorised Officer shall contact the Lead Authority and a copy provided.
- (x) The appeal mechanisms available will be clearly detailed in the notes to the Notice and referred to in the letter of information accompanying the Notice.
- (xi) It is our policy that the Notice(s) must be served at the time of the inspection or as soon as practicable after the inspection.

Where the Notice is not issued at the time of inspection, the authorised Officer will have discussed his intention to serve the Notice and specified this on the Notification Report at the time of inspection.

- (xii) The Notice will be served by either of the following mechanisms: -
 - (a) **By hand.** An Officer who has read the Notice, and served on the named person should witness this. Where they are unavailable, record the name and position in the business of the person and issue the Notice to them.

Explain the reason(s) for the Notice and appeal procedures.
 - (b) **By post, by registered delivery.** Retain the recorded delivery receipt and attach it to the copy Notice on file.
- (xiii) The authorised Officer responsible for the service of the Notice shall arrange and undertake an inspection to determine the level of compliance on expiry of the date specified in the Notice.
- (xiv) Where a Notice is complied with, and/or an application has been made for withdrawal, the Officer's decision shall be recorded in the file and detailed in a letter to the person on whom the Notice was served.
- (xv) The details of an appeal against the Notice shall be recorded in the file with the appeal findings.

4.6 Enforcement

- 4.6.1** It is our policy to report all instances of failure to comply with a formal Notice to the Procurator Fiscal.
- 4.6.2** Officers are required to establish all evidence at the time of the compliance visit to support this formal enforcement action.

APPENDIX II (Cont'd)

- 4.6.3** The use of informal action will be recorded in the inspection report form produced by the inspection. An inspection report form consists of the Notification Report shall be completed and left at the business at the conclusion of the inspection. The use of these is prescribed in the inspection procedures for occupational health and safety
- 4.6.4** The decision to refer cases to the Procurator Fiscal for prosecution shall be taken by the Operations Manager Environmental Health.
- 5. REVIEW**
- 5.1** This policy will be reviewed annually, and more frequently as may be required, by the service
- 5.2** The Enforcement Policy will be presented to Planning, Planning, Regulatory Services and Licensing Committee for approval on an annual basis as part of the annual Workplace Health and Safety Service Plan.

A handwritten signature in black ink, consisting of a large, stylized 'O' followed by a long, sweeping horizontal stroke that curves upwards at the end.

Operations Manager Environmental Health

Revised 27/03/11

Details of Internal Policies

The Service have implemented policies to meet the requirements of the Health and Safety Commissions “Section 18 Guidance to Local Authorities”

The policies and procedures currently in place are: -

- Enforcement Policy
- Determination of Enforcement action and Prosecution
- Inspection procedures
- Procedures for the investigation of accidents and incidents
- Procedures for the investigation of Service Requests
- Council procedures relating to the right to make complaints about the service (“Your Rights to Complain”)

APPENDIX IV

**Authorised Officers under the Health and Safety at Work etc Act
1974 as of 1ST April 2011**

Officer	Position
Alan Morrison	Regulatory Services Manager
Iain MacKinnon	Environmental Health Manager (West)
Jo Rains	Environmental Health Manager (East)
Patrick Mackie	Environmental Health Officer (Health and Safety and Service Support)
Jim Rennie	Environmental Health Officer
Richard Gorman	Environmental Health Officer
Mary Frances Watt	Environmental Health Officer
Sue Stefek	Environmental Health Officer
Paul Reynolds	Environmental Health Officer
Andrew Hill	Environmental Health Officer
Wendy Lilico	Environmental Health Officer
David Chapman	Regulatory Services Officer (Environmental Health)

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ARGYLL AND BUTE
COUNCIL
DEVELOPMENT AND
INFRASTRUCTURE
SERVICES

PLANNING, PUBLIC SERVICES & LICENSING
COMMITTEE
20th April 2011

ARICHUAN, SILVERCRAIGS, LOCHGILPHEAD, ARGYLL, PA31 8RX
REQUEST TO AMEND THE PROVISIONS OF S75 AGREEMENT PERTAINING TO THE
ERECTION OF A DWELLINGHOUSE AT SILVERCRAIGS, LOCHGILPHEAD –
PLANNING PERMISSION REF. 98/00027/DET

1. SUMMARY

Detailed planning permission was granted in October 1998 for the erection of a dwellinghouse on a 'bareland croft'. In order to comply with the provisions of the Council's Settlement Strategy policies at that time, the ownership of the permitted dwellinghouse was tied to the associated 'bareland croft' holding by a S75 Agreement.

In view of the revised policy provisions of the 'Argyll and Bute Local Plan' 2009 a request under the provisions of S75A(2) of the Act has been submitted by the croft owners, Mr & Mrs R. Graham, to have the S75 agreement rescinded to allow the separate sale of the dwellinghouse from that of the associated 'bareland croft'.

2. RECOMMENDATION

Recommend that the S75 Agreement be rescinded as the principle requirement for entering into such an agreement has been removed with the revision of the Council's Settlement Strategy as set out in the adopted Argyll and Bute Local Plan 2009.

3. PLANNING HISTORY

Detailed planning permission ref. 98/00027/DET was approved by the Mid Argyll, Kintyre and Islay Area Committee in May 1998 and issued on 2nd October 1998 following the conclusion of an agreement under the provisions of S75 of the Town and Country Planning (Scotland) Act 1998 which tied the ownership of the dwellinghouse to that of the associated 'bareland croft' holding.

In determining the above application regard was had to the provisions of the Strathclyde Structure Plan 1990 and the Mid Argyll Local Plan 1993 against which it was determined that the proposed dwellinghouse was located within the Lochgilphead/Ardrishaig Catchment Area wherein the presumption against development was removed; the proposal was however supported by a recognised operational need in respect of the ongoing management of a parcel of land which was considered to meet the requirements of the Council's 'bareland croft' policy at that time.

4. POLICY CONSIDERATIONS

'Argyll and Bute Structure Plan' 2002

STRAT DC 4 – Development Within Rural Opportunity Areas
STRAT DC 8 – Landscape and Development Control

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Development Impact on the General Environment
LP ENV 10 – Development Impact on Areas of Panoramic Quality
LP HOU 1 – General Housing Development

Argyll and Bute Council – Landscape Capacity Study – Mid Argyll and Inveraray – MA27

Scottish Government's Circular 1/2010 – Planning Agreement

5. ASSESSMENT

The subject dwellinghouse is a modern bungalow that is situated some 3 miles to the east of Lochgilphead within a dispersed grouping of buildings at Silvercraigs which lies to the south of the A83 public highway.

At the time of determination of the original application (ref. 98/00027/DET) the applicable provisions of the Development Plan at that time set out a general presumption against development on this particular location. The application was however supported by a claim of a locational/operational need which established that there was a valid claim for a new dwellinghouse at this location to ensure the continued management of a 'bareland croft' holding. In order to underpin the locational/operational justification the ownership the dwellinghouse was tied to the associated 'bareland croft' by means of a S75 agreement upon the title of the property.

However, the provisions of the current Development Plan set out a much more favourable settlement strategy with the inclusion of this property and associated 'bareland croft' land within a Rural Opportunity Area wherein the provisions of policies STRAT DC 4 and LP HOU 1 set out general support for the principle of 'small scale' housing development in the countryside. The site also lies within an Area of Panoramic Quality wherein such presumption in favour of new development is restricted to those areas identified within the Mid Argyll and Inveraray Landscape Capacity Assessment. The existing dwellinghouse and associated 'bareland croft' land are located within ROA MA 27 within the LCS and includes land which has been identified as having capacity to accommodate additional residential development.

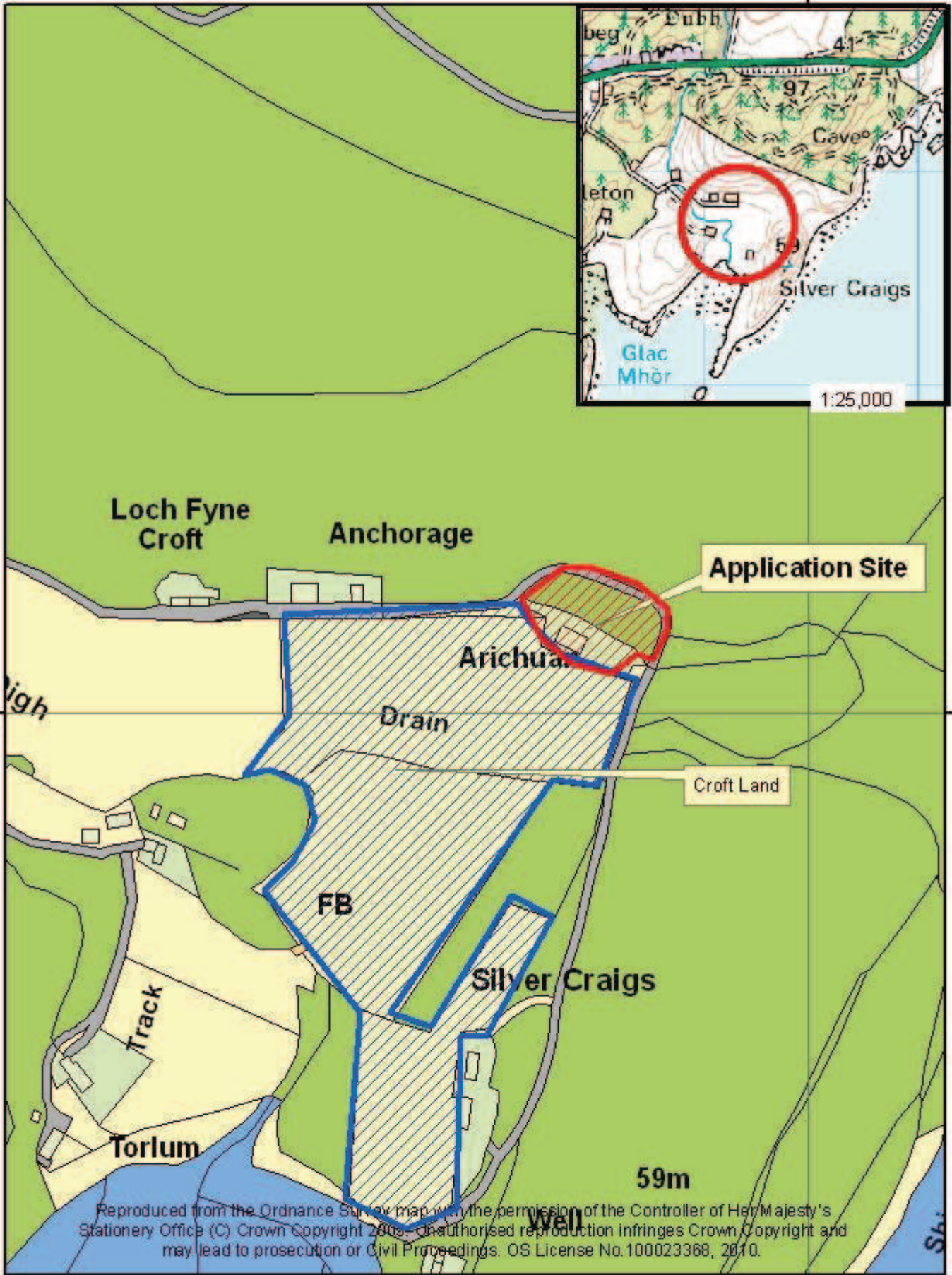
The amended 'settlement strategy' set out in the Argyll and Bute Local Plan 2009 no longer requires new development at this locality within the open countryside to be justified by a valid locational/operational need – in this respect the principle requirement for the S75 agreement is no longer necessary and fails to satisfy the tests relating to the need for a planning agreement as set out in Circular 1/2010. The removal of the S75 agreement would also eliminate a fundamental impediment to the land owners realising the potential of limited additional capacity for residential development at Silvercraigs as identified in the Council's Landscape Capacity Study for Mid Argyll and Inveraray.

Author: Peter Bain

Contact: 01546 604082

Angus J Gilmour
Head of Planning and Regulatory Services

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**Committee Plan Relative to
Planning Application Ref: 98/00027/DET**

Date: 07.09.2010

Scale: 1:3,000



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**Argyll and Bute Council
Development and Infrastructure Services**

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 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 07/01478/COU

Planning Hierarchy: Local Development

Applicant: Operational Services – Argyll and Bute Council

Proposal: Extension to existing Burial Ground

Site Address: Pennyfuir Burial Ground, Oban

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Extension of existing burial ground
 - Formation of new vehicular access
-

(B) RECOMMENDATION:

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

(C) HISTORY:

No history relevant to this particular site.

(D) CONSULTATIONS:

Area Roads Manager

Report dated 24/08/07 advising Trunk Roads Authority to advise on proposal.

Trunk Roads Authority

Report dated 04/05/10 advising no objection subject to conditions being imposed.

Public Protection Unit

Memo dated 14/09/07 advising no objection.

West of Scotland Archaeology Service

Letter dated 15/08/08 advising prior archaeological evaluation of the site to be undertaken. E-mail dated 16/03/11 raising no objection subject to a condition requiring the implementation of a programme of archaeological works drawn up in consultation with West of Scotland Archaeology Service.

Scottish Environment Protection Agency

Letter dated 24/09/08 advising no objection.

(E) PUBLICITY:

The proposal was advertised in terms of previous Section 34 Bad Neighbour and Article 9 Vacant Land procedures, closing date 30/08/07.

(F) REPRESENTATIONS:

No representations were received regarding the proposed development.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- | | | |
|-------|---|----|
| (i) | Environmental Statement: | No |
| (ii) | An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: | No |
| (iii) | A design or design/access statement: | No |
| (iv) | A report on the impact of the proposed development e.g. retail impact, transport impact, noise impact, flood risk, drainage impact etc: | No |

(H) PLANNING OBLIGATIONS

- | | | |
|-----|-------------------------------------|----|
| (i) | Is a Section 75 agreement required: | No |
|-----|-------------------------------------|----|

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

Argyll and Bute Structure Plan 2002

STRAT DC 2 – Development within the Countryside Around Settlements

STRAT DC 9 – Historic Environment and Development Control

Argyll and Bute Local Plan 2009

LP ENV 1 – Impact on the General Environment

LP ENV 17 – Impact on Sites of Archaeological Importance

LP BAD 1 – Bad Neighbour Development

LP TRAN 4 – New and Existing Public Roads and Private Access Regimes

LP TRAN 6 – Vehicle Parking Provision

LP COM 1 – Community Facility Development

Appendix A – Sustainable Siting and Design Principles

Appendix C – Access and Parking Standards

(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 4/2009.

The Town & Country Planning Act (Scotland) 1997

The Planning etc. (Scotland) Act, 2006

Scottish Planning Policy (SPP),2010

(K)	Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:	No
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(L)	Has the application been the subject of statutory pre-application consultation (PAC):	No
------------	--	-----------

(M)	Has a sustainability check list been submitted:	No
------------	--	-----------

(N)	Does the Council have an interest in the site:	Yes
------------	---	------------

The application has been made by Argyll and Bute Council for land within their ownership.

(O) Requirement for a hearing (PAN41 or other): **No**

(P) Assessment and summary of determining issues and material considerations

Planning permission is sought for extension of the existing Pennyfuir Burial Ground, Oban in a northerly direction together with the formation of a new vehicular access from the A85 Trunk Road.

In terms of the adopted Argyll and Bute Local Plan, the site is identified as being within the Countryside Around Settlement Zone within which Policy STRAT DC 2 of the approved Argyll and Bute Structure Plan gives encouragement to development which accords with the settlement plan for the area on an appropriate small scale infill, rounding-off, redevelopment and change of use development. This policy further states that in special cases, a locational need or exceptional circumstance may justify a development.

The proposal also requires to be assessed for compliance with other relevant local plan policies which are detailed in Appendix A of this report.

It is considered that the proposal can be justified on the basis of locational need given its proximity to the existing long established burial ground.

The development is sufficiently removed from residential property so as not to give rise to adverse residential amenity considerations.

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

(R) Reasons why planning permission should be granted

It is considered that the proposed site is acceptable for use as an extension to the existing burial ground together with the formation of a new vehicular access and car parking area and it is not considered that it will have any significant adverse impact on the wider landscape.

The proposal accords with Policy STRAT DC 2 and STRAT DC 9 of the approved Argyll and Bute Structure Plan and Policies LP BAD 1, LP COM 1, LP ENV 1, LP ENV 17, LP TRAN 4 and LP TRAN 6 of the adopted Argyll and Bute Local Plan and there are no other material considerations which would warrant anything other than the application being determined in accordance with the provisions of the development plan.

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

N/A

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

Author of Report: Fiona Scott Date: 21/03/11
Reviewing Officer: Ross McLaughlin Date: 28/03/11

Angus Gilmour
Head of Planning and Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 07/01478/COU

1. That the development to which this permission relates must be begun within three years from the date of this permission.

Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended).

2. No development shall commence on site until the vehicular access has been constructed in accordance with the amended drawing numbers PC-001, PC-002 and PC-003 and the method of construction approved in writing with the Planning Authority in consultation with the Trunk Roads Authority, prior to the cemetery extension coming into operation. The new access will require to meet the requirements of a Road Safety Audit as detailed in the Design Manual for Roads and Bridges.

Reason: In the interests of road safety to ensure the proposed development is served by a safe means of vehicular access.

3. No development shall commence on site until the forward visibility, Safe Stopping Distance, shall be provided either side of the new access in accordance with the Design Manual for Roads and Bridges, TD9/93.

Reason: In the interests of road safety to ensure the proposed development is served by a safe means of vehicular access.

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

Reason: To enable the opportunity to identify and examine any items of archaeological interest which may be found on this site, and to allow any action required for the protection, preservation or recording of such remains to occur.

5. No development shall commence until full details, in plan form, of the store and poly tunnel have been submitted and approved in writing by the Planning Authority.

Reason: In the interests of visual amenity

6. No development shall commence on site until details of the scheme of hard and soft landscaping works has been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:

- i) existing and finished ground levels in relation to an identified fixed datum
- ii) existing landscaping features and vegetation to be retained
- iii) location and design, including materials, of walls, fences and gates

- iv) soft and hard landscaping works, including the location, type and size of each individual tree and/or shrub
- v) programme for completion and subsequent on-going maintenance.

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

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

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

7. The development shall be implemented in accordance with the details specified on the application form dated 27/07/07 and the approved drawing reference numbers:

Plan 1 of 4 (Location Plan at scale of 1:10000)
Plan 2 of 4 (Drawing Number PC-001)
Plan 3 of 4 (Drawing Number PC-002)
Plan 4 of 4 (Drawing Number PC-003)

unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997 (as amended).

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

NOTE TO APPLICANT

- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 (as amended) it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.
- The Trunk Roads Authority has advised that this planning permission does not carry with it the right to carry out works within the trunk road boundary. Accordingly it will be necessary to consult with them on the terms and conditions, under Roads legislation, that require to be agreed to enable works within the trunk road boundary to be approved. You are advised to contact them direct on 0141 272 7388 to discuss this matter further.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 07/01478/COU

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

In terms of the adopted Argyll and Bute Local Plan, the site is identified as being within the Countryside Around Settlement Zone within which Policy STRAT DC 2 of the approved Argyll and Bute Structure Plan gives encouragement to development which accords with the settlement plan for the area on an appropriate small scale infill, rounding-off, redevelopment and change of use development sites. This policy further states that in special cases, a locational need or exceptional circumstance may justify a development.

The proposal will also involve the formation of a new vehicular access and car parking area together with the erection of a small store and polytunnel. It is not considered that the proposal will have a detrimental impact on the landscape since the only buildings proposed are very small scale and will not be readily visible from the A85 Trunk Road, the main public viewpoint to the site. The proposed lairs will have little impact on the landscape in that it would remain a largely open site.

The proposal also requires to be assessed for compliance with other relevant local plan policies which are detailed below.

It is considered that the proposal can be justified on the basis of locational need given its proximity to the existing long established burial ground.

B. Location, Nature and Design of Proposed Development

Planning permission is sought for change of use of an area of agricultural ground to form an extension to the existing Pennyfuir Burial Ground situated on the outskirts of Oban.

Additional cemetery capacity is needed within the Oban area as the existing cemetery is nearing capacity.

The application site is situated to the north of the existing burial ground and shows the extension to be undertaken in two phases, phase 1 is to the north with phase 2 to the east.

Policy LP ENV 19, Development Setting, Layout and Design, requires consideration of the implications of the proposal for the natural, human and built environment. It is considered that this is a low key development which will have little impact on the surrounding landscape given its proximity to the existing burial ground and as such is considered consistent with this policy.

Policy LP COM 1, Community Facility Development, establishes a presumption in favour of new or improved community facilities, provided that they respect the landscape character and amenity of the surrounding area, that they are readily accessible by public transport where available, cycling and on foot and are located close to where people live. It is considered that the proposal will not have a significant adverse impact on the

landscape character and amenity of the surrounding area given the existing situation. The site is on the main Oban to Dunbeg bus route and is also easily accessible for pedestrians and cyclists. It is considered that the burial ground is located close enough to the settlements to be accessed in either of these ways whilst being a sufficient distance as not to cause any amenity issues which may otherwise arise. Accordingly the proposal is considered consistent with the policy.

The proposal has been advertised as a potential 'bad neighbour' development and as such requires to be assessed against Policy LP BAD 1. This policy states a number of criteria which must be met before permission can be granted.

The first point relates to unacceptable adverse effects on the amenity of neighbouring residents. Whilst there are three residential properties in close proximity to the burial ground, they are situated nearest to the existing long established burial ground and it is not considered that the extension to the north will have any significant adverse impact on their existing levels of amenity.

The second point relates to appropriate measures to reduce the impact on amenity and it is considered that landscaping and screening would reduce what little impact the proposal may have.

The third criteria requires that there has been no significant objections from transport, amenity or public service provision. Transport matters have been resolved during the processing of the application and no other objections have been received.

The fourth relates to technical standard with regards to roads issues and again these issues have been agreed with the Trunk Roads Authority.

The final criteria states that the proposal should not conflict with any other Structure Plan or Local Plan policy which it does not.

SEPA was consulted on the proposed development. There was ongoing correspondence between themselves and the applicant and in their final response they advised that they were satisfied that the proposal meets with the requirements associated with new burial grounds.

In this regard it is considered that the proposal satisfies the requirements of Policies LP ENV 19, LP COM 1 and LP BAD 1.

C. Built Environment

Structure Plan Policy DC 9, Historic Environment and Development Control, states that protection, conservation, enhancement and positive management of the historic environment is promoted. Development that damages or undermines the historic architectural or cultural qualities of the historic environment will be resisted, particularly if it would affect a Scheduled Ancient Monument or its setting, other recognised architectural site of national or regional importance, listed building or its setting, conservation area or historic garden and designed landscape.

Policy LP ENV 17, Development Impact on Sites of Archaeological Importance, states that there is a presumption in favour of retaining, protecting, preserving and enhancing the existing archaeological heritage and any future discoveries found in Argyll and Bute.

The site has been identified as an area which has the potential to raise substantive archaeological issues. Accordingly, they were consulted on the proposal and advised that the area proposed as Phase 2 represents a very obvious feature in the landscape at the head of Lochan Dubh, and as such, may have been an attractive focus for past settlement and has the potential to produce buried archaeological deposits.

Accordingly, due to the way in which cemeteries develop, ground disturbance associated with their operation takes place in a piecemeal fashion over a number of years, meaning that there is no practicable way of carrying out archaeological evaluation after consent has been issued. On this basis they advised that a prior archaeological evaluation of the site should be undertaken prior to permission being issued.

This initial evaluation has now been undertaken and the results submitted to West of Scotland Archaeology.

The evaluation indicated the survival of archaeological material in at least two areas of the site, in the form of a cobble-filled pit present to the east of the mound and an area of burning to the south of the lochan. The cobble-filled pit was only half excavated during the evaluation, but it looks very similar in form to features identified during other work at Dunstaffnage and which produced burials. Burnt bone was also found in the area adjacent to the lochan, and this has subsequently been identified as human. Given that the evaluation has identified the presence of potentially-significant archaeological material on the site, West of Scotland Archaeology Service confirmed that there will be a need for a further phase of work if the development is to progress. This can be adequately controlled by means of a suspensive planning condition, which will maintain a mechanism for ensuring the completion of a phase of mitigation fieldwork.

In this regard, subject to an appropriate condition, it is not considered that the proposal will have an adverse impact on the archaeologically sensitive area and is consistent with the criteria set out in Policies STRAT DC 9 and LP ENV 17 which seek to ensure that developments do not have an adverse impact on the character of the built environment.

D. Road Network, Parking and Associated Transport Matters.

The application proposes a new vehicular access taken from the A85 Trunk Road at the northern extremity of the extension together with the formation of a parking area.

The Trunk Roads Authority initially objected to this proposal on road safety grounds.

However, ongoing discussions have taken place between the Trunk Roads Authority, Strathclyde Police and the applicant in an attempt to resolve the road safety issues.

As a result of these discussions, revised drawings for the vehicular access and parking area were submitted in April 2010. The Trunk Roads Authority was consulted on the revised proposals and in May 2010 confirmed that they had no objection subject to the imposition of conditions regarding the construction of the access and provision of visibility splays.

In this regard it is considered that the proposal complies with Policies LP TRAN 4 and LP TRAN 6 which seek to ensure that developments are served by an appropriate means of vehicular access and have a sufficient parking and turning area within the site.

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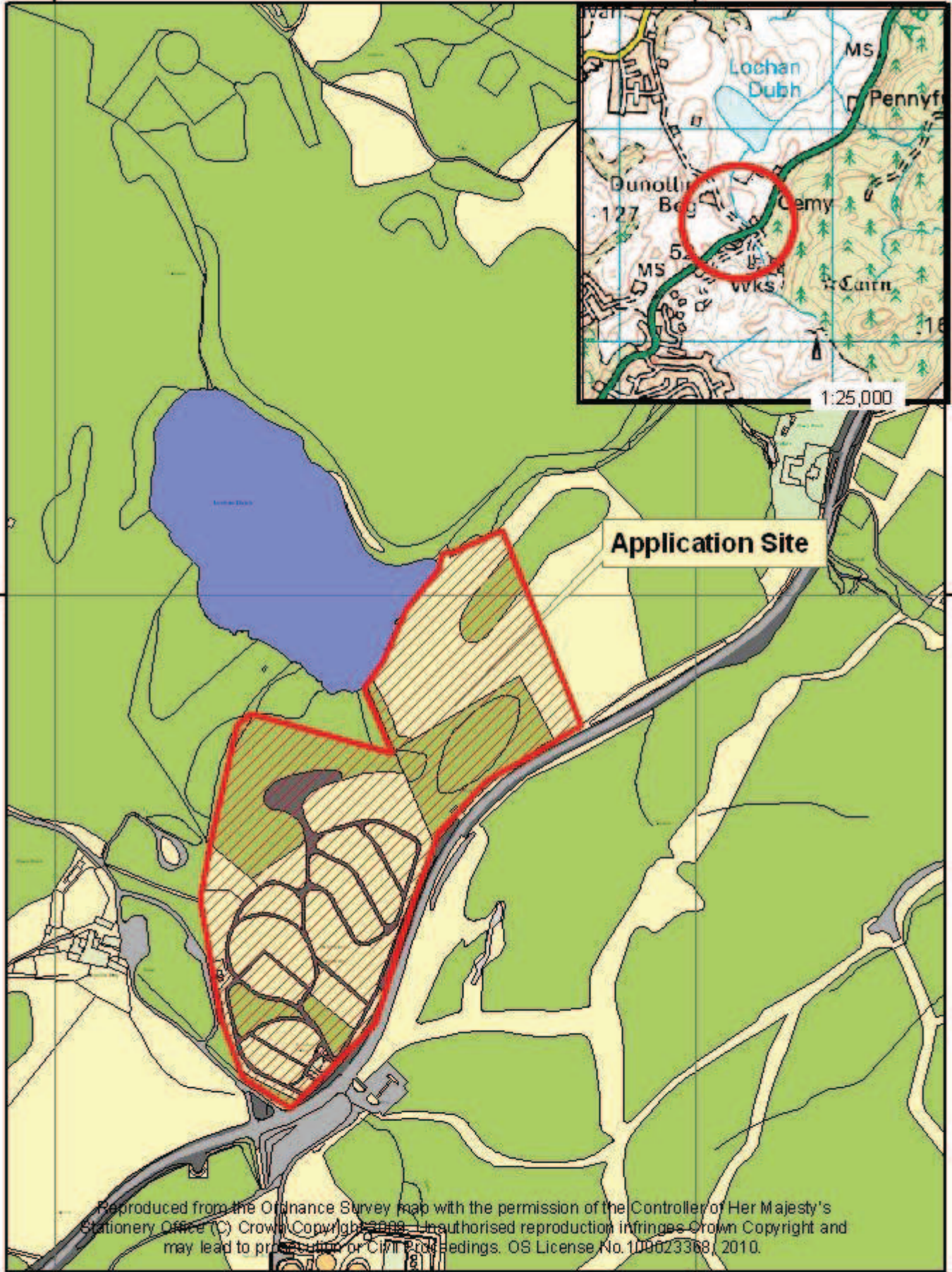
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Committee Plan Relative to Planning Application Ref: 07/01478/COU

Date: 07.09.2010

Scale: 1:5,000



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**Argyll and Bute Council
Development Services**

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 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 10/01817/LIB

Planning Hierarchy: Local

Applicant: Ee-Usk, North Pier, Oban

Proposal: Application for demolition of a Category C(s) listed building

Site Address: Argyll Hotel, Corran Esplanade, Oban

DECISION ROUTE

(i) Local Government Scotland Act 1973

(A) THE APPLICATION**(i) Development Requiring Listed Building Consent**

- Demolition of Argyll Hotel (category C(s) Listed Building)

(ii) Other specified operations

- N/A
-

(B) RECOMMENDATION:

It is recommended that Listed Building Consent be granted subject to the conditions and reasons listed in this report.

(C) HISTORY:

05/00002/REFPLA - Appeal against refusal of consent for Demolition of existing buildings at rear of hotel and erection of 5 Town Houses, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Appeal Withdrawn – 16th February 2005

05/00021/COND - Appeal against condition(s) imposed on application for removal of condition No.2 on planning permission ref no. 04/02426/DET relative to the flats use being restricted to holiday accommodation only - Appeal Dismissed – 25th July 2005

10/01831/PP – Demolition of hotel and erection of new 63 bedroom hotel - Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ – Report appears elsewhere on the agenda.

07/00644/DET – Alterations and extension to the Argyll Hotel, Oban to form Public Bar and Flats, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 3rd January 2008

07/00643/LIB - Construction of nine new permanent flats and associated stair towers to rear of hotel building Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 3rd January 2008

05/02290/DET- Erection of 6 Flats, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Refused - 13th January 2006

05/01547/DET - Erection of Six Flats (rear of Argyll Hotel) Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Refused - 9th November 2005

05/00771/VARCON - Application for removal of condition No.2 on planning permission ref no. 04/02426/DET relative to the flats use being restricted to holiday accommodation only, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Refused - 6th July 2005

05/00485/DET - Erection of Six Flats (rear of Argyll Hotel) Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Refused - 12th July 2005.

04/02426/DET Erection of Three Flats (formerly staff housing) Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 5th April 2005

04/01438/LIB – Demolition of existing buildings at rear of hotel and erection of 2 Town Houses, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 3rd November 2004

04/01436/DET – Demolition of existing buildings at rear of hotel and erection of 5 Town Houses, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Refused - 3rd November 2004

04/01434/LIB – Change of use of and alterations to hotel to form 8 flats with ground floor restaurant and public house, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 1st October 2004

04/01433/COU - Change of use of and alterations to hotel to form 8 flats with ground floor restaurant and public house Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 1st October 2004

04/00053/LIB Demolish and construction of new extension to rear of property and refurbishment, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 5th April 2004

04/00052/DET - Demolish Buildings at Rear of Property and Construct New Rear Extension; Refurbish Existing Hotel - Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 5th April 2004

03/01811/LIB - Demolish existing buildings at rear of property and construct new rear 3 storey extensions and refurbish existing hotel Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 27th January 2004

03/01809/DET - Demolish existing buildings at rear of property and construct new 3 storey extension and refurbish existing hotel Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 27th January 2004

06/00145/ENFLB - Poor State of Repair of C(S) Listed Building. ENF001 - Amenity Notice Served - 20th November 2006

09/00222/ENOTH1 - Interim interdict to restrain owner from carrying out unauthorised works of demolition - 16th February 2009.

09/00222/ENOTH1 - Demolition of a listed building - Amenity Notice Served - 22nd May 2009

(D) CONSULTATIONS:

Transport Scotland (TS) (26th November 2010) – no objection providing a condition is attached to any grant of planning permission to secure a method statement for the development prior to any works commencing on site, in order to maintain the safe and free flow of traffic and pedestrians on the Trunk Road during demolition.

Protective Services (23rd November 2010) - no objection.

Historic Scotland (HS) (3rd December 2010) – has been involved for some time in discussions about the proposals to demolish the Argyll Hotel and have previously provided detailed comments on these. HS understands that Development Management has requested further information from the applicant which may address some of the points they raised previously, and as set out below:

Scottish Ministers policy on the demolition of listed buildings is that no building should be demolished unless it can be clearly demonstrated that every effort has been made to retain it. Planning authorities should therefore only approve such applications where they are satisfied that: the building is not of historic interest; or the building is incapable of repair; or the demolition of the building is essential to delivering significant benefits to economic growth or the wider community; or the repair of the building is not economically viable and that it has been marketed at a price reflecting its location and condition to potential restoring purchasers for a reasonable period. Taking these in turn, HS has commented as follows:

The Argyll Hotel, Oban is of special architectural or historic interest. HS's listing team reviewed the building in 2009 and concluded that it is of interest for its contribution to the streetscape, its part in the early development of Oban, its phased development and its late 19th Century embellishments.

HS note the poor condition of the building and the successive structural reports, but it is not clear to them that the building is incapable of repair. They are concerned at the

condition of some of the rear elevation and would advocate temporary repairs and propping where necessary. However, it has not been demonstrated that demolition is the only option and they would suggest that any reports should examine in detail the options available for retaining the building.

While HS recognise that the current condition and appearance of the building has a negative impact on the town and that there would be an overall public benefit associated with resolving this issue, they consider it likely that a conservation scheme would deliver the most public benefit.

HS do not consider that it has been demonstrated that repair is not economically viable. Some figures have been provided in the past for hotel use, but their view is that some further detail and analysis of any other options is required if it is intended to make the case for demolition on this basis. They are not aware that the building has recently been marketed to potential restoring purchasers.

Built Heritage Conservation Officer (BHCO) (25th March 2011) - agrees with the general approach adopted by HS in their consultation response, comments received are summarised below:

Is the building of Architectural and Historic Interest? - The Argyll Hotel is of both architectural importance and historic interest; representing the architectural, social and economic transition happening in Oban during the mid to late 19th C.

Is the building "incapable" of repair and how economically viable is repair? – It is understood that the reports to date have been visual inspections from the ground. The study of the decay has been based on general observations. It is difficult to be certain that the building is genuinely "incapable" of repair based on this level of investigation or to be certain of the cost of repair to establish whether it could be economically viable.

The applicant's agent has been advised as to how to prepare an appropriate Conservation Plan in order clarify the technical potential for a scheme of conservation and usefully strengthen the argument for or against demolition. The plan which was subsequently produced is largely a discussion of historical development and architectural merit, when referencing condition it relies on the structural reports that already exist and further visual inspection, consequently the technical argument for demolition has not advanced.

A meeting was held with Development Management, the BHCO, HS and, the applicant's agent on the 25th of January 2011 where this issue and others were discussed at length. However the applicant has declined to provide any further justification in support of the application.

Can it be proven that demolition is essential to delivering significant benefits to economic growth or the wider community? - This could be usefully assessed when looked at in comparison with the benefits of retention and repair as part of a conservation scheme. It may be that the benefits of demolition and redevelopment outweigh retention and repair which should be expressed in terms of the advice given in 'Managing Change in the Historic Environment – Demolition'. It is noted that the above comments are focused on built heritage issues and it is recognised that other considerations may pertain in this case, such as the wider public benefit aspects of demolition.

(E) **PUBLICITY:**

Oban Times/Edinburgh Gazette - Listed Building/Conservation Advert – Advert expired 2nd December 2010.

(F) REPRESENTATIONS:

Two letters of representation have been received from :

Royal Commission on Ancient Historical Monuments (RCAHMS), Threatened Buildings Survey, John Sinclair House, 16 Bernard Terrace, Edinburgh, EH8 9NX.
Kaja Musgrove, email representation, no postal address supplied.

The points of representation are summarised below

Under Section 7 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, there is a duty for the applicant to notify the Commission in advance of demolition in order to allow sufficient opportunity for the building to be recorded should the Commission wish to do so.

Comment: the agent was advised of this on receipt of the advice to ensure that should listed building consent be granted, the applicant would not suffer any unnecessary delay between the granting of any consent and being in a position to implement such a consent. Contact with RCAHMS is therefore likely to have already been made.

Appauled at the prospect of Oban losing this building. As a frequent visitor to Oban I would hate to see this building demolished and replaced by an average building that could be found in any part of the UK.

Comment: See assessment

NOTE: Committee Members, the applicant, agent and any other interested party should note that the consultation responses and letters of representation referred to in this report, have been summarised and that the full consultation response or letter of representations are available on request. It should also be noted that the associated drawings, application forms, consultations, other correspondence and all letters of representations are available for viewing on the Council web site at www.argyll-bute.gov.uk

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) Environmental Statement:** No
- (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
- (iii) A design or design/access statement:** No
- (iv) A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** Yes
 - Conservation Plan (received 10th January 2011)
 - Feasibility Cost Option Appraisal, Grontmij (February 2009)

- Letter from Grontmij, regarding Feasibility Cost Option Appraisal (30th March 2009)
 - Structural Appraisal Inspection, Grontmij (September 2008)
 - Letter from Effective Engineering regarding Structural Inspection of Partial Collapse of Rear Facade & Visual Appraisal of Overall Stability of Property (29th June 2010)
-

(H) PLANNING OBLIGATIONS

- (i) **Is a Section 75 agreement required:** No
-

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

'Argyll & Bute Structure Plan' (Approved 2002)

Policy STRAT SI 1 – Sustainable Development
Policy STRAT DC 1 – Development within the Settlements
Policy STRAT DC 9 – Historic Environment & Development Control

'Argyll & Bute Local Plan' (Adopted 2009)

Policy LP ENV 13(b) – Demolition of Listed Buildings
Policy LP ENV 14 – Development in Conservation Areas and Special Built Environment Areas (SBEA)
Appendix A: Listed Buildings & Special Built Environment Areas

- (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 4/2009.**

- Scottish Planning Policy
 - Scottish Historic Environment Policy, 2008 (SHEP)
 - Managing Change in the Historic Environment – Demolition
 - Argyll & Bute Economic Development Action Plan (2010 – 2013)
 - Structural Inspection report produced by ATK Partnership on behalf of Council's Building Standards service (16.12.10)
-

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

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

No

(M) Has a sustainability check list been submitted: No

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

(O) Requirement for a hearing: No

(P) Assessment and summary of determining issues and material considerations

The key issue in the determination of this case is whether sufficient justification has been provided for the demolition of this category C(s) listed building.

Government and development plan policy presumes against the loss of listed buildings unless the case advanced for demolition satisfies criteria established by the relevant policies and associated advice. Historic Scotland has thus far been unable to draw a conclusion on whether or not the case for demolition can be demonstrated to their satisfaction, as they consider that there is still information outstanding which would enable them to be conclusive in the matter.

However, notwithstanding the reservations expressed about the adequacy of the case advanced for demolition, Development Management is satisfied, albeit the applicant has proven unwilling to submit a 'consolidated package' as part of the application, that throughout the 10 years the building has remained derelict; the 2 years of pre-application discussions, and the listed building consent application determination process, sufficient information has been accrued to justify the demolition of this building.

Development Management acknowledges that no decision to demolish a listed building should be taken lightly, but considers that the information available points towards part of the building suffering from serious structural problems that would preclude its retention, with the consequent prospect of incorporation of part of the remaining section of the building into a new development being both practically and financially unviable (despite the fact that the supporting information falls short of being sufficient to satisfy Historic Scotland in this regard).

Additionally, there would be significant economic and community benefits in being able to demolish this problematic building in order to facilitate redevelopment of the site for a modern hotel development (Subject of associated application 10/01831/PP). Such benefits would arise in terms of improved tourist facilities, improvement in the settings of

adjacent listed buildings, economic development and the removal of a long standing unsightly and deteriorating building which impacts negatively on the townscape of Oban town centre. It is clear from the lack of public representation that there is no strong community feeling about the retention of this building, although it has featured a number of times in the local press where its condition has attracted adverse comment.

Scottish Historic Environment Policy, 2008 (SHEP) and the associated guidance in 'Managing Change in the Historic Environment – Demolition' is clear that historic buildings should be safeguarded wherever possible, but there is also realisation that there will be circumstances where economic repair and re-use of problematic buildings will not prove possible and that in those cases demolition may be a last resort which could unlock opportunities for community and economic benefit. SHEP establishes four criteria against which demolition applications should be assessed. Of these, it is considered that two are satisfied in this case (repair not economically viable, and demolition essential to the delivery of wider economic and community benefits) and one is partially satisfied (part of building incapable of repair). SHEP policy is that only one criteria needs to be satisfied to justify demolition.

This building has been the subject of a number of previous consents none of which have been implemented by a series of successive owners. Its ongoing neglect and deterioration has impacted adversely for many years upon this part of Oban, which relies upon its natural setting and its built environment to continue to draw visitors which are so important to its economic wellbeing. The demolition of this building and associated redevelopment of the site for a modern hotel (subject of associated application for planning permission) offers significant benefit to the local community and the tourist economy, sufficient to outweigh any disbenefit associated with the loss of historic fabric.

Its demolition is considered consistent with historic environment policy insofar as it would secure community and economic benefit not otherwise achievable by the retention of this building, which in view of the level of information available about its condition, would be highly unlikely to prove capable of refurbishment for ongoing use as a hotel, or for any other purpose, at economic cost. In the current economic climate it is unreasonable to expect that sources of grant assistance would be available to address funding deficit.

Historic Scotland's advice requires that not only should the benefits of the development be set out but there should be also clear evidence that every effort was made to incorporate the listed building into it, or to place the development in an alternative location. In this case, there is to be appropriate redevelopment of the site by a modern hotel, proposals for which are considered to be acceptable and which are recommended for approval elsewhere on the agenda. It has been the protracted negotiations required to secure an appropriate design solution for this building which has led to the delay in being in a position to determine this associated application for demolition. The suitability and quality of the redevelopment proposals should therefore be considered material to the wider economic and community benefit of the overall proposals for the redevelopment of the site for continued use for a hotel. It is not considered that retention of those parts of the building which are less structurally compromised would be a practical proposition in the development of a new hotel on the site, with façade retention having been discounted as being uneconomic. There are no other available sites in Oban town centre which would be suitable for a hotel development of the scale proposed.

With the foregoing in mind, it is considered that SHEP policy criteria have been satisfied and that the requirements of development plan policies STRAT DC 9 and LP ENV 13(b) have been met.

It would be particularly important to ensure that any demolition consent be conditioned to prevent implementation in advance of a contract being let for an approved redevelopment scheme, in order to avoid the site being cleared and no replacement building constructed, leading to a situation where an unsightly 'gap site' might arise for an indeterminate period of time, to the detriment of the surrounding area and the settings of adjacent listed buildings. An appropriate condition is recommended to this effect.

In the event that Members are minded to support demolition, the application would require to be referred to Historic Scotland for clearance, affording an opportunity for them to ask that it be 'called in' for determination by Scottish Ministers.

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

(R) Reasons why listed building consent should be granted

The application has been considered in the light of 'Scottish Historic Environment Policy', 2008 (SHEP) and the associated guidance in 'Managing Change in the Historic Environment – Demolition', and in terms of the provisions of the development plan, which conform to that policy. This building has been vacant for many years and its condition has deteriorated to a point where it is unsightly, has a negative influence upon its townscape setting and has structural defects which require a close watch in order to be able to maintain public safety. Successive owners have failed to implement previous consents entertaining refurbishment of the building. The information available from the current owner in association with the application points towards the building not being capable of repair and re-use at economic cost (albeit that the supporting information falls short of being absolutely conclusive in this regard). What is clear, is that there would be significant economic and community benefits in being able to demolish this building in favour of the associated hotel redevelopment proposed by the owner, and that there would be significant opportunity cost in not so doing. Such benefits would accrue in terms of improved tourist facilities, improvement in the settings of adjacent listed buildings, economic development and the removal of a long standing unsightly and deteriorating building which impacts negatively on the townscape of Oban town centre. These are of sufficient material weight to support the demolition of this problematic building, which neither lends itself in physical nor economic terms to the provision of modern hotel accommodation, in favour of development which would support the continued use of this site as a hotel to the overall benefit of the economic development of Oban and the maintenance of its role as an important tourist destination.

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

N/a

(T) Need for notification to Scottish Ministers or Historic Scotland:

In the event that Members are minded to support the recommendation to grant conditional listed building consent for demolition, the application is required to be notified to Historic Scotland, thereby affording the opportunity for Scottish Ministers to give consideration to the need to 'call-in' the application for their own determination.

Author of Report: Arlene H Knox **Date:** 31st March 2011

Reviewing Officer: Richard Kerr **Date:** 1st April 2011

Angus Gilmour
Head of Planning and Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION 09/01817/LIB

1. That the development to which this permission relates must be begun within three years from the date of this permission.

Reason: In accordance with Section 20 of the Planning etc. (Scotland) Act 1997.

2. Before the demolition hereby permitted is first commenced, the developer in consultation with the Planning Authority shall draw up a schedule of materials and items which shall be reclaimed from the site during or prior to demolition. This shall include the reclamation of existing slate from the building. These materials and items shall be satisfactorily set aside, stored and/or used in a manner which shall first be agreed with by the Planning Authority, prior to any demolition taking place.

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

3. Prior to the commencement of demolition, a scheme shall be submitted to and approved by the Council as Planning Authority for the temporary reinstatement of the cleared site. The scheme shall include *inter alia* details of surface treatment, the treatment of newly exposed building gables, and screening of the site, including a timetable for the demolition and reinstatement. The development shall proceed in accordance with the duly agreed scheme and the timetable for its implementation.

Reason: To ensure that the cleared site does not compromise further the settings of the adjacent category B listed buildings and/or downgrade the environmental quality of the Special Built Environment Area of which it is a part.

4. The demolition of the building shall not proceed until satisfactory evidence has been submitted to the Planning Authority to show that a contract has been let for the redevelopment of the site in accordance with proposals for which planning consent has been obtained.

Reason: In the interests of visual amenity and the built environment in order to prevent the premature demolition of the property concerned.

5. Prior to the commencement of demolition, a Demolition Method Statement shall be submitted to and approved in writing by the Planning Authority in consultation with, Historic Scotland and Transport Scotland. The Demolition Method Statement address intentions in respect of:

- Demolition Methodology - Type and sequence of demolition and site establishment;
- Hazardous Materials - special arrangements required for the potential removal and disposal of any asbestos;
- Notification of demolition to adjacent property owners and local residents;
- Dust & Noise Reduction Strategy - steps to be taken to minimise the risk and nuisance to adjoining land, building or road users
- Proximity to Other Structures - Trunk Road, Public Footpath, Public Right of Way (Pend), Access Rights of Adjacent Properties (Pend), Regent Hotel (Category B listed building), Oban Inn (Category B listed Building) and Charles Street (Category B listed buildings)

- Traffic Management

Reason: To protect the structural integrity of the adjacent listed buildings, the character of the Special Built Environment Area, in the interests of Public Health and Safety and, to maintain the safe and free flow of traffic and pedestrians on the Trunk Road during demolition.

NOTE TO APPLICANT

- 1 Under the terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, section 7(2)(b)(c), applicants receiving consent for works of demolition to a listed building must: notify RCAHMS of their intention to carry out the work; thereafter allow RCAHMS reasonable access to record the building for at least 3 months following the granting of consent and the giving of notice to the Commission, during which time demolition may not be undertaken unless RCAHMS has indicated in writing that its record has been completed or that they do not wish to record it. The RCAHMS contact details are as follows:

The Royal Commission on Ancient Historical Monuments (RCAHMS),
Threatened Buildings Survey,
John Sinclair House,
16 Bernard Terrace,
Edinburgh,
EH8 9NX.

susan.dibdin@rcahms.gov.uk

0131 651 6773

Note: It should be noted that both listed building consent and planning permission are required for the demolition and redevelopment of this site, consequently, both must be obtained before work can commence. No work should therefore commence until such time as the Planning Permission sought under 10/01831/PP has been granted, and all relevant pre-commencement of work conditions and the requirement to notify RCAHMS have been satisfactorily discharged and addressed.

- 2 This consent should not be construed as having any effect in respect of either public or private access rights as may be capable of being demonstrated in respect of the Pend through the existing building, which affords a public means of access to Charles Street and beyond, and where it is understood that private rights exist in respect of the servicing of adjacent premises. Whilst any disputes concerning private access rights would be a civil legal matter between the site owner and the persons seeking to exercise such rights, public access would require to be either maintained, or to be extinguished by way of a Stopping-up or Diversion Order under the Roads (Scotland) Act 1984. The developer would be expected to meet the legal cost of any such Order and no obstruction of the route afforded by the Pend (notwithstanding the demolition of the building incorporating that Pend), should take place until the required Stopping-up or Diversion Order has been sought and has taken effect.

APPENDIX B – RELATIVE TO APPLICATION NUMBER: 10/01817/LIB

PLANNING LAND USE AND POLICY ASSESSMENT

A. Introduction

Listed building consent and planning permission are two quite separate statutory requirements governed by different laws which serve different purposes. Where both are required both must be obtained before work can commence. The building in question is also the subject of an application for planning permission (10/01831/PP documented elsewhere on the agenda), for the erection of a new 63 bedroom hotel, which is being considered in tandem, with this application for listed building consent to demolish the existing category C(s) listed hotel. It should be noted that 'demolition' in this case refers to the 'destruction of the whole building'.

The Argyll Hotel is listed because Historic Scotland considers the building to be special of special architectural or historic interest. The loss of this listed building has to be considered in terms of the loss of historic fabric and the potential to lead to the erosion of an Oban's character, distinctiveness and sense of place. There is a strong national and local presumption against the demolition of listed buildings without appropriate justification.

The Argyll Hotel's condition has been deteriorating for a very long time, approximately ten years, and despite having been marketed and having had a succession of owners as well as a number of planning permissions and listed building consents over this time period, none have come to fruition and the building has failed to be brought back to its former use or to be re-occupied for any alternative use.

Whilst this situation is unfortunate, Development Management is now of the view that it is imperative that a decision is made about the future of this deteriorating building, which continues to fall into a progressive state of disrepair to the detriment of the appearance of this part of Oban, to the settings of adjacent listed buildings and with potential consequences for the maintenance of public safety. Based on the history of the building and the failure of successive owners to bring it back into use over an extensive time period, it is clear, that to force the re-marketing of the building now, based on the current economic climate is not a sensible option, and that regrettably a decision is required as to whether demolition is now the appropriate option.

There are therefore two choices to make, based upon what is known about the building, the policy position established by national guidance, and the provisions of the development plan which conform to that guidance. Firstly, to refuse the application for demolition, on the basis of insufficient justification or evidence, based on the current position of Historic Scotland – who have not recommended refusal, but consider there is insufficient supporting documentation for them to draw a conclusion in the matter. This option poses significant risk, as the applicant has indicated that should this be the outcome, they would not intend to seek to repair and refurbish the building as such a project would be unviable from their point of view. This could well consign the building to a further period of uncertainty and ongoing dilapidation to the detriment of the tourism economy of Oban, to the integrity and character of the adjacent category B listed buildings the remainder of designated Special Built Environment Area, and with likely need for further intervention to avoid risk to public safety.

The alternative would be to acknowledge that although the applicant has declined to provide the additional information requested by Historic Scotland in the form of 'consolidated' evidence to support demolition, to give credence to that information which

is available, in order to conclude whether one or more of the SHEP criteria can reasonably be considered to have been met, in order to be able to move the matter forward in the most appropriate and balanced way.

B. Pre-application

Development Management, The Council's Conservation Officer and Historic Scotland (HS) have been involved in almost 2 years of preliminary discussions regarding the demolition of the Argyll Hotel and proposed redevelopment of the site for a replacement hotel. Indeed, many of the supporting reports were actually provided during the pre-application phase. The applicant was clearly advised during this process where there were deficiencies in the information available and what further information would be required to be submitted as part of the formal listed building consent and planning application process. However, he did not take the advice of the Historic Scotland Inspector or Planning Officials on board and this resulted in an application which lacks a comprehensive argued case and relies on a more piecemeal package. As a result of this, despite the obvious condition of the building and the level of information available (about structural condition, viability for economic re-use and so on) Historic Scotland have been unable to conclude that demolition, as a last resort, has been justifiably demonstrated.

During this period and whilst the subsequent application has been under consideration,, due to the deterioration in the building, the applicant has been working together with Building Standards to ensure the building does not compromise public safety. At present the building is shored up at the back, loose slates have been removed from the roof, and work has been carried out to afford a measure of protection to the users of the Pend through the building and the access to other property along the rear of the building. This temporary 'mothballing', by securing the building and maintaining basic wind/water tightness has been an appropriate alternative to demolition whilst the relevant planning and listed building consent applications have been under consideration, but is most certainly not an appropriate longer term solution.

C. Location and Nature of Proposed Development

The Argyll Hotel is located on the Corran Esplanade, Oban within a 'Special Built Environment Area' as defined by the 'Argyll & Bute Local Plan' (adopted 2009). It is located in between the Regent Hotel (category B listed) and the Oban Inn (category B listed) and faces the Columba Hotel (category B listed) on the opposite side of the Esplanade. To the rear of the building, there is a complex of houses (now completely surrounded and dwarfed by later tenements to the George Street, Stafford Street, and Corran Esplanade, accessible only by a vennel at the north east end corner of the block and a pend beneath the Argyll Hotel) known as 'Charles Street'. The Ordnance Survey map of 1870 shows Charles Street exposed to the harbour before the building of the tenement on Stafford Street. The south facade of Charles Street once formed the frontage to a recess to the north front of the former George Square, with the Oban Inn to the west. These buildings, therefore, are an important part of the original planned town and are also category B listed (although given that they have become backland buildings, they are sorely neglected and in a very poor state of repair). For these reasons, the future of the Argyll Hotel must be regarded not only in terms of the potential loss of historic fabric and townscape contribution in the event of its demolition, but also the potential impact either retention or demolition could have on the

settings and integrity of the category B listed buildings which are attached to and surround the Argyll Hotel.

The Argyll Hotel itself has been given a category C(s) listing by Historic Scotland (16th May 1995). It has been the subject of 4 building phases of early, earlier, mid-to-late and late 19th century. The buildings are traditional in style with Scots Baronial embellishments to the upper floors. It comprises a 10-bay frontage, comprised of 3 terraced buildings on the Corran Esplanade and prior to past unauthorised demolition, an adjoining annexe to the rear. The walls to the street elevation are painted, coursed rubble and to the rear are random rubble. There are droved dressings and raised margins with projecting cills to the window openings.

Historic Scotland's listing team reviewed the building in 2009 and concluded that it warranted continued protection as a listed building.

D. Supporting Information

The supporting documentation supplied by the applicant comprises the following: Structural Appraisal Inspection, Grontmij (September 2008); Feasibility Cost Option Appraisal, Grontmij (February 2009); Letter from Grontmij, regarding Feasibility Cost Option Appraisal (30th March 2009); and, a Letter from Effective Engineering regarding Structural Inspection of Partial Collapse of Rear Facade & Visual Appraisal of Overall Stability of Property (29th June 2010); and a Conservation Plan (received 10th January 2011).

Structural Appraisal Inspection, Grontmij (September 2008) – this document comprises an introductory chapter; as well as chapters on facades; foundations; link corridors; the roofs; internally; conclusions and recommendations and a selection of photographs.

Undertaken in 2008, it concludes that:

“it is clearly evident that all of the buildings are in a state of serious dilapidation with widespread water ingress, dampness and timber decay evident throughout (supported by photographic evidence), which has resulted in many ceiling areas and finishes having collapsed. The water ingress has also affected all timber roofing members, partition walls, stairs and suspended floors.

The masonry facades are all extremely friable and incorporate some areas of Drimvargie stone which is also friable and delaminates readily when subject to abrasion. Throughout all the facades, both internally and externally, loose stone and widespread cracking is evident on all timber safe lintels identified within the walls, revealed timber decay of varying degrees.

No foundations were identified, with the base of the facades appearing to be constructed at minimum depth below ground level on sands and gravel shingle.

On the front building, the inclusion of steel ties rods appears to have been reasonably successful in restraining the outward movement of the front and rear facades, however, the ongoing medium to long term stability cannot be relied upon given the presence of the widespread timber decay identified internally and to which the rods appear to be secured to”.

The recommendations in this report are as follows:

“when assessing the suitability of this property for redevelopment it is necessary that all factors are taken into consideration, including but not limited to the structural integrity of the buildings, their adaptability of layout with regard to any inherent constraints that may be present and the condition of the fabric.

Unfortunately the fabric within all buildings is in a significantly advanced state of disrepair due to prolonged moisture ingress and all internal floors, stairs and roof members require to be replaced and no timber elements can be retained.

The layout of the internal rooms and the warren of interconnecting corridors, low ceiling heights and differing relationships between floors means that the current layout is totally impractical for redevelopment in respect of disabled access and unsuitable in current day standards to provide an acceptable quality accommodation.

Having concluded that all the internal walls floor and roofs require to be replaced the next key factor in any redevelopment becomes the structural integrity of the masonry facades. Unfortunately the walls are constructed without proper foundations and are built at shallow depth off the former beach deposits which comprise sands and gravel shingle.

The wall incorporate a mixture of poor quality stone and random rubble including sandstone interspersed with some areas of Drimvargie stone and are in extremely poor condition as described earlier in this report leading to us to conclude that their long term integrity is compromised and they are unsuitable to support the loadings generated by replacement floors. In many circumstances facades can be retained by the incorporation of an independent structural frame to which the masonry can be tied to, however, in this case we are of the opinion that this is not feasible due to the condition of the stone and the restricted available depth of the buildings to enable cost effective solution to be incorporated.

We therefore conclude that the property is beyond economic repair and is unsuitable for redevelopment”

Feasibility Cost Option Appraisal, Grontmij (February 2009) – this document comprises an introductory chapter; as well as chapters on options; financial viability; option 1; option 2; option 3 & 4 and a summary, as well as Appendices on the Feasibility Costs and Drawings. This report may be summarised as follows:

“the purpose of undertaking the cost analysis is to identify the economic viability of retaining the existing facade or replicating the new facade within the proposed new hotel development.

With a cost of £60,000 per bedroom being the upper value in the financial viability range of a mid range hotel, we conclude that only Options 3 & 4 could prove viable.

The preliminary layouts of all schemes prepared for this exercise currently incorporate generous public space of approximately 16% of the total floor area We believe that these areas can be reduced and the floor layouts improved through the detailed design development which can result in savings of around 5 to 10% for each option, bringing the costs of Options 3 & 4 more into line with the mid range hotel upper limit of £60,000 per bedroom.

Cost Summary

Option		No. Of Bedrooms	Capital Cost	Cost/bedroom
1	Retained Facade	37nr Bedrooms	£3, 692, 572.81	£99,799.27
2	Reconstructed Facade	37nr Bedrooms	£3, 297, 682.25	£89, 126.55
3	New Build	60nr Bedrooms	£3,929,566.90	£65,492.78
4	New Build (lesser floor area)	60nr Bedrooms	£3,693,060.00	£61, 551.00

In Option 1 the costs currently exclude any major works to the existing facade associated with tying , strapping or any requirement for localised rebuilding. Collateral warranties, facade retention system design fees and monitoring procedure are also excluded from these costs. It is difficult to accurately define these costs at this time however, typical allowances can be of the order of Warranties - £7.5K, Design Fees £9.5K and Monitoring £16K.

Options 1 and 2 are not viable on an economic basis due to the size restrictions of both these developments and the level of services required to attract the enhanced rates that these costs demand, cannot, in our opinion, be incorporated into these options. However, regardless of these additional costs, the technical viability of retaining the integrity of the facade may not be a structurally viable option as concluded in Grontmij's structural appraisal report dated 15th September 2009.

In conclusion, Option 1 and 2 are not economically feasible, and in respect of Option 1, the inherent deficiencies in the quality and the integrity of the stonework as detailed in Grontmij's Structural Appraisal Report, renders it highly unlikely that a satisfactory solution can be achieved to retain the majority of the facade intact.

We therefore conclude that in our opinion from the above and the attached costs, only Options 3 & 4 can be considered to prove economically viable.

Whichever option is finally adopted, it is worth noting that developing the site will bring economic benefit to the local community, where by example, maximising the development opportunities on the 60 bed new build options, we anticipate employment can be generated for around 40 staff.

Letter from Grontmij, regarding Feasibility Cost Option Appraisal (30th March 2009) – this letter provides further justification on the non-viability of retaining the existing property for incorporation into the new proposals. This letter focuses on the four SHEP criteria and the requirement that proposals for demolition must meet one or more of the criteria relating to: 1. historical interest of the building; 2. buildings incapable of repair; 3. building is incapable of economic repair; or 4. the replacement scheme offers significant community benefits.

"in respect of the above criteria we have not commented on Condition 1 or 4, as we believe our client has previously demonstrated the shortcomings associated with retaining the existing building, however in respect of our report we can offer further comment on Conditions 2 and 3.

Condition 2: Grontmij Structural Inspection Appraisal Report dated September 2008 details the condition of the buildings at the time of our inspections, identifying the deficiencies in the structure, fabric and layout constraints and we believe clearly demonstrates the condition of the building is such that no internal floors, walls, stairs or

the roof structure are suitable for retention. Our report also identifies that the facade integrity is compromised by the condition of the masonry and the poor quality stone, which is deemed unsuitable to carry the loadings generated by the new floors. Our report also highlights that the facade has no foundations. The foundations can be underpinned, however, the replacement of the widespread areas of poor stonework negates the desire to retain the facade especially where the quantification of the economic risk impacts on the viability to retain or replace, and to rebuild the facade would detract from the buildings historic significance even with the building architecture being recreated.

Condition 3: Grontmij's Cost Option Appraisal Report dated February 2009 presents the economic viability of the available options for the redevelopment of the property and clearly demonstrates that retention or rebuilding of the facade is uneconomic due to the constraints placed upon the size restriction of the development. The costs of retaining/replacing the facade are quantified in the report however in respect of being able to show the marketing potential of the finished building we would comment that there are no recent trading records for the current property as it has lain derelict for the past ten years, however we would anticipate that realising a value of no greater than £60k/bedroom would not be unreasonable to assume in today's current climate, which is well short of the capital cost of £99.8k/bedroom identified within our report.

Together with our comments contained above we would hope that our condition report dated September 2008 and our cost appraisal report dated February 2009, clearly demonstrates the criteria for demolition have been met".

Letter from Effective Engineering regarding Structural Inspection of Partial Collapse of Rear Facade & Visual Appraisal of Overall Stability of Property (29th June 2010) – this letter reaches the following conclusions and recommendations:

"the previous inspection report considered the building to be beyond economic repair and refurbishment and given the condition of the rear wall and the subsequent marked deterioration in the building condition overall, we recommend consideration be afforded to demolishing the building as soon as possible to remove the ongoing risk of further more substantial failures occurring and to protect the general public from the risk of falling masonry or roof slates or indeed a more substantial collapse of the building.

We understand that following the previous condition report in 2008, the building was granted a demolition warrant on the 5th June 2009, however, due to the "listed" classification of the building, the approval of both the Planning Department and Historic Scotland is a condition of the warrant and that due to ongoing negotiations with these bodies the demolition has not progressed to date.

It is clearly apparent that the internal condition of the property has significantly deteriorated since the last structural inspection in September 2008 with significant areas of building now considered unsafe to enter. Ongoing deterioration of the roof finishes has resulted in further water ingress and consequent decay and deterioration of the roof timbers and floor joists is progressing at an alarming rate to the significant detriment of the stability of the front and rear facades.

The only way to remove the ongoing risk to public safety is to demolish the property at the earliest opportunity and we therefore recommend that our concerns should be conveyed to, and discussed with, the planning authorities as a matter of urgency given that measures currently implemented are both inadequate and unsustainable in the medium to longer term.

Structural Inspection report produced by ATK Partnership on behalf of Council's Building Standards service (16th December 2010) – This provided advice to the Council in respect of additional works required to address risks presented to public safety. It noted that rear floor joists and wood lintels were affected by rot and that water ingress had brought down ceilings and had affected rafter feet. Deterioration in a gable and settlement of the roof was also noted. The front elevation was found to be in reasonable order but the rear elevation was affected by stone erosion, settlement and cracking. Partial failure of the affected area could lead to progressive collapse of stonework and internal floors. Short-term remedial recommendations included provision of internal acrows to support rot affected joists, block repairs to affected stonework, bricking up of openings in affected areas and internal ties to restrain affected stonework. It was also considered that better protection should be afforded to users of the Pend and that a flying shore restraint should be used to prop the rear of the building in the event that it was not to be demolished to provide longer-term security against possible future structural failure. These recommendations were subsequently implemented.

Conservation Plan (received 10th January 2011) – this document contains an introductory chapter as well as chapters on: the Argyll Hotel; immediate neighbour's to the Argyll Hotel; Historical Development; Interpretation of Development; Interior Alterations; Assessment of Significance; and, Practical issues. It also contains an Appendix containing 'Condition Photographs'. It is this document that Historic Scotland and the Built Heritage Conservation Officer consider requires to be more 'consolidated' with justification supported by additional information and reference to preceding documentation. The applicant has however declined to expand upon the information provided up to this point, and has requested that the application be determined on the basis of the information available thus far.

The concluding Chapter of this document "Practical Issues" states that:

"Beyond considerations of cultural and historic significance, a number of practical and economic issues inevitably come into play when considering the future of the Argyll Hotel. Most of these have already been considered in the Architectural and Structural Reports. The main issues which have an impact on the future of the building are discussed briefly here.

As a demolition warrant has already been issued, the demolition of the Argyll Hotel is a distinct possibility. The interior of the hotel is effectively beyond saving, and from the remaining evidence, does not seem to have been of any great historic or artistic merit. Beyond the interior finishes, recent structural reports (2008 and 2010) also indicate that the underlying structure is in very poor condition. One of the wings to the rear has recently been demolished and parts of the rear elevation are in a dangerous condition. For this reason, combined with access restrictions, the Conservation Plan has inevitably focussed on the overall form of the hotel, and its facade fronting the Corran Esplanade.

One of the few options remaining for the hotel (apart from the complete demolition) is retention of the Victorian facade fronting Corran Esplanade, followed by redevelopment behind the facade. There are a wide range of physical, structural, practical and economic issues involved in the assessment of such an option. However, from the heritage and conservation perspective of this Conservation Plan, facade retention would preserve the positive elements of the hotel's significance, particularly its townscape value. However, this must be balanced against the limited architectural value of the facade and the negative consequences of creating a pastiche. A precedent of breaking the Victorian panorama of the esplanade was set more than eighty years ago, by the

building of the 'art deco' block of the Regent Hotel, and by numerous subsequent alterations and rebuilds, further north along the esplanade.

In the event of a future decision to wholly or partly demolish the Argyll Hotel, little difficulty should be experienced at its boundary with the Regent Hotel, which was built later, and is in good condition. More care would be required at the juncture of the Argyll with the pre-existing Oban Inn, which seems to be partly keyed into the Argyll. . .

In the event of demolition, there are no remaining features of particular significance in the hotel".

It should be noted that Development Management commissioned the Argyll Partnership to undertake a cost estimate for Option A – which was to retain the façade and form 32 bedrooms. The results were received back on the 8th June 2009, and concluded that this would involve a cost per room of £106,192.31 (greater than that calculated on behalf of the applicant) which was considered to be an uneconomic proposition.

E. Scottish Historic Environment Policy (2008) - (SHEP)

This document, in association Scottish Planning Policy on the Historic Environment (SPP 2010), expresses Scottish Ministers' policy on the historic environment. It indicates that protection of the historic environment is not about preventing change. Change in this dynamic environment should be managed intelligently and with understanding, to achieve the best outcome for the historic environment. SHEP recognises that once lost listed buildings cannot be replaced. There is, therefore, a presumption against demolition or other works that adversely affect the special interest of a listed building or its setting.

Where the application proposes the demolition of a listed building, such as in this instance, the SHEP policy requires that they provide evidence to show that at least one of the following criteria has been satisfied:

- 1) the building is not of special interest; or
- 2) the building is incapable of repair; or
- 3) the repair of the building is not economically viable and that it has been marketed at a price reflecting its location and condition to potential restoring purchasers for a reasonable period; or;
- 4) the demolition of the building is essential to delivering significant benefits to economic growth or the wider community.

Potential applicants are encouraged to have pre-application discussion with planning authorities and Scottish Ministers expect planning authorities to provide pre-application advice. A key aspect of that advice, to avoid delays at a later stage, should be to clarify what supporting information will be required when an application is submitted. Where proposals involve significant intervention to, or the demolition of a listed building the planning authority should involve Historic Scotland in the pre-application discussions. All of Scottish Ministers requirements have been conveyed to the applicant, although he has not provided information in a form which has satisfied Historic Scotland.

Although SHEP establishes a presumption in favour of retention of listed buildings it recognises that decisions on the fate of individual buildings often have to take into account economic realities. It is considered that the case before us falls into such a category, and it has been concluded that the best outcome for the historic environment

in this case, given the dilapidation of the building and the absence of any apparent viable options for its re-use, is the demolition of the Argyll Hotel, in the interests of protecting the settings of adjoining listed buildings and maintaining the qualities of the Special Built Environment Area.

In this instance, having taken all of the supporting information, and advice of consultees into consideration Development Management is satisfied that two of the SHEP criteria have been met (only one is required to be met) although it is recognised that the lack of a consolidated case has made this judgement difficult in the face of continuing concerns from Historic Scotland.

It is considered that firstly, demolition of the building is essential to the delivery of significant benefits in terms of the tourist economy of Oban both in terms of the contribution development would make to the fabric and appearance of the area, and the opportunity it would provide to secure investment in redevelopment providing a significant tourism asset. Such an approach would be in the interests of economic development and in the interests of the wider community and would satisfy one of the four SHEP criteria. Secondly, on the basis of the information reviewed in Section D above, on the balance of probability, the repair of the building is not likely to be economically viable in view of its physical configuration and its dilapidation, and it can reasonably be concluded that it does not lend itself to refurbishment to provide hotel accommodation to modern standards.

Having due regard to all of the above it is considered by Development Management that there is justification for accepting demolition firstly, on the grounds that repair of the building would not be economically viable in this case, and secondly, on the basis of economic and community benefit, associated on the one hand with the removal of this problematic and deteriorating building, and on the other with the opportunity which redevelopment of the site would offer in terms of the development of the local tourism economy. Accordingly the demolition of this Grade C(s) building is considered consistent with the balanced approach advocated by Scottish Historic Environment Policy (2008). The reasoning behind this stance is examined in greater detail in the section below which considers the case in the light of Historic Scotland's published policy on the demolition of listed structures.

F. Managing Change in the Historic Environment – Demolition

Historic Scotland's advice to planning authorities is contained in a series of publications addressing 'Managing Change in the Historic Environment'. The document covering demolition indicates that applications should be assessed against the following tests: importance of the building; condition of the building; economic viability of reusing the building; and, wider public benefits, in line with national policy. To obtain consent for demolition, applications need to meet at least one of these tests.

Importance of the Building

Consent may be granted for the demolition of a building that is no longer of sufficient merit to be listed. Historic Scotland recently reviewed this building and still considered that it was of sufficient historic interest to be listed. Consequently, as the building has not been removed from the statutory list, the proposal does not pass this test.

Condition of the Building

Consent may be granted where it can be shown that a building's condition is beyond repair. In these cases, a clear understanding of the building's condition will always be required. This should take the form of a structural survey prepared by appropriate professionals, such as engineers, surveyors or architects. Structural problems must be carefully described, explained and illustrated to ensure that they can be readily understood, and repair options discussed.

Given the structural information made available prior to the submission of the application and updated subsequently, it is considered that there is clear evidence to suggest that the building is in an advanced state of dilapidation. It is clear that the section of the building to the right of the Pend is in the most advanced state of deterioration, with structural cracking of the rear wall and evidence of wet and dry rot and collapse internally. The applicant has been required to carry out work by Building Standards to this section to avoid risk to public safety and the building is being monitored regularly in this regard. It is now propped at the rear with shoring in order to forestall possible collapse of part of the rear elevation which is it considered would lead to more progressive failure of this part of the structure. The section of the building to the left of the Pend is derelict but in less of a serious structural condition.

On the basis of the information available, it is not possible to conclude with absolute confidence that the building - or part of the building - could not be saved, albeit potentially at prohibitive cost. The Council's Built Heritage Conservation Officer and Historic Scotland would wish to see a more robust case, before being able to accept that this test has been satisfied, by it being demonstrated beyond doubt that it is impractical to secure the future of the structure of the building. For this reason, it may be concluded that whilst the test is likely to have been satisfied in respect of part of the structure, it cannot be regarded to have been satisfied in respect of the building as a whole, and therefore the proposal fails to pass this test.

Economic Viability

Consent may be granted for the demolition of a building that is capable of repair but where the costs of doing so mean that its repair would not be viable. Where this is the principal justification for the demolition of a building, full supporting evidence is required comprising: a valuation of the existing building and site; a full survey identifying the repairs required; development costs including a costed schedule of repairs; an estimate of the value of the repaired property, including potential yields.

Where a building is regarded as being capable of repair, it is necessary to show that the property has been marketed for a reasonable period, to a restoring purchaser at a price reflecting its condition. In this case, it is considered that the prolonged vacancy of this building in the hands of successive owners demonstrates that the property has been marketed several times without a viable scheme emerging. It has been granted a number of listed building consents and planning permissions, none of which have resulted in a suitable economically viable hotel use or some alternative use being found for the building. However, where as in this case, it is concluded that a building is realistically beyond economic repair, it should be noted that the requirement for it to be actively marketed is negated.

The applicants have estimated the cost of façade retention and the construction of new accommodation to be of the order of £100,000 per room (for a 32 bedroom hotel) and this has been separately costed by consultants employed by the Council at £106,000. This is to be compared with a redevelopment option in the order of £60,000 - £65,000 per bedroom in the event of a new build project (albeit for a more extensive development

of 50 bedrooms, which becomes possible with the clearance of the site). On the basis of these calculations, an adaptation of the building or façade retention would not afford an economically viable project. As above, it is considered that justification in this regard could be made stronger by the submission of the further information requested by Historic Scotland, as at present they consider that the available information is insufficient for them to be able to conclude beyond doubt that this criterion has been met. In particular Historic Scotland has suggested that there could be grounds for accepting demolition of part of the building having regard to its structural condition and the fact that refurbishment would be likely to be uneconomic, but as the building has been developed in phases it has been suggested that part of the building might be capable of retention.

Notwithstanding that position, it is clear from the most recent structural inspection of the building that the central section (to the right of the Pend) continues to deteriorate, with shoring having been recently required to avoid potential collapse of part of the rear of the building. Although the separately constructed section of the building on the opposite side of the Pend is in a lesser state of disrepair and does not share the same structural defects, it is not considered that it would be practicable to integrate this with partial redevelopment of the site. Consequently although it only appears that part of the building is structurally unsound in the context of the criterion considered in the previous section, in the light of the costs considered above, it would be implausible to consider that retention of part of the building for incorporation in a new building at economic cost could be a viable proposition.

Accordingly, having regard to the history of the vacancy and dereliction of this problematic building, the recent deterioration in its condition, the relative costs of refurbishment compared with new build and the current economic climate, it is so unlikely that there could be an economic future for this building that it is concluded that the building should be regarded as being beyond economic repair and incapable of use for modern purpose. It is therefore considered that this test is satisfied.

Wider Public Benefits

It is recognised that in exceptional circumstances the retention of a building may prevent wider public benefits flowing from the redevelopment of a site. Typically, these cases would involve developments of national or regional significance and applicants will need to demonstrate that there is no practical way of realising the benefits without demolishing the building. In advancing a justification in such cases it will be important to set out not only the benefits of the development but also clear evidence that every effort was made to incorporate the listed building into it, or to place the development in an alternative location.

For the reasons set out in Section E above, it is considered that this requirement has been met. The provision of a new hotel for Oban constitutes a tourism economy development of regional importance, which would outweigh the loss of Grade C(s) historic fabric as a result of demolition. The prolonged vacancy of the building, the inability of current and previous owners to find an economic use to support refurbishment/reconstruction, the lack of realistic prospect of being able to secure grant funding in the current economic climate, and the likelihood of the building continuing to fall into greater disrepair, would compromise the attached and neighboring listed buildings, would have negative consequences for the townscape of Oban, and would frustrate opportunities to realise the potential of this site in terms of securing better quality modern hotel accommodation, in the interests of securing additional employment opportunities and developing the tourism economy in the town.

Historic Scotland's advice requires that not only should the benefits of the development be set out but there should be also clear evidence that every effort was made to incorporate the listed building into it, or to place the development in an alternative location. In this case, there is to be appropriate redevelopment of the site by a modern hotel, proposals for which are considered to be acceptable and which are recommended for approval elsewhere on the agenda, the suitability and quality of which should therefore be considered material to the wider economic and community benefit of the overall proposals for the redevelopment of the site for continued use for a hotel. It is not considered that retention of those parts of the building which are less structurally compromised would be a practical proposition in the development of a new hotel on the site, with façade retention having been discounted as being uneconomic. There are no other available sites in Oban town centre which would be suitable for a hotel development of the scale proposed.

With the foregoing in mind, it is therefore considered that this test is satisfied.

Recording

Under Sections 7(2) and 66(3) of the Planning (Listed Buildings & Conservation Areas) (Scotland) Act 1997, it is a statutory requirement that the Royal Commission on the Ancient and Historical Monuments of Scotland (RCAHMS), must be given an opportunity to make a record of all buildings where listed building consent for demolition has been granted. In most cases consent should be conditioned to require the applicant to notify RCAHMS at least 3 months before the start of works. The agent has already been advised of this stipulation, which is also recommended to be attached as an informative to any grant of listed building consent.

Salvage

If Members are minded to support Officer's recommendation and grant listed building consent for demolition, it is recommended that the existing roof slate (and any other items of interest) be salvaged for re-use. An appropriate condition has been recommended.

Conclusion

Having due regard to all of the above it is considered that the proposal meets with the requirements of Historic Scotland's 'Managing Change in the Historic Environment' guidance in respect to the demolition of listed buildings.

G. Development Plan Policy

The application requires to be assessed in terms of policies STRAT SI 1, STRAT DC 9 and LP ENV 13(b) in respect of the demolition of a listed building and the consequences for adjacent listed buildings, and in terms of Policy LP ENV 14 in terms of the consequences for the Special Built Environment Area established by the local plan. These policies essentially reflect the overall approach to the historic environment established by national policy and discussed in the preceding sections.

Policy STRAT SI 1 of the Argyll & Bute Structure Plan (approved 2002) states that the Council must seek to: maximise the opportunity for local community benefit; make efficient use of vacant and/or derelict brownfield land; conserve the built environment and avoid significant adverse impacts on built heritage resources.

The building in its derelict and deteriorating condition represents a long-standing wasted asset in terms of the commercial function of Oban town centre and contributes negatively to the appearance of the area and the settings of adjacent listed buildings. The building is in such a poor state of disrepair, and its configuration is such that in terms of building depth, changes in internal levels and division of the ground floor by the Pend, it does not lend itself physically or financially to reoccupation as a modern hotel.

The application for demolition of this problematic building is accompanied by an associated redevelopment application which affords the opportunity to secure a new modern high quality hotel development in the town, which would be significant not only in enhancing the built environment, but which would represent a major asset to the Oban tourism economy. The removal of a building which has a negative influence on the townscape quality of Oban and which would in turn facilitate the provision of modern hotel accommodation in its place, therefore represents a significant opportunity to improve the standing of Oban as a tourism destination, in accordance with the Council's economic development aspirations set out in its Economic Development Action Plan (2010 - 2013).

For the situation to remain as it is, would result in ongoing deterioration and even greater adverse impacts on other built heritage resources, namely, the Special Built Environment Area, and the listed Columba Hotel, Regent Hotel and the Oban Inn. There would also be opportunity cost in the inability to bring the site back into use as a tourism asset or to provide a hotel to modern standards in the town. Having due regard to all of the above and weighing historic environment and tourism economy considerations in the balance, it is considered that the proposal to demolish the Argyll Hotel would be consistent with the provision of Policy STRAT SI 1 of the 'Argyll & Bute Structure Plan' (approved 2002).

Policy STRAT DC 9 advocates a proportionate and realistic approach which is given greater expression in the case of demolition by local plan Policy LP ENV 13(b). The justification to Policy STRAT DC 9 of the Council's Structure Plan indicates that the strength of protection is proportionate to the importance of the asset in question and that there is a need to respond positively to modern needs innovation and change. It goes on to say that a balanced proportionate approach is the underlying intention of the Structure Plan policy on the historic environment. In adopting such a proportionate response in this case, it is necessary to have regard to:-

- the inherent qualities of the building,
- its grading and status (as a category C(s) listed building),
- the extent to which it blights other properties (including adjacent higher category listed buildings),
- the negative impact it has on the townscape qualities which contribute to Oban's tourist draw,
- the degree to which it is inhibiting investment in this high profile town centre location, due not only to its derelict condition, but also given that it is ultimately unsuited to the modern day needs of a growing and rapidly evolving tourist industry;
- the Scottish Government's prioritisation of economic growth, with tourism identified as a key growth industry and given further justification through the Council's 'Economic Development Action Plan' (2010 -2013), with tourism in Argyll and Bute considered as one of our most important industries and affording the best potential for economic growth.

The building is the lowest grade of listing at category C(s). It was not designed by an architect of repute nor does it have any historical associations. Its presence does have a negative impact on its surroundings including adjacent listed buildings, and its vacancy represents an opportunity cost in terms of the local tourism economy. It is situated in a main road location in the centre of the town, close to the North Pier and Esplanade which is one of the focal points for tourist activity in the town (waterfront, public parking, restaurants and hotels, drop off point for buses and landing point for cruise ship passengers). The configuration of the building does not lend itself to modern use as a hotel and the costs associated with refurbishment (or even facade retention) would appear prohibitive. With this in mind, wider public benefits flowing from the redevelopment of the site can be considered of sufficient weight to justify demolition in light of the proportionate approach advocated by Policy STRAT DC 9.

Local Plan Policy LP ENV 13(b) specifically addresses cases where demolition is proposed. It is predicated by the principle that demolition will only be supported in exceptional cases where effort has been exerted by all concerned to find practical ways of keeping a building, where it is clear that its condition precludes re-use for modern purposes and where it has been marketed unsuccessfully.

Although not marketed latterly (the applicant having only purchased the building in the last couple of years), the prolonged vacancy of the building, its planning history and the failure of any implementation of those consents demonstrates the inability of a succession of owners to find a viable use able to support the refurbishment/reconstruction of the building. Its prolonged disuse and deteriorating condition has rendered it a progressive liability and the opportunities to reoccupy it economically, or to secure deficit funding via grant, have reduced as the general economic climate has worsened. In these circumstances it is not considered a 'balanced or proportionate' requirement in the light of the approach advocated by Policy STRAT DC 9 to require that the current owner should have to re-market the building.

The extent to which the condition of the building in terms of its layout, configuration, condition and dilapidation lends itself to retention, or partial retention, has been discussed in preceding sections of the report. In view of its construction in phases, its irregular floor levels and its insufficient depth the building would not lend itself to modern standards being achieved for hotel occupation (due to the need for a lift, wider corridors for disabled access, avoidance of corridor stairs, en suite rooms and so on). Available information points to their being worsening structural and other difficulties with the building which would make refurbishment/reconstruction for use as a hotel unaffordable. The option of facade retention has been examined but has been discounted on grounds of excessive cost. This proposal for the total demolition of the building should be supported as there is no apparent practical way of keeping it in the absence of an economically viable use. To that extent, demolition of the building would satisfy the requirement of Policy LP ENV 13(b) that the building is incapable of use for modern purposes at economic cost.

It is necessary to weigh in the balance in this case, not only the specific requirements of Policy LP ENV 13(b), but also to have regard to other material consideration arising from the 'do nothing' scenario which would arise in the event of listed building consent being refused. The alternative would be to consign the building to an indeterminate period of further deterioration which would blight the surrounding area and compromise townscape quality. Negative impacts would accrue not only in terms of the physical and amenity consequences of such a large scale and prominent derelict building within a town which is of major significance to the tourism economy of Argyll, but also the opportunity cost of frustrating the redevelopment of the site to provide what would be a

significant modern tourism asset and a positive boost to the economic development of the town. It would also raise the prospect of further intervention on the part of Building Standards who have confined their requirements to the absolute minimum necessary to safeguard public safety thus far, in order to avoid unnecessary expenditure on a building whose future is uncertain in the short term.

Policy LP ENV 13(b) is expressed as conforming to the requirements of SHEP 2008, although it does not expressly refer to the four SHEP criteria which may be advanced in support of applications for demolition. However, it is implicit that any proposal which satisfies SHEP requirements ought also to be considered consistent with development plan policy. For the reasons set out in Section E above, the building is firstly considered to be incapable of reuse for modern purposes at economic cost, and secondly, the demolition of this building is considered necessary to secure the delivery of significant benefits to economic growth or the wider community in Oban and the application warrants support on that basis.

Having due regard to all of the above it is considered that the proposal is consistent with the provisions of Policy STRAT DC 9 – Historic Environment & Development Control of the ‘Argyll & Bute Structure Plan’ (approved 2002), and, Policies LP ENV 13 (b) – Demolition of Listed Buildings and LP ENV 14 – Development in Conservation Areas and Special Built Environment Areas (SBEA) of the ‘Argyll & Bute Local Plan’ (adopted 2009)

H. Road Network, Parking and Associated Transport Matters.

Transport Scotland have no objection providing a conditions is attached to any grant of planning permission to secure a method statement shall be agreed with the planning authority after consultation with roads authority for the removal of the existing building prior to any works commencing on site. The reason for this condition being to maintain the safe and free flow of traffic and pedestrians on the Trunk Road during demolition. Transport Scotland also requires that traffic and pedestrian management advice to be given to the applicant.

I. Environmental Health Considerations

The Environmental Health Officer has advised that he has no comment/objection to make in regard to this proposal. This aside, it is recommended that a condition to secure a Demolition Method Statement be attached to any grant of planning permission and that the Environmental Health Officer be consulted on said statement with specific regard to any potential presence of hazardous materials such as asbestos and any activities with pollution consequences such as the burning of demolition materials.

J. Conclusion.

The pre-application process; this listed building consent application (subject of this report) and the planning permission application (10/01831/PP – subject of separate report) for the demolition and redevelopment of the Argyll Hotel with a new contemporary designed hotel building have been problematic, insofar as the applicant considers that there is a *prima facie* case for demolition and that the national and local

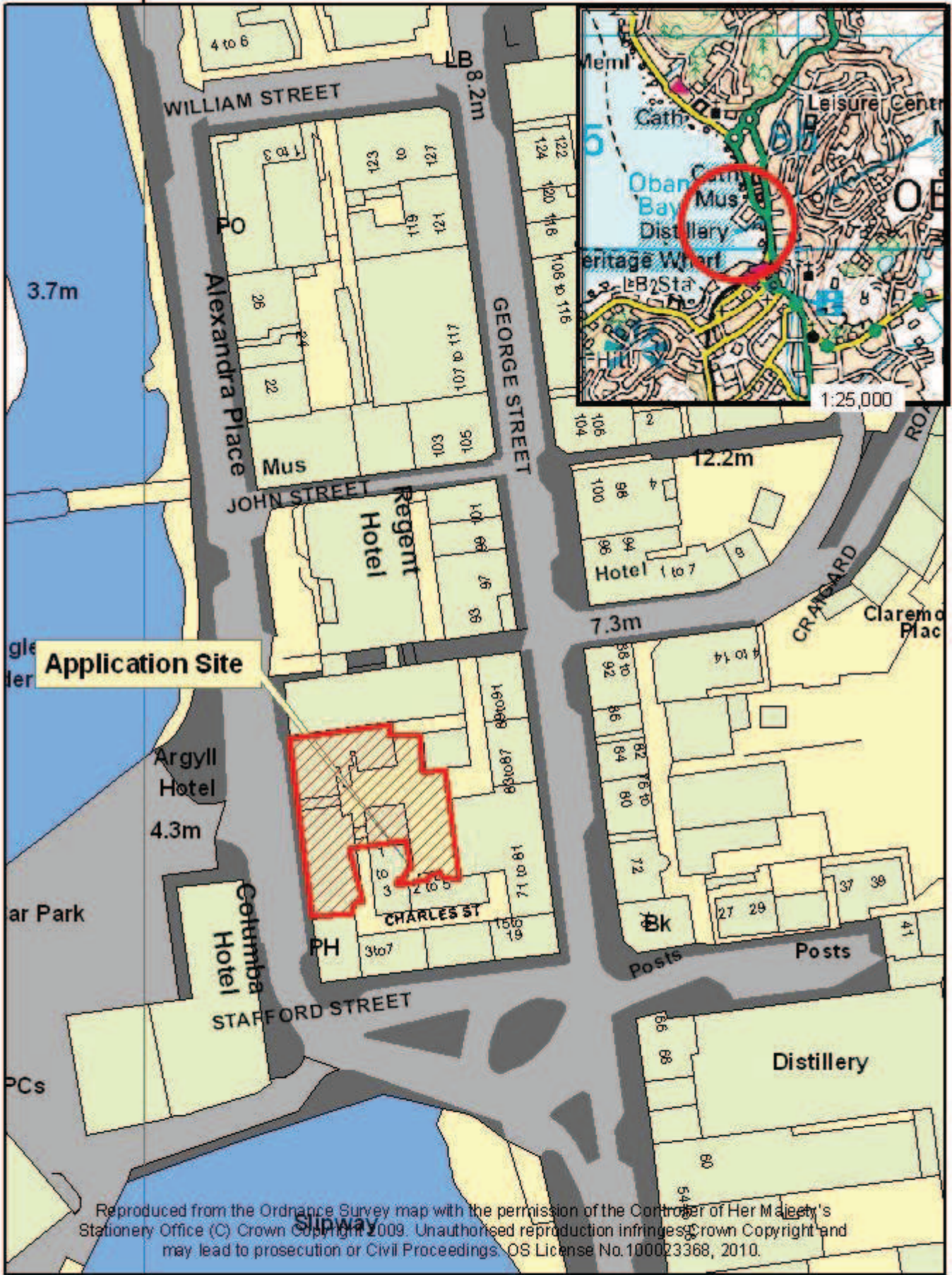
policy requirements are unnecessarily onerous. For that reason he has been unwilling to provide a consolidated justification for demolition to satisfy the advice he has been given by Historic Scotland and the Council's Conservation Officer. That said, there is a portfolio of supporting documentation supplied at pre-application stage and during the processing of the application, although this falls short of what might ideally be required to put beyond doubt issues surrounding the practicality and economic viability of retaining all or part of the building in question. It is therefore necessary to determine the application on the basis of the information at hand.

In summary, it has been concluded that Oban has more to gain from the demolition of this building and the redevelopment of the site than would be the position were consent to be refused and the building retained. From the planning history, the reports on the condition of the building, the economic viability of restoration for re-use, and the fact that the structure (notwithstanding its dilapidation) does not lend itself to the provision of hotel accommodation to modern standards, cast serious doubt as to whether there is any realistic likelihood of this building being restored, particularly in the current economic climate where investment funds and grant finance are particularly difficult to obtain.

Its ongoing presence and likely further deterioration would exert a likely worsening negative influence upon one of Argyll's most important tourism destinations to the detriment of the interests of economic development. It would also frustrate the potential opportunity to redevelop the site with hotel accommodation to modern standards which would constitute a serious opportunity cost. The long-standing dereliction of this building has been given some local profile by way of a succession of local newspaper articles, and the lack of any public interest in this application indicates that there is no local groundswell of support for the retention of the building,

It is important to reiterate that the applicant has taken a risk by not addressing matters to Historic Scotland's satisfaction as part of the application process. Should the committee be minded to support Officer's recommendation of conditional approval, the application needs to be 'notified' to Historic Scotland to afford an opportunity for them to decide whether to request that Scottish Ministers should 'call-in' the application. The applicant and his agent have been made well aware of the implications of this which could add an additional period to the determination process and involve an additional element of risk in terms of the outcome.

185800



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185800



**Committee Plan Relative to
Planning Application Ref: 10/01817/LIB**

Date: 07.09.2010

Scale: 1:1,000



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**Argyll and Bute Council
Development Services**

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 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 10/01831/PP

Planning Hierarchy: Local

Applicant: Ee-Usk, North Pier, Oban

Proposal: Erection of 63 bedroom hotel on site of hotel to be demolished.

Site Address: Argyll Hotel, Corran Esplanade, Oban

DECISION ROUTE

(i) Local Government Scotland Act 1973

(A) THE APPLICATION**(i) Development Requiring Express Planning Permission**

- Erection of new 63 bedroom hotel

(ii) Other specified operations

- Demolition of hotel (category C Listed Building);
 - Connection to existing public sewer;
 - Connection to existing public water main.
-

(B) RECOMMENDATION:

It is recommended that Planning Permission be granted subject to:

- 1) The conditions and reasons set out in this report;
 - 2) The issuing of the decision notice being withheld until the associated application for listed building consent 10/01817/LIB has been cleared by Historic Scotland or has been granted by Scottish Ministers in the event of a 'call in', and the decision has been notified in writing
-

(C) HISTORY:

05/00002/REFPLA - Appeal against refusal of consent for Demolition of existing buildings at rear of hotel and erection of 5 Town Houses, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Appeal Withdrawn – 16th February 2005

05/00021/COND - Appeal against condition(s) imposed on application for removal of condition No.2 on planning permission ref no. 04/02426/DET relative to the flats use being restricted to holiday accommodation only - Appeal Dismissed – 25th July 2005

10/01817/LIB – Demolition of hotel (category C Listed Building) - Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Pending Consideration

07/00644/DET – Alterations and extension to the Argyll Hotel, Oban to form Public Bar and Flats, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 3rd January 2008

07/00643/LIB - Construction of nine new permanent flats and associated stair towers to rear of hotel building Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 3rd January 2008

05/02290/DET- Erection of 6 Flats, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Refused - 13th January 2006

05/01547/DET - Erection of Six Flats (rear of Argyll Hotel) Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Refused - 9th November 2005

05/00771/VARCON - Application for removal of condition No.2 on planning permission ref no. 04/02426/DET relative to the flats use being restricted to holiday accommodation only, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Refused - 6th July 2005

05/00485/DET - Erection of Six Flats (rear of Argyll Hotel) Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Refused - 12th July 2005.

04/02426/DET Erection of Three Flats (formerly staff housing) Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 5th April 2005

04/01438/LIB – Demolition of existing buildings at rear of hotel and erection of 2 Town Houses, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 3rd November 2004

04/01436/DET – Demolition of existing buildings at rear of hotel and erection of 5 Town Houses, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Refused - 3rd November 2004

04/01434/LIB – Change of use of and alterations to hotel to form 8 flats with ground floor restaurant and public house, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 1st October 2004

04/01433/COU - Change of use of and alterations to hotel to form 8 flats with ground floor restaurant and public house Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 1st October 2004

04/00053/LIB Demolish and construction of new extension to rear of property and refurbishment, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 5th April 2004

04/00052/DET - Demolish Buildings at Rear of Property and Construct New Rear Extension; Refurbish Existing Hotel - Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 5th April 2004

03/01811/LIB - Demolish existing buildings at rear of property and construct new rear 3 storey extensions and refurbish existing hotel Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 27th January 2004

03/01809/DET - Demolish existing buildings at rear of property and construct new 3 storey extension and refurbish existing hotel Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 27th January 2004

06/00145/ENFLB - Poor State of Repair of C(S) Listed Building. ENF001 - Amenity Notice Served - 20th November 2006

09/00222/ENOTH1 – Interim interdict to restrain owner from carrying out works of demolition.

09/00222/ENOTH1 - Amenity Notice Served 22nd May 2009

(D) CONSULTATIONS:

Architecture + Design Scotland (A+DS) (25th January 2011) – note that a design and access statement has been submitted along with revised designs for the development. The information includes a description of the site context and history and identifies constraints and opportunities for development. Sketch diagrams that show how the various design options arrived at might relate to the adjacent buildings in terms of mass, scale and roof height. Although this information is useful in understanding how the designs relate to the site, and the buildings immediately adjacent, it is still not clear how the proposals tie into the wider context and streetscape visually. A+DS suggest that wider contextual street elevations and sections be provided to help assess this.

The design of the south gable has been revised and omits the balconies on the southern façade, replaced with a more traditional pitched roof with gabled end to reflect the Oban Inn to the south with which the development abuts. The ridge height of the northern section of the building that abuts the Regent Hotel has also been reduced. A+DS welcome these revisions, which help to address some of their previous concerns in terms of mediating the scale with the adjacent buildings, in particular the Oban Inn.

A+DS acknowledges the surrounding area comprises a mixture of different styles of architecture, reflective of the period in which they were built, and that there is potential for the proposals to follow such an approach and to create a contemporary building that is of its time and place. Notwithstanding, a contemporary approach will be required to respect and resonate with the historical context in which it sits, and to this end they support the intention to reflect the plot widths of the original hotel and create a varied and interesting roofline by separating the main elevation into 3 elements of varying height. However, they are not convinced that these elements necessarily read together to form a successful collective whole.

The central section of the building appears somewhat alien to the other parts of the design and to the surrounding context, both in terms of the curved plan forms at the upper levels and in elevation on the west façade. In addition, the feature vertical glazed strip appears curious, as does the glazed gable end of the curved façade, appearing arbitrary in respect of the layout of the building at ground and upper. A+DS suggest that the design of the overall central element requires further consideration in respect of the

proposed architectural language and the proposed roof form in order that it complement the rest of the building and the surrounding streetscape.

They also question whether the separate treatment of the base course is in keeping with the local character of the area. In any event the quality and choice of materials used at street level will be particularly important as this will be directly experienced by the public.

Historic Scotland (3rd December 2010) – confirm that they do not have a locus in respect of the redevelopment proposals and will confine their comments to the application to demolish the existing building (subject of separate application for listed building consent).

The Access Manager (9th December 2010) - advises that if the route through the site via the Pend in the building meets three tests then it may be arguable that it is a Public Right of Way. The three tests are:

1. Does the route link two public places – it provides a route between the Corran Esplanade and George Street.
2. It follows a well defined route – the route is defined by the walls of buildings..
3. It has been used without let or hindrance by the public for a period of at least 20 years – in this case likely to have been since Victorian times.

The Access Manager's view is that it is in all probability a Public Right of Way although not recorded as such. The lack of recording would not preclude it in any way from being a Public Right of Way. Note: there is no definitive map of Public Rights of Way in Scotland – therefore PRowS normally only come to the Council's attention when someone has blocked them. A Diversion Order or Stopping Up Order under the Roads (Scotland) Act 1984 would be the best way forward as this would remove the opportunity for a member of the public to challenge the decision later, whilst allowing them to be consulted prior to the route being affected.

Environmental Health Officer (23rd November 2010) – has no objection to the proposal. Further advises that he has written to the applicant to request further details regarding the layout and provision of fixtures/fittings in relation to food safety and health and safety.

Scottish Environment Protection Agency (13th December 2010) – to assist with streamlining the planning process, SEPA now focus their site specific advice in development management where they can add best value in terms of enabling good development and protecting Scotland's environment. Standing advice applicable to this type of local development is available on the website. (Following receipt of this general response SEPA were re-consulted specifically in relation to flood risk).

Scottish Environment Protection Agency (14th January 2011) – has reviewed the information provided in this consultation and it is noted that, the application site (or parts thereof) lies adjacent to the 1 in 200 year (0.5% annual probability) flood envelope of the Indicator River & Coastal Flood Map (Scotland), and may therefore be at medium to high risk of flooding. SEPA therefore recommend that the Flood Prevention Authority are contacted with regard to Flood Risk. SEPA also recommend that Regulatory Advice be provided to the applicant, which has been attached as a note to the recommendation.

Flood Alleviation Manager (2nd December 2010) – in principle no objection to the proposal but advises that it should be confirmed that surface water discharged from the development will be connected to the Scottish Water drainage network, and that the

finished ground floor level will be set at a level to avoid flooding at the 1 in 200 year plus climate change event.

Response dated 7/4/11 – The proposed ground floor level of 4.65AOD is acceptable.

Licensing Standards Officer (8th November 2010) – no comments or objection to this application.

Scottish Water (10th December 2010) –does not object to this application.

Transport Scotland (26th November 2010) –has no objection providing conditions are attached to any grant of planning permission as follows. A method statement shall be agreed with the planning authority after consultation with roads authority for the removal of the existing building prior to any works commencing on site.

Comment: following receipt of this response Transport Scotland were contacted for confirmation that they had appreciated that servicing for both the proposed hotel and the Oban Inn would take place from an on-street loading bay and that they were satisfied with this in relation to the proximity of the nearby pelican crossing. E-mail confirmation was subsequently received to confirm that they had appreciated this arrangement and were content in that regard.

Roads Operations Manager (29th November 2010) – no objection. Proposal is situated off the A85 Oban-Tyndrum Trunk Road within an urban 30mph speed restriction. Parking survey has indicated that parking requirement can be met by existing car parks which will not coincide with the peak demand from the other land users.

Oban Community Council (10th January 2011) – The topic of the Argyll Hotel has been discussed time and again at the Community Council's meetings, and they are delighted that an application has finally been submitted. They accept that the building has deteriorated to a point where there is no alternative to demolition and rebuilding.

There was debate in the media as to whether any replacement should be in a modern or retro, pseudo vernacular style. It is the Community Council's view that Oban has far too many pastiche old buildings already, and the neighbouring buildings are in a variety of contrasting styles. They therefore argued for a high-quality modern building, and from the published drawings, this seems to be what is proposed. All will depend on the quality of the materials and fixtures, but they are happy with what they have seen, and therefore have no objection in principle to the application.

There are however two issues they believe need to be clarified before permission can be granted. The first relates to public access through the site, and the other to car parking.

Access: the relocated Pend provides improved pedestrian access to Charles St, and close examination of the plans show that it will also be possible to access through the Pend around the back of the hotel to what the Community Council call the Regent Hotel Lane. Indeed this will be the goods access to the rear of the building.

First: the through access needs to be recorded as a Right of Way, to ensure that it is kept clear for public use.

Second: the owners must be required to facilitate access to the listed buildings on the North side of Charles St. These are among the oldest buildings in Oban – much older than the buildings which now surround them. While the Argyll Hotel has been dangerously derelict it has been impossible to insist that the owners of these carry out the major renovation which they urgently require before they too are lost.

Parking: This hotel does not seem to be aimed at the budget coach market, but at a clientele most of whom will arrive by car. They do not intend to provide any car parking,

and give no indication as what arrangements they intend to make. There is simply not enough space in the North Pier car park to accommodate this number of cars. The Community Council therefore ask that the owners produce clear plans for managing overnight parking.

Comment: Access matters are addressed in section D below. Private access issues are a civil matter which will require to be resolved between the developer and the relevant land/property owners, and the issue regarding the Public Right of Way, is covered by Roads legislation and will be required to be addressed under highways legislation prior to any work commencing on site. In terms of parking requirements, the Roads Operation Manager has been consulted on this application and has confirmed that no additional parking is required in this town centre location.

(E) PUBLICITY:

Listed Building/Conservation Advert – advert expires 2nd December 2010

(F) REPRESENTATIONS:

Ten letters of representation have been received comprising three in support, five against and two general representations (see appendix C0. The issues raised are covered in Appendix B of this report, but may be summarised as follows:

In Support

- Regeneration of Corran Esplanade and Argyll Hotel in particular;
- This sprawling building managed to achieve a category C(s) listing and whilst it has no particular merit, it is an improvement on the grotesque, art deco, former Marine Hotel that is sandwiched between two buildings of much more merit, the Oban Times Building and the Regent Hotel;
- There is already so much diverse design and architecture on the Esplanade that this commendable design should be allowed to take its place amongst them and to replace the current eyesore on the site;
- The building has been derelict for more than 10 years and it has long been known that the only solution for the Argyll is demolition and replacement;
- The new hotel proposal has been widely advertised and would be a superb asset for tourism in Oban and a significant addition to facilities available in Oban as a whole;
- It is understood that this much needed investment will also realise employment for up to sixty people.

Against

- A legal right of access would appear to be taken away if the proposal goes ahead.

Comment: Matters concerning private access rights are civil legal matters rather than material planning considerations. Interference with possible public access rights would be addressed separately by way of a Stopping Up or Diversion Order under highways legislation.

- Public safety is a concern if demolition is carried out in the same manner as the previous demolition.

Comment: Matters of demolition and construction safety are the responsibility of contractors and are subject to enforcement of health and safety legislation by the HSE. This is not therefore a material planning consideration as it is subject to control under separate legislation.

- Both Urban Summits and Timpson's have vehicular access and parking on ground to the rear of the shops. This access was used by the previous occupants for at least 40 years and probably more and is also we believe a public right of way for over 100 years.

Comment: Matters concerning private access rights are civil legal matters rather than material planning considerations. Interference with possible public access rights would be addressed separately by way of a Stopping Up or Diversion Order under highways legislation.

- The right of unhindered access and parking is not something we are prepared to give up lightly.

Comment: Any highway order in respect of public access rights would be subject to advertisement and opportunity for representation. Any interference with private rights claimed would require to be pursued under civil law.

- This access came to temporary end when the listed building to the rear of the main hotel building was demolished in what we believe was of dubious legality. The site was left in a very untidy state with various lumps of rubble lying about and was dangerous for pedestrians especially after dark. A concrete bollard further restricted our access.

Comment: Any interference with private rights claimed would require to be pursued under civil law.

- Our landlord has written in the past to both the Argyll Hotel owners and the planning authority expressing his concern over the restriction to the right of access both at the present and in any future plans.

Comment: Any interference with private rights claimed would require to be pursued under civil law.

- The proposed drawings show a "pend" which diverts the pedestrian right of way but does not address the vehicular right of access. We understand that it is a legal responsibility for any amendment to rights of access for the holders to be consulted before any proposals for change are progressed. No consultation has taken place to date. The only route for vehicular access to the rear of the shop for servicing is through the pend of the existing hotel and along the lane. The alternative route is not sufficiently wide enough for vehicular access. Right of access cannot be disregarded because there has not been previously complaint about the bollard erected by the applicant approximately 18 months ago.

Comment: It is not clear whether any vehicular rights exist, either private or public. The former would require to be pursued under civil law, whilst the latter would be considered as part of any Stopping Up or Diversion procedures. .

- We are also led to believe that a legal right of access over-rides any planning consents.

Comment: In the event that parties are able to substantiate private rights of way in law then these would not be affected by any planning consent which would be of no effect in respect of such rights. This would then become a matter of negotiation between the landowner and the parties exercising legitimate private rights across his land. To the extent that the applicant could not negotiate away substantiated legal rights, he would have no legal right to implement any permission to the extent that it impinged upon such rights.

- There is a burden dated 1903 on the titles for the Argyll Hotel (Title No ARG 6967) which we believe is still applicable and states that the “bridge” (over the current access point) shall be maintained at a width of “no more than 8 feet” and a clear height of 7 feet, it also states that the bridge is to be kept in “proper order and good repair and when necessary to renew the same”.

Comment: This is a matter to be addressed under under civil law and is not a material planning consideration.

- The title for Timpson’s states that “the liberty of using the lane on the west for all necessary purposes in common with the other proprietors”. In the event that access is to be interfered with, then Timpsons object to the application.

Comment: This is a matter to be addressed under under civil law and is not a material planning consideration.

- We have been unable to obtain copies of our own title given the short timescale given for comments but firmly believe that the liberty of using the lane would apply to us.

Comment: This is a matter to be addressed under under civil law and is not a material planning consideration.

- The drainage and other services from the properties in George Street run through the current lane and the space at the bottom is also used for bin collection.

Comment: Services affected by building works would require diversion as necessary, whilst bin collection could be taken from alternative locations nearby.

- If the currently proposed building goes ahead we have concerns that the proposed pend, by creating covered hidden spaces, would encourage unsociable behaviour among the down-and-outs who have been hanging about and living in the present derelict buildings in the area, this would discourage the public from using the access.

Comment: The existing derelict building and the associated unlit areas to the rear probably contribute to any unsocial activities in this area, which would be likely to reduce in the event of occupied property associated with the redevelopment proposed.

- To take down a very Scottish looking building that lends itself in style to its surroundings giving character and charm to the town (not in present condition) and replace it with a fashionable building from the school of architecture that fits any town anywhere only moves Oban towards becoming any town anywhere.

Comment: The design of the building seeks to incorporate a modern image with elements of the vernacular which respects its townscape setting and its relationship with adjacent listed buildings.

- Not only do our clients have legal title to use the areas referred to, but these areas are used in practice for the purpose of emergency escape and servicing of the Oban Inn Premises. Indeed the existing pend accessed from the Corran Esplanade and the access route leading from the pend to the outbuildings, and the rear of the Oban Inn itself, are the primary means of access for servicing and emergency escape. With regard to servicing, such route has always been used and, due to the requirements of the principal brewers who deliver wet stock to the Oban Inn Premises (and specifically the beer cellar situated within the outbuildings), it is not feasible for any other routes over which our clients have legal rights (and which will possibly remain unaffected by the proposed redevelopment) to be used for such purpose. As such, the proposed development would be of material detriment to the amenity of the Oban Inn Premises and therefore development should not be allowed to proceed.

Comment: The redevelopment proposal includes an alternative access Pend at one end of the building (to replace the Pend which currently bisects the ground floor of the existing hotel). That would provide an alternative route for servicing and emergency egress and would be less disruptive in terms of the use of the ground floor of the new hotel. Whilst this route would be more direct to the Oban Inn and would suffice as a suitable (if not better) alternative route for servicing to that which currently exists, if the owners of the Oban Inn have a substantiated private right of access via the existing Pend and continue to wish to exercise that in preference to an alternative route, then it would be open to them to do so and they could potentially frustrate implementation of the proposal at hand by so doing.

- In the event that the local authority is minded to grant planning permission, our clients would need to be fully satisfied that: -
 - no further damage shall be caused to the Oban Inn Premises as a result of the proposed development and there shall be a suitable agreement put in place with the applicant/adjacent owner whereby any damage caused shall be remedied by the applicant/adjacent owner;
 - both during the demolition process in respect of the existing building and during the construction phase for the new building suitable agreement is in place with the applicant/adjacent owner to allow for the continued exercise of all rights necessary to ensure that the Oban Inn Premises can be properly serviced and will comply with all legal requirements, including the requirements of the Fire Master and the Licensing Board;
 - post-development, the Oban Inn Premises can be properly serviced and will comply with all legal requirements, including the requirements of the Fire Master and the Licensing Board with regard to emergency escape and similar matters; and
 - suitable conditions are imposed including 1) strict time limit (not standard 3 years) on the duration of the planning permission by utilising s58 (2) of the TCPA, 2) strict time limit in which the demolition work should be completed and 3) mechanisms by which the developer will not be permitted to let the permission lapse without completing the works or simply trigger the commencement of the development without undertaking and completing substantive works.

All the conditions mentioned at D above should be drafted with caution to ensure enforceability whereby any breach by the applicant/adjacent owner can result in action being taken by the Council. Accordingly, our clients would expect to be fully consulted with regard to the imposition of conditions within the planning permission or by virtue of a planning agreement.

We would highlight that even if planning permission is granted then the applicant/adjacent owner will not be able to lawfully carry out the development without the agreement of our clients and our clients landlords (PW Scotland Limited), as well as other neighbouring proprietors whose properties also benefit from formal rights over the development site. Any such agreement would, as a minimum, require the title to the development site and the neighbouring properties to be varied, and would be at the discretion of the relevant proprietors.

Comment: The framing of appropriate conditions is a matter for the Planning Authority and not a matter subject to consultation and negotiation with third parties. Matters concerning the extent to which the development proposal could prejudice the continued legitimate use of adjacent land uses are material to the consideration of this application and have been taken into account. Matters concerning private legal rights are not material planning considerations and would require resolution at law if necessary.

NOTE: Committee Members, the applicant, agent and any other interested party should note that the consultation responses and letters of representation referred to in this report, have been summarised and that the full consultation response or letter of representations are available on request. It should also be noted that the associated drawings, application forms, consultations, other correspondence and all letters of representations are available for viewing on the Council web site at www.argyll-bute.gov.uk

G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) **Environmental Statement:** No
- (ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
- (iii) **A design or design/access statement:** Yes (5th November 2010)
- (iv) **A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:**
 - Design & Access Statement (5th November 2010)
 - Conservation Plan (received 10th January 2011)
 - Feasibility Cost Option Appraisal, Grontmij (February 2009)
 - Letter from Grontmij, regarding Feasibility Cost Option Appraisal (30th March 2009)
 - Structural Appraisal Inspection, Grontmij (September 2008)
 - Letter from Effective Engineering regarding Structural Inspection of Partial Collapse of Rear Facade & Visual Appraisal of Overall Stability of Property (29th June 2010).

(H) PLANNING OBLIGATIONS

(i) **Is a Section 75 agreement required:** No

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

'Argyll & Bute Structure Plan' (approved 2002)

Policy STRAT DC 1: Development Within Settlements
Policy STRAT SI 1: Sustainable Development
Policy STRAT DC 10: Flooding and Land Erosion
Policy STRAT DC 9: Historic Environment & Development Control

'Argyll & Bute Local Plan' (adopted 2009)

Policy LP ENV 1: Development Impact on the General Environment
Policy LP ENV 13a: Development Impact on Listed Buildings
Policy LP ENV 14: Development in Conservation Areas and Special Built Environment Areas
Policy LP ENV 19: Development Setting, Layout and Design
Policy LP SERV 9: Flooding and Land Erosion – The Risk Framework for Development
Policy LP TRAN 1: Public Access and Rights of Way
Policy LP TRAN 6: Vehicle Parking Provision
APPENDIX A: Sustainable Siting and Design Principles
APPENDIX C: Access and Parking Standards

(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 4/2009.**

- Scottish Planning Policy, advice and circulars
 - Argyll & Bute Council Economic Development Action Plan 2010 - 2013
-

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

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

No.

(M) Has a sustainability check list been submitted: No.

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

(O) Requirement for a hearing: Not in view of the limited number of third party representations received.

(P) Assessment and summary of determining issues and material considerations

This application relates to a site in the settlement boundary and main town centre of Oban. It involves the replacement of a derelict hotel building with a new larger hotel and the use is therefore appropriate to this town centre location. The key issue in the determination of this case is whether or not a sufficiently high standard of design has been produced to justify replacement of the existing derelict category C(s) listed Argyll Hotel, on an important town centre site immediately adjacent to three different category 'B' listed buildings within a Special Built Environment Area.

It is clear from the lack of substantial public representation for and against the application for listed building consent for demolition (considered under 10/01817/LIB) that there is no strong community feeling about the demolition of the building either way. This application has also attracted little by way of third party representation (ten in total), which provide comments both for and against the proposed design. Those opposed to the proposal primarily raise access issues in relation to the servicing of adjacent premises through an access pend in the existing building.

The proposal represents a significant potential investment supporting economic development and the tourism function of Oban as well as bringing employment opportunities. The current proposal has emerged following a series of pre-application designs which were considered unacceptable in terms of securing an appropriate relationship with historic buildings surrounding the site. It is now considered to be an acceptable solution in terms of scale, design, its relationship with adjoining property and in terms of its overall fit within the surrounding townscape. There are no servicing constraints which would not be capable of being overcome by condition.

The consideration of the merits of this redevelopment proposal is predicated upon the need for prior consideration having been given to the listed building consent application to demolish the existing building occupying the site (10/01817/LIB reported elsewhere on the agenda). Only in the event that the listed building application is considered favourably should Members proceed to determine this application in the light of the recommendation to grant permission.

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

(R) Reasons why Planning Permission should be granted

The development would remove a negative influence upon this area of the town by the demolition of a long-standing vacant and progressively deteriorating building which represents a high opportunity cost in respect of the local economy. It is considered that that there is a strong case to support demolition and redevelopment to provide a modern 63 bed hotel, which, would provide a high level of economic and community benefit for Oban to the benefit of the tourist economy and Oban's status as a leading tourist destination on the west coast. Previously suggested designs have been rejected in favour of a proposal which now has a modern image but which is sufficiently sensitive in terms of its relationship with adjacent listed buildings and the townscape in general that there are not now compelling reasons to resist the proposal on design grounds.

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

Not Applicable.

(T) Need for notification to Scottish Ministers or Historic Scotland:

The associated Listed Building Consent application reference 10/01817/LIB will be notified to Historic Scotland. Consequently, until such time that confirmation from Historic Scotland has been received that the Listed Building Consent application has been 'cleared' it would be appropriate to withhold any Planning Permission Decision Notice in respect of redevelopment of the site.

Author of Report: Arlene H Knox Date: 4th April 2011

Reviewing Officer: Richard Kerr Date: 5th April 2011

**Angus Gilmour
Head of Planning and Regulatory Services**

CONDITIONS AND REASONS RELATIVE TO APPLICATION 10/01831/PP

1. That the development to which this permission relates must be begun within three years from the date of this permission.

Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997.

2. The proposed development shall be carried out in accordance with the details specified in the application form dated 21st October 2010; and the approved drawings received on the 10th November 2010 numbered:
2326/P/001 – Location Plan;
2326/P/002_revA – Block Plan;
2326/P/09 – ground floor plans as proposed;
2326/P/11 – first and second floor plans as proposed;
2326/P/12 – third floor plan as proposed;
2326/P/13 – fourth floor plan as proposed;
2326/P/14 – fifth floor plan as proposed;
2326/P/15 – west elevation as proposed;
2326/P/16 – south elevation as proposed; and,
2326/P/17 – east elevation and section as proposed;
and stamped approved by Argyll and Bute Council, and also in accordance with the requirements of all other conditions of this permission.

Reason: In order to ensure that the proposed development is carried out in accordance with the details submitted and the approved drawings.

3. Prior to work starting on site, full details of the design of doors/windows shall be submitted to and approved in writing by the Planning Authority in the form of drawings at a scale of 1:20. The drawings shall include: arrangement, dimensions, method of opening and materials. Development shall thereafter be carried out using the approved designs and materials or such alternatives as may be agreed in writing in advance with the Planning Authority.

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

4. The external walls of bay 1 (adjacent to the Regent Hotel) and Bay 3 (adjacent to the Oban Inn shall be finished in white smooth wet cement render and Bay 2 (Central Section) shall be finished in a rain-screen finish, the type and colour and a sample of which shall be submitted to and shall be approved in writing by the Planning Authority prior to development being commenced. Additionally, samples and/or full details of all external materials to be used in the construction of the ground floor road frontage of the building, including window and door frames, plinths and wall panels, shall be submitted to and shall be approved in writing by the Planning Authority prior to development being commenced. Development shall thereafter be carried out using the approved materials, or such alternatives as may be agreed in writing in advance, with the Planning Authority.

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

5. Notwithstanding the details shown on the approved plans, the roofs of Bay 1 (adjacent to the Regent Hotel) and Bay 3 (adjacent to the Oban Inn) shall be finished in natural slate (salvaged from the demolition of the listed building as far as possible).

Reason: In the interests of sustainability and in order to improve the character and appearance of the new building and to integrate the roofs into the roofscape/townscape of the surrounding Special Built Environment Area.

6. Prior to the commencement of demolition, a Demolition Method Statement shall be submitted to and approved in writing by the Planning Authority in consultation with Transport Scotland. The Demolition Method Statement shall cover and take account of proximity to the Trunk Road and Public Footpath, and Traffic Management. The development shall be implemented in accordance with the duly approved Method Statement.

Reason: To maintain the safe and free flow of traffic and pedestrians on the Trunk Road during demolition.

7. Prior to work starting on site, the applicant shall submit written confirmation of Scottish Water's agreement that that all surface water discharged from the development shall be connected to the Scottish Water drainage network.

Reason: To ensure the drainage arrangements for the site are acceptable.

8. Prior to work starting on site, the applicant shall secure either the diversion or extinguishment of any public access rights through the development site by way of a Stopping-up or Diversion Order under the Roads (Scotland) Act 1984. No obstruction of the route afforded by the Pend (notwithstanding the demolition of the building incorporating that Pend), should take place until the required Stopping-up or Diversion Order has been sought and has taken effect. For the avoidance of doubt such works shall be undertaken at the expense of the developer.

Reason: In order to maintain the public right of way through the site by diversion or to secure an alternative equally commodious route.

NOTES TO APPLICANT

Note 1:

In terms of condition 2 above, the council can approve minor variations to the approved plans in terms of Section 64 of the Town and Country Planning (Scotland) Act 1997 although no variations should be undertaken without obtaining the prior written approval of the Planning Authority. If you wish to seek any minor variation of the application, an application for a non material amendment (NMA) should be made in writing to Planning Services, Dalriada House, Lochgilphead, PA31 8ST which should list all the proposed changes, enclosing a copy of a plan(s) detailing these changes together with a copy of the original approved plans. It should be noted that only the original applicant can apply for an NMA under the terms of Section 64 of the Town and Country Planning (Scotland) Act 1997. Any amendments deemed by the Council to be material, would require the submission of a further application for planning permission.

Note 2:

Contact should be made with Scottish Water to secure appropriate consents for connection to their infrastructure.

Scottish Water
Customer Connections
419 Balmore Road
Glasgow
G22 6NU

Customer Support Team
T: 0141 355 5511
F: 0141 355 5386
W: www.scottishwater.co.uk
E: connections@scottishwater.co.uk

Note 3:

It should be noted that both listed building consent and planning permission are required for the demolition and redevelopment of this site, consequently, both must be obtained before work can commence. No work should therefore commence until such time as the Listed Building Consent sought under 10/01817/LIB has been granted, and all relevant pre-commencement of work conditions and the requirement to notify RCAHMS have been satisfactorily discharged and addressed.

Note 4:

Regulatory Requirements (SEPA)

Details of regulatory requirements and good practice advice can be found on SEPA's website at www.sepa.org.uk/planning.aspx. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory team at your local SEPA office at:

2 Smithy Lane,
Lochgilphead,
Argyll,
PA31 9JN

If you have any further queries please contact Nicola Abrams on 01224 266698 or e-mail at planningaberdeen@sepa.org.uk

Note 5:

This permission should not be construed as having any effect in respect of private access rights as may be capable of being demonstrated in respect of the Pend through the existing building, which affords a means of access to George Street and Charles Street and beyond, and where it is understood that private rights exist in respect of the servicing of adjacent premises. Whilst any disputes concerning private access rights would be a civil legal matter between the site owner and the persons seeking to exercise such rights. Stopping Up or Diversion of public rights of way through the development site would require to be pursued under highways legislation. The developer would be expected to meet the legal and advertising costs of any such Order

Note 6:

This permission does not carry with it the right to carry out works within the trunk road boundary, consequently, Transport Scotland must be consulted through their Management Organisation, on the terms and conditions, under Roads legislation, that require to be agreed to enable works within the trunk road boundary to be approved.

TranServ, Broxden House, Broxden Business Park
Lamberkine Drive, Perth, PH1 1RA

A. Settlement Strategy

In terms of local plan designation, the site is located within the Main Settlement of Oban within the Main Town Centre in a designated Special Built Environment Area. It also lies within Area for Action 5/2, Oban –George Street/North Pier, where the nature of action is identified as strategic, town centre/waterfront development and management.

The Council's Economic Development Action Plan describes 'Oban, Lorn and the Isles' as being:

“endowed with a concentration of world class tourist attractions and a variety of environments unsurpassed in Scotland (Mull, Iona, Tiree, Coll and Lismore are just a few of the inhabited islands). The town of Oban is the transport gateway to the inner and Outer Hebrides and is a centre for retail, tourism, Gaelic culture and world class marine research”.

The type of development proposed is acceptable in terms of the relevant planning policy, in that it will serve a wide community of interest and it will be located on an appropriate redevelopment site. It will entail the demolition of a derelict hotel building in the town centre which is a wasted asset with a modern hotel development which will represent a significant asset to the tourist economy and which will support business in the area. It is also anticipated to create up to fifty full and part-time jobs. It is considered that the proposal is consistent with all other relevant policies of the Structure and Local Plan.

Having due regard to the above it is considered that the proposal is consistent with the provisions of Policy STRAT DC 1 of the Argyll & Bute Structure Plan (approved 2002).

B. Location, Nature and Design of Proposed Development

In terms of context, the site occupies a sensitive position within a terrace of Victorian buildings in a prominent location adjacent to the North Pier. When viewed from the approach to Oban by sea, it forms an important part of the foreground in the townscape, rising up to McCaigs Tower on the skyline.

The existing Argyll Hotel (proposed to be demolished) is effectively made up of three separate buildings of different ages which consequently vary in appearance, with different roof profiles, window heights etc., being linked only by their external white finish, the use of slate as the common roofing material and their historical development.

The site forms part of the original planned town, in conjunction with the Oban Inn and the two storey listed buildings in Charles Street. The latter is now a forgotten and sorely neglected part of the back court area due to the tenements which were constructed in front to form Stafford Street.

There is an existing Pend through the 'middle' section (2nd Bay) of the Argyll Hotel which provides shared service access to the back court, for both the Argyll Hotel and the Oban Inn, an assumed Public Right of Way to George Street and potentially private access to properties on George Street, Charles Street and Stafford Street (refer to section D of report).

The design of the proposed hotel has evolved significantly from those which were originally presented as part of the pre-application discussions and which were considered inappropriate in terms of their design with the townscape context within which the building is to be located. Its development can be broken down into three main

stages. Initially a modern block with horizontal emphasis was presented, but rejected as it was considered that the design would conflict with the vertical emphasis of the adjacent listed buildings. It was considered that such a large element was too massive and uninspired in its approach. The design then began to evolve by changing the emphasis to vertical, which did represent an improvement but did not balance the scale of the building with its neighbours, and finally, the concept of design evolved to what we have before us today, which is a building with modernistic pretensions, respectful of its neighbours, and to the scale of neighbouring buildings (particularly the much smaller Oban Inn), comprising 'three bays' thus reflecting the historical 'three' stage development of the original Argyll Hotel.

The outcome of the design process is a three bay building comprising:

Bay 1 (adjacent to the Regent Hotel) – comprises traditional proportions with contemporary features, and a ridgeline set slightly lower than that of the Regent (a category B listed building);

Bay 2 (centre) – contemporary design, with higher ridgeline to reflect that of the original building's development.

Bay 3 (adjacent to Oban Inn) – like bay 1 – comprises traditional proportions with contemporary features and a lower ridgeline, in order to be more sympathetic to the Oban Inn (also a category B listed building).

Given the sensitivities of this site, the importance of the building in the context of Oban, and the relationship with adjacent listed buildings, Development Management has sought advice from Architecture & Design Scotland. In terms of design, despite the proposal being amended, A+DS are still not convinced that the three elements of the building necessarily read together to form a successful collective whole. They still consider that the central section of the building appears somewhat alien to the other parts of the design and to the surrounding context, both in terms of the curved plan form at the upper levels and in elevation on the west façade. In addition they have reservations about some of the glazed elements which they feel are arbitrary in respect of the layout of the building at ground and upper floors and foreign to the context.

A+DS continue to suggest that the design of the overall central element requires some further consideration in respect of the proposed architectural language and the proposed roof form in order that it complement the rest of the building and the surrounding streetscape. They also question whether the separate treatment of the base course is in keeping with the local character of the area. In any event they consider that the quality and choice of materials used at street level will be particularly important as this will be directly experienced by the public. (It is recommended that final finishing materials be secured by a condition).

Development Management has worked extremely hard with the applicant over approximately 2 years, to try and secure a high standard of appropriate design in accordance with the design principles set out in the Local Plan. This was in recognition of the sensitivity of the site and the fact that the redevelopment would be replacing a listed building.

The setting of a development sets a visual, and sometimes, a cultural context for layout and design considerations. It is important when assessing the impact of the development setting to focus on the regional and local characteristics of the development pattern, the historic environment and the built environment in general. In terms of development setting, it is considered that the development has been sited and positioned so as to pay regard to the context within which it is located. Its scale is appropriate to adjoining buildings and its function as a hotel is appropriate to its surroundings. Its presence will

have consequences for the listed terrace (occupied mainly for storage) at Charles Street to the rear, but this is already overpowered by adjacent more recent buildings (including the hotel building to be demolished) which have long since usurped the setting of these buildings and have consigned them to a backland situation and inevitable neglect and decay as a consequence. In terms of development layout and density, it is considered that the development will effectively integrate with its urban setting. It is not considered that the proposal constitutes over-development nor that it will cause any unacceptable adverse impact to adjacent properties by means of over-shadowing.

Compatibility with existing nearby development and ensuring a positive contribution to the townscape of the area are important factors in the Council's general requirement for a high standard of design throughout Argyll and Bute. In terms of Development Management it is considered that the design of the development is compatible with its surroundings. Particular attention has been made to massing, form and design details within this sensitive location, in between listed buildings and within a Special Built Environment Area.

Subject to the recommended conditions Development Management considers that the proposal represents an appropriate high quality new development that respects the local environment and will contribute to the maintenance of a sense of place. Development Management does agree with Architecture and Design Scotland and considers that some improvement could have been made to the central bay of the building. However, the applicant has refused to make any further changes and it would not be considered appropriate to recommend refusal of what would be an important development in the context of Oban for such a minor and ultimately partly subjective matter. It should be noted that the recommended conditions require the re-use of slate salvaged from the demolition of the listed building for the roofs of bay 1 (adjacent to the Regent Hotel) and Bay 3 (adjacent to the Oban Inn) rather than the lead roof specified on the drawings which would be less appropriate to its townscape context.

It is considered that the proposal is sustainable, in that it will maximise local community benefit, assist in the maintenance and development of the tourist and business economies, and will make use of a derelict/brownfield site.

Having due regard to the above it is considered that the proposal is consistent with the provisions of Policy STRAT SI 1: Sustainable Development of the 'Argyll & Bute Structure Plan' (approved 2002) and Policy LP ENV 19: Development Setting, Layout and Design and Appendix A: Sustainable Siting and Design Principles of the 'Argyll & Bute Local Plan' (adopted 2009).

C. Built Environment

Historic Scotland has advised that they do not have a role in commenting on the proposed new building, and will confine their comments to the listed building consent application for the demolition of the existing building on the site.

This proposal will result in the loss of a category C(s) listed building, and shall affect the settings of three other listed buildings, namely: the Regent Hotel (category B); the Oban Inn (category B) and Charles Street (category B). It will also stand opposite to the Columba Hotel (category B). It is considered that the design of the proposed new hotel is now of a sufficient standard to ensure that it will not have a significant adverse impact on the adjacent listed buildings or their settings and that it will conform to Scottish Historic Environment Policy 2008 as a consequence.

The site is also located within a 'Special Built Environment Area' and it is considered that the proposal will not detract from its character and appearance. Furthermore, it is considered that the location, siting, scale, form and design of the proposal will not undermine but will complement the built heritage within which it is to be located. Hotel development in the immediate locality is diverse in terms of its age and style, reflecting the aspirations of the period (from the 19th Century to the 1930's) and this development includes a modernistic element in its design whilst including elements which continue to replicate the three bay form of the original building and which present an appropriate transition in scale to neighbouring historic buildings. Development which will secure the protection, enhancement and positive management of the historic environment is promoted by development plan policy.

Having due regard to the above it is considered that the proposal is consistent with the provisions of Policies STRAT DC 9: Historic Environment & Development Control of the 'Argyll & Bute Structure Plan' (approved 2002); and Policies LP ENV 13a: Development Impact on Listed Buildings; LP ENV 14: Development in Conservation Areas and Special Built Environment Areas, and Appendix A: Sustainable Siting and Design Principles (LB's and CA's) of the 'Argyll & Bute Local Plan' (adopted 2009).

D. Impact on Access

The Council's Senior Solicitor has been consulted for advice on access matters and has advised that access rights under the Land Reform Act are separate from and do not affect any other rights of access. Matters raised concerning the existence of private access rights across the development site are between respective proprietors and the landowner. The Council's Senior Solicitor recommended that the Access Team be consulted on the proposal to establish a clearer picture about any public rights.

The Access Manager considers that there are likely to be public rights in existence between the Corran Espalande and George Street via the Pend through the building, backland areas to the rear and the foot of the stairway alongside the Regent Hotel. His view is that it would be appropriate to seek a Diversion Order or Stopping Up Order under the Roads (Scotland) Act 1984 prior development proceeding, which would need to specify pedestrians and cyclists as well as motor vehicles. His feeling is that in the event that the likelihood of a public right of way were to be ignored, then the developer would run the risk of a legitimate objection being raised to interference with a public right of way once development had been commenced. It is therefore a more responsible course of action to accept that the route may well be a PRow and get on with diverting or closing it.

The development includes a relocated Pend in order to provide rear servicing to the proposed building, to the Oban Inn and to the buildings on Charles Street. This is an acceptable alternative means of servicing in land use planning terms, but might not prove entirely acceptable to those exercising private rights of access for the rear serving of nearby buildings. That would, however, be a matter for the prospective developer to resolve with those parties, as private rights of access do not constitute material planning considerations. A claim has been made on behalf of the tenants of a shop property on George Street that the Pend provides them with a means of rear access for servicing and that they would continue to wish to exercise whatever private rights are available to them. It is not clear whether vehicular rights are claimed, but it should be noted that the Pend has been bollarded off for around 18 months and no legal recourse appears to have been sought by any party seeking to continue to exercise vehicular rights. Although lack of usage would not have consequences for the validity of any established rights, it is clear that the property in question is capable of continuing to trade without having vehicle access through the existing hotel building. Alternative access to the rear of the property on George Street is available from George Street itself, via the level section at

the top of the stairway passage up the side of the Regent Hotel, which provides a pedestrian only link between George Street and the Corran Espalande below.

Local Plan policy requires that development proposals safeguard public rights of way; and where public rights of way, will be prejudiced by a development, including during construction and upon completion, then the developer should be expected to incorporate appropriate alternative or modified public access provisions. A condition has therefore been recommended to address this matter.

It is also worth noting that Development Management strongly advised the applicant to resolve all outstanding private and public access issues prior to the determination of this application, but, the applicant insisted that the proposal be moved forward to determination as he feels that access issues have been raised by officers in a bid to frustrate development. This is not of course the case, as these issues have been raised at an early stage to ensure that such matters do not arise at the last minute, potentially once development is committed and underway. Development Management has emphasised to the applicant that if access issues were not addressed satisfactorily in the context of the approved scheme, that unresolved private access disputes might render a consent unimplementable, and that alterations to an approved design might be required to overcome these, which might represent 'material' changes and therefore require the submission of a further planning application. At the end of the day however, it is up to the applicant to decide how best to engage with parties which might benefit from private rights of access across his property and at what point in the process to do so.

Having due regard to the above it is considered that the proposal is consistent with the provisions of Policies LP ENV 1 (B) and LP TRAN 1: Public Access and Rights of Way of the 'Argyll & Bute Local Plan' (adopted 2009).

E. Road Network, Parking and Associated Transport Matters.

The Roads Operations Manager has no objection to this application. His view is that the submitted parking survey has indicated that the parking requirement for the proposed new hotel can be met by existing car parks which will not coincide with the peak demand from other land users. That is not a view shared by the Oban Community Council who have raised the issue of parking in connection with this application. As this is a town centre site (the existing hotel building has no parking provision) and that on and off street parking is available within the town centre it is not considered that the lack of off street parking dedicated to hotel use is an impediment to development in this location.

Transport Scotland have advised that they have no objection to the proposal providing a condition is attached to any grant of planning permission to secure a method statement to be agreed with the planning authority after consultation with roads authority for the removal of the existing building prior to any works commencing on site. They have indicated their satisfaction with the proposed access and servicing arrangements for this building in association with existing buildings taking servicing access via the development site.

Having due regard to the above it is considered that the proposal is consistent with the provisions of Policy LP TRAN 6: Vehicle Parking Provision and Appendix C: Access & Parking Standards of the 'Argyll & Bute Local Plan' (adopted 2009).

F. Infrastructure

Scottish Water has advised that they have no objection to this planning application. However, that any planning permission granted does not guarantee a connection to their infrastructure. Approval for connection to their infrastructure can only be given by them. They therefore advise that the applicant contact them to ensure the appropriate procedure is followed. It is recommended by them that the applicant be advised to contact Scottish Water and that this would be attached as a note to any grant of planning permission.

Having due regard to the above it is considered that the proposal is consistent with the provisions of Policies LP SERV 1: Private Sewage Treatment Plants and Wastewater (i.e. Drainage) Systems and LP SERV 4: Water Supply of the 'Argyll & Bute Local Plan' (adopted 2009).

G. Flooding

The Scottish Environment Protection Agency advised that the application site (or parts thereof) lies adjacent to the 1 in 200 year (0.5% annual probability) flood envelope of the Indicator River & Coastal Flood Map (Scotland), and may therefore be at medium to high risk of flooding. In light of this they recommended that the Flood Alleviation Manager be consulted on the proposal.

The Flood Alleviation Manager has no objection to the proposal in principle but advises that it should be confirmed that: surface water discharged from the development will be connected to the Scottish Water drainage network. He has confirmed that the proposed ground floor level of 4.65 m AOD as shown on the plans is acceptable.

Providing the recommended condition is attached it is considered that the proposed development will not be at significant risk of flooding or from erosion, and would not increase the risk to other land or property and is therefore acceptable in this regard.

Having due regard to the above it is considered that the proposal is consistent with the provisions of Policy STRAT DC 10: Flooding and Land Erosion of the 'Argyll & Bute Structure Plan' (approved 2002) and Policy LP SERV 9: Flooding and Land Erosion – The Risk Framework for Development.

H. Environmental Health & Licensing

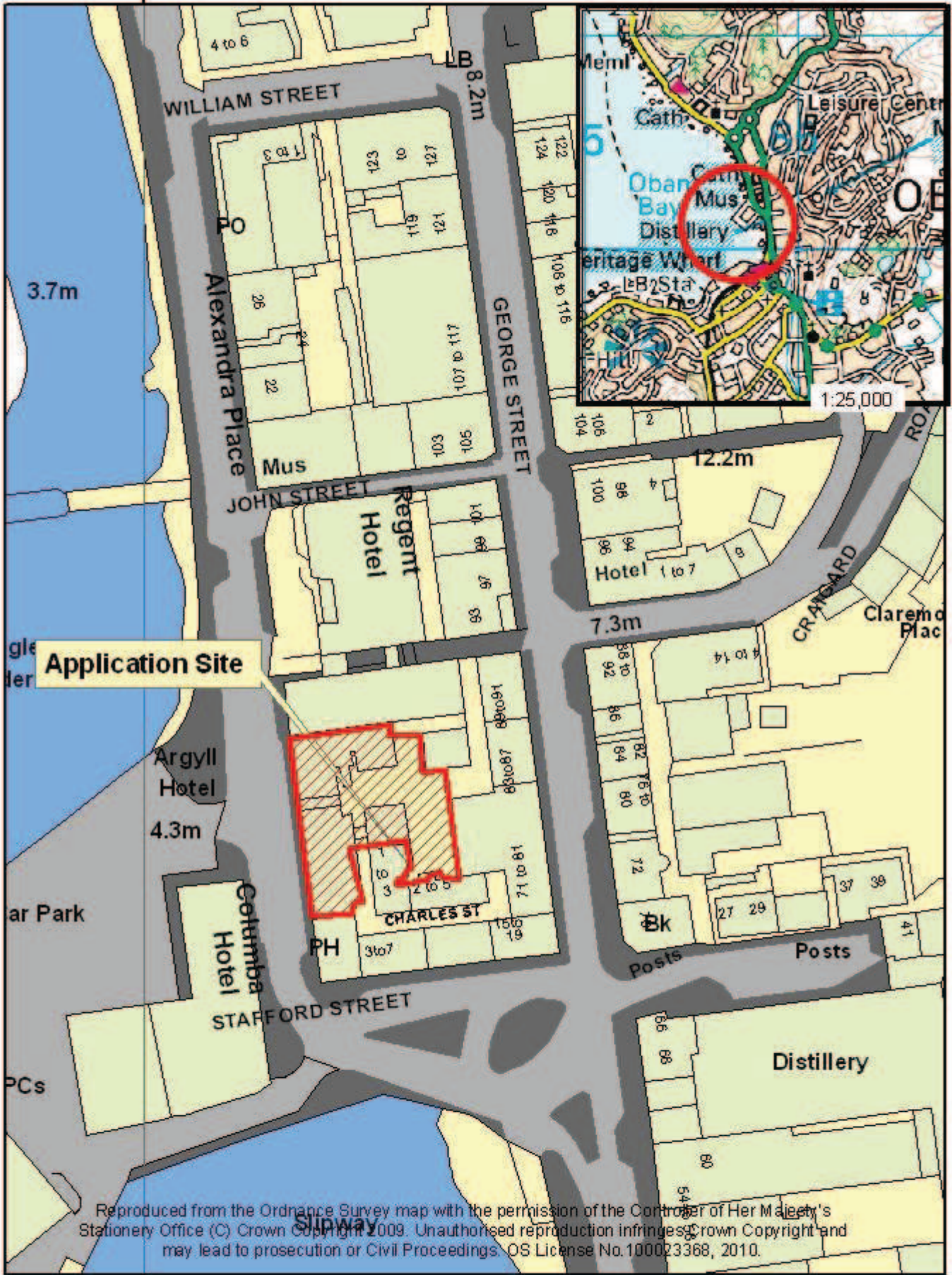
The Environmental Health Officer has no objection to the proposal. However, advises that he has written to the applicant to request further details regarding the layout and provision of fixtures/fittings in relation to food safety and health and safety. These are matters which would be regulated by environmental regulations/legislation rather than planning legislation. The Licensing Standards Officer has no comments or objection to this application.

APPENDIX C – REPRESENTATIONS RELATIVE TO APPLICATION NUMBER: 10/01831/PP

1.	Hugh MacDonald	19 Longrow South Campbeltown PA28 6AH	23/11/10	Representation
2.	David Ayling	87 George Street Oban PA34 5NN	8/12/10	Representation
3.	Alastair Knox	VIOPTI Polaroid Building Vale Of Leven East Dumbarton G82 3PW	29/12/10	Support
4.	Hugh MacDonald	19 Longrow South Campbeltown PA28 6AH	10/11/10	Support
5.	Morham & Brotchie	5 Stafford Street Oban	22/11/10	Support
6.	Punch Pub Company (Trent) Ltd, C/o Burness LLP	120 Bothwell Street Glasgow G2 7JL	29/12/10	Objection
7.	Speirs Gumley	194 Bath Street Glasgow G2 4LE	9/12/10	Objection
8.	Speirs Gumley Property Management	194 Bath Street Glasgow G2 4LE	9/12/10	Objection
9.	MacArthur Investment Trust Ltd, C/o Spiers Gumley Property Management	194 Bath Street Glasgow G2 4LE	9/12/10	Objection
10.	Alasdair McBurnie	Searidge 114 George Street Oban PA34 5NT	26/11/10	Objection

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185800



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**Committee Plan Relative to
Planning Application Ref: 10/01831/PP**

Date: 07.09.2010

Scale: 1:1,000



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**Argyll and Bute Council
Development and Infrastructure Services**

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 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 10/02000/PP

Planning Hierarchy: Local Development

Applicant: Eilean Eisdeal

Proposal: Erection of 1 No. 15 metre high (hub) 6kw wind turbine

Site Address: Land Southeast of Easdale Museum, Easdale

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of 1 No. 15 metre high (hub) 6kw wind turbine
-

(B) RECOMMENDATION:

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

(C) HISTORY:

No history relevant to this particular site.

(D) CONSULTATIONS:

Public Protection Unit

Memo dated 02/03/11 advising no objection to the proposed development.

National Air Traffic Systems

Letter dated 15/12/10 advising no safeguarding objection to the proposed development.

Access Officer

No response at time of report and no request for extension of time.

Conservation Officer

Memo dated 14/02/11 advising "Argyll and Bute Council has a statutory duty to protect and enhance conservation areas and historic buildings and structures. Whilst I support the positive contribution renewable energies can make to the historic environment I believe that in this instance the installation of a wind turbine would dominate and detract from the surrounding historic environment rather than enhance it. The potential for other forms of renewable energy (ground or water source heat pumps), and the potential for the fabric of the associated building to optimise its energy efficiency both exist as alternative solutions. For these reasons I recommend this application for refusal.

Seil and Easdale Community Council

E-mail dated 20/02/11 objecting to the proposed development stating that "the proposal is contrary to policies contained within the adopted Argyll and Bute Local Plan and will dominate nearby buildings and the landscape and will not 'preserve or enhance the character or appearance of an existing Conservation Area'. If approved the proposal would result in a development which would be a conspicuous nuisance to both residents and visitors resulting in noise, strobe effect and be an eyesore to both residents and visitors.

Historic Scotland

Letter dated 22/12/10 advising that there are unlikely to be any significant detrimental impacts on the settings of any assets within their remit.

Scottish Natural Heritage

E-mail dated 06/01/11 advising no objection to the proposed development.

Royal Society for Protection of Birds

Letter dated 21/12/10 advising due to the scale and site of the proposal, no concerns upon its potential impacts upon birds interests within this area.

Scottish Ambulance Service

No response at time of report and no request for extension of time.

West of Scotland Archaeology Service

E-mail dated 12/01/11 advising that the proposal raises no substantive archaeological issue.

The above represents a summary of the consultation responses received. Full details of the letters of representation are available on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

(E) PUBLICITY:

The proposal has been advertised in terms of Conservation Area and Regulation 20 procedures, closing date 06/01/11.

(F) REPRESENTATIONS:

Representations have been received from 67 individuals as follows:
63 objections, 4 support

OBJECTIONS

Hamish Munton, The Old Inn, Ellenabeich, Isle Of Seil, Oban

Mr Ian Brown, 8 Seaview Terrace, Easdale, Oban, PA34 4RG

M M MacLellan, 8 Ellenabeich, Isle Of Seil, Oban, PA34 4RQ

Mr P A And Mrs M E Bridges, 1 Westfield Court, Mirfield, West Yorks, WF14 9PT

Alistair W Knox, 10 Kilmartin Court, Shore Street, Oban, PA34 4NT (2 representations)

H Simcox 60 Ellenabeich Easdale Oban PA34 4RQ (2 reps)

S Cooper, Creel Cottage, 64 Ellenabeich, PA34 4RF

E Munten, Creel Cottage, 64 Ellenabeich, PA34 4RF

John Wilson, Aite-Fois, Clachan Seil, Isle Of Seil, Oban

Mrs A S Wilson, Aite-Fois, Clachan Seil, Isle Of Seil, Oban

Derek Lyall, 12 Easdale Island, Oban, PA34 4TB

Mary Withall, 13 Easdale Island, Oban, PA34 4TB

P.W.F. Withall, 13/A Easdale Island, Oban, PA34 4TB

Eugenie Thomasson, An Lionadh, Easdale Island, PA34 4TB

Simon Thomasson, An Lionadh, Easdale Island, PA34 4TB

Jill Hunter No 4 Easdale island main address - Ledi Lodge, Main Street, Kippen, FK8 3DN

L Munton, The Old Inn, Ellenabeich, Isle Of Seil, Oban

Adele Knox, 22 Easdale Island, Oban, PA34 4TB (2 representations)

Ms Linda Brown, 8 Seaview Terrace, Easdale, PA34 4RG

Elizabeth Reid, Harbour Cottage, Ellenabeich, Isle Of Seil, Oban

Annabel Robertson, 42 Ellenabeich, Isle Of Seil, PA34 4RQ

George Doyle, 41 Ellenabeich, Isle Of Seil, Oban, PA34 4RQ

Mr And Mrs Leslie Wolfson Per Leslie Wolfson And Co Solicitors Waterloo Chambers 19 Waterloo Street Glasgow G2 6BQ

Julian Penney, Stones Throw Cottage, Easdale Island, Oban, PA34 4TB

Meurig Jones, 10 Kerrisk Drive, Dunfermline, Fife, KY11 8RG & 29 Easdale Island, PA34 4TB (9 representations)

Mrs S Fairbairn, 9A Easdale Island, By Oban, PA34 4TB

Mrs R A Sampson, 13B Easdale Island, Oban, PA34 4TB (2 representations)

Mrs G Johnston, 4 Seaview Terrace, Easdale, PA34 4RG

Mr J S Johnston, 4 Seaview Terrace, Easdale, PA34 4RG

Mr Kevin Johnston, 4 Seaview Terrace, Easdale, PA34 4RG

Ruth Morris, 61 Ellenabeich, Easdale, PA34 4RQ

Mr Stuart Reid, Torbeag, Clachan Seil, Isle Of Seil

M Lyall, 12 Easdale Island, Oban, PA34 4TB

C L Davies, 2 Pipers Road, Cairnbaan, Lochgilphead, PA31 8UF

Jenny Smith, 33A Easdale Island, Oban, PA34 4TB (3 representations)

Tim Flinn, 39 Easdale Island, Oban, PA34 4TX

Henry Tarbatt, 33a Easdale Island, Oban, PA34 4TB (3 representations)

Keith Oversby, 55 Easdale Island, PA34 4TB (2 representations)

S Downie, An Cala, Ellenabeich, Isle Of Seil, Oban

A Clayton, 46 Easdale Island, Oban, PA34 4TB

Stuart A Clayton, 46 Easdale Island, Oban, PA34 4TB

Peter Jones, 10 Kerrisk Drive, Dunfermline, Fife, KY11 8RG

Heather Chaplin, 3 Easdale Island, Oban, PA34 4TB (2 representations)

Mrs Margaret Jones, 10 Kerrisk Drive, Dunfermline, Fife, KY11 8RG

Sandra Hodson, 62 Easdale Island, Oban, PA34 4TB

Elizabeth Rhodes, 49 Easdale Island, Oban, PA34 4TB (3 representations)

Mr T R Tinney, 13B Easdale Island, Oban, PA34 4TB

Brian T Dickey, Sealladh Na Mara, Ellenabeich, Isle Of Seil, Oban

E A Dickey, Sealladh Na Mara, Ellenabeich, Isle Of Seil, Oban

Ronald Hives, 101 Easdale Island, Oban, PA34 4TB

Tina Jordan, 55 Easdale Island, Oban, PA34 4TB

Ronald B And Wendy E Blakey, 38 Easdale Island, By Oban PA34 4TB

Mrs Gwen Mister 5 Alington Road Dorchester Dorset DT1 1NS

Heather Hyland 1 Cossacks Cottages Cortachy Angus DD8 4NA

P W F Withall 13/A Easdale Island By Oban Argyll PA34 4TB

Julian Penney Stone's Throw Cottage Easdale Island Oban PA34 4TB

Jennifer Davie, 35 Main Street, Hillend, Dunfermline

Easdale Island Residents And Property Owner's Association, C/o Keith Oversby, 55
Easdale Island, PA34 4TB

Miss Susan Jones, 11f Auckland Crescent, JHQ- Monchengladbach, 41179, Germany

Mike Armstrong, 62 Easdale Island, Oban, PA34 4TB

(i) Summary of objections raised

- The proposal is contrary to Policies LP ENV 1, LP ENV 2, LP ENV 6, LP ENV 9, LP ENV 13(a), LP ENV 14, LP CST 1, LP CST 4, LP REN 2, LP TRAN 1, LP BAD 1, STRAT SI 1, STRAT DC 7, STRAT DC 8, STRAT DC 9, STRAT RE 1.
- The proposed wind turbine would be out of scale and out of character with both the natural environment and the historic built environment of the Easdale Island Conservation Area.
- The amenity of residents of the island would be adversely affected by shadow flicker from the proposed wind turbine.
- The amenity of residents of the island would be adversely affected by noise from the proposed wind turbine.
- The proposed wind turbine would which provides access to the shore, disused slate quarries, a popular vantage point and sea angling at Carraig Ruadh.
- The site is used by spectators at the annual stone skimming contest and if the turbine is constructed this area would be lost as a spectating area.
- Historic Scotland is considering listing the quarries as Scheduled Ancient Monuments and the erection of the wind turbine would prejudice this decision.
- Public and private access rights would suffer during the construction of the turbine and the digging of the trench for the cable along the village square.
- The trench for the cabling for the wind turbine has the potential to put septic tanks and other services at risk.
- The turbine is not sited anywhere near the building it is intended to serve.
- No evidence of monitored wind data has been submitted in support of the application.
- The length of the cable from the turbine to the community hall is such that it would result in a significant loss of any energy generated.
- The community hall is uninsulated and therefore any heat gained would immediately be lost.

- There is a wealth of bird life on the island and in the summer visiting colonies of bats which would all be put at risk by the proposed wind turbine.
- The Green Streets project was applied for without the prior knowledge, consultation or consent of the Easdale Island 'community of the island residents and is being pushed forward by a few individuals against the wishes of the majority.
- Eilean Eisdeal has failed to act in an open and transparent manner and is not in a position to claim to represent the consensus of the views of the Easdale Island 'community'.

SUPPORT

Mrs Pamela Carr, 60 Easdale Island, Oban, PA34 4TB

Steve Brown, 56a Easdale Island, Oban, PA34 4TB

Voirrey Quillin, 1a Easdale Island, Oban, PA34 4TB

Annabel Gregory, 47 Easdale Island, Oban, PA34 4TB

(ii) Summary of support raised

- The project will enable the community hall to be heated by sustainable, green energy.
- The project will provide funding to the community for at least the next 20 years enabling a multitude of projects from maintenance of the B Listed Harbour to funding an arts programme.
- As already seen on islands such as Gigha, wind turbines will provide a source of funding for small, remote islands.
- Easdale was never just a beauty spot. It has a long history of industrial development.
- The proposal represents a good example of community practice and will have a positive impact on the island.
- The proposal is fully consistent with the Scottish Government's policy on renewable.

The above represents a summary of the issues raised. Full details of the letters of representation are available on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- | | |
|--|-----------|
| (i) Environmental Statement: | No |
| (ii) An appropriate assessment under the Conservation | No |

**(Natural Habitats) Regulations 1994:
(If yes enter below)**

- | | | |
|-------|--|------------|
| (iii) | A design or design/access statement: | No |
| (iv) | A report on the impact of the proposed development e.g. retail impact, transport impact, noise impact, flood risk, drainage impact etc: | Yes |

(If yes list of assessments/reports below)

Noise Assessment

Brief summary of main issues raised by each assessment/report

The calculation of noise of the turbine at surrounding properties has been made by using the sound power levels in a report by Sgurr Energy in 2007 and by using sound propagation methodology set out in the International Standard ISO961302 0 The Attenuation of Sound During Propagation Outdoors. The calculation uses geometrical spreading over hard ground and minimal air absorption. The use of hard ground leaves a substantial margin of safety in the order of 4dBA.

It is concluded that when a dwelling is downwind of the turbine the impact will either be insignificant or, at worst, of marginal significance. The turbine is so positioned that houses will generally not be downwind of the turbine.

The above represents a brief summary of the issues raised. Full details of the report is available on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

(H) PLANNING OBLIGATIONS

- | | | |
|-----|--|-----------|
| (i) | Is a Section 75 agreement required: | No |
|-----|--|-----------|

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

Argyll and Bute Structure Plan 2002

STRAT DC 2 – Development within the Countryside Around Settlements

STRAT DC 8 – Landscape and Development Control

STRAT DC 9 – Historic Environment and Development Control

STRAT RE 1 – Wind Farm/Wind Turbine Development

Argyll and Bute Local Plan 2009

LP ENV 1 – Impact on the General Environment

LP ENV 10 – Impact on Areas of Panoramic Quality (APQs)

LP ENV 13a – Development Impact on Listed Buildings

LP ENV 14 – Conservation Areas and Special Built Environment Areas

LP ENV 19 – Development Setting, Layout and Design

LP REN 1 – Wind Farms and Wind Turbines

LP CST 1 – Coastal Development on the Developed Coast

LP CST 4 – Development on the Natural Foreshore

Appendix A – Sustainable Siting and Design Principles

- (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 4/2009.**

The Town & Country Planning Act (Scotland) 1997

The Planning etc. (Scotland) Act, 2006

SPP, Scottish Planning Policy, 2010

Planning Advice Note 45 : Renewable Energy Technologies

Scottish Historic Environment Policy, 2009

Micro Generation Domestic Turbines Briefing Note, 2010

Micro renewables and the natural heritage, SNH, 2009

(K)	Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:	No
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(L)	Has the application been the subject of statutory pre-application consultation (PAC):	No
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(M)	Has a sustainability check list been submitted:	No
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(N)	Does the Council have an interest in the site:	No
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(O) Requirement for a hearing (PAN41 or other): **Yes**

In deciding whether to exercise the Council's discretion to allow respondents to appear at a discretionary hearing, the following are of significance:

- 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.

In this case, whilst the application has been the subject of 67 individual representations, only 4 of those representations are in support of the proposal. Accordingly, as the application is being recommended for refusal, it is not considered that a hearing would add value to the process and therefore Members should exercise their discretion and decline to undertake a hearing prior to the application being determined.

(P) Assessment and summary of determining issues and material considerations

Planning permission is sought for erection of 1 No. 15 metre high (hub) 6 kilowatt wind turbine on an area of land to the southeast of Easdale Island.

In terms of the adopted Argyll and Bute Local Plan, the site is situated within the Countryside Around Settlement (CAS) Zone within which Policy STRAT DC 2 of the approved Argyll and Bute Structure Plan gives encouragement to development which accords with the settlement plan for the area.

The CAS zone corresponds to those peripheral areas close-in and around settlements where compatible developments and small scale, infill, rounding off and redevelopment proposals will be supported where appropriate, provided they do not compromise the long term growth of the settlement.

Whilst the single turbine is small scale in terms of its footprint size it would nevertheless be an incongruous vertically high and materially different feature in the context of landscape, modest settlement form and development pattern of this CAS Zone. Its impact would be adverse on the established levels of visual amenity currently afforded to the island and therefore would not be a compatible development adjacent to the settlement of Easdale village contrary to the provisions of this policy. The positioning of the turbine isolated on shingle headland to the south east of the main settlement area also cannot be considered as 'in filling' and is not consistent with the pattern of development on the island. For such a development to be considered consistent with policy in this specific location either a definitive locational need or exceptional circumstance should be demonstrated.

Policy LP REN 1, Wind Farms and Wind Turbines offers support to wind turbine development where the technology can operate efficiently, where servicing and access implications are acceptable and where the proposed development will not have an unacceptable adverse impact directly, indirectly or cumulatively on the economic, social or physical aspects of sustainable development. Policy LP REN 1 requires that a set of criteria must be satisfactorily addressed. This criteria-based assessment is addressed in Appendix A of this report.

The site is situated within the Easdale Conservation Area within which Policy LP ENV 14, Development in Conservation Areas and Special Built Environment Areas states that there is a presumption against development that does not preserve or enhance the character or appearance of an existing or proposed Conservation Area or its setting.

In addition to the above, the site is situated within the Knapdale and Melfort Area of Panoramic Quality within which Policy LP ENV 10, Impact on Areas of Panoramic Quality states that development in, or adjacent to, an Area of Panoramic Quality will be resisted where its scale, location or design will have a significant adverse impact on the character of the landscape.

Furthermore, consideration must be taken of Policy LP CST 1, Coastal Development on the Developed Coast, which states that applications for development will generally be supported where the development requires a coastal location; is of a form location and scale consistent with STRAT DC 2; provides economic and social benefits to the local community; respects the landscape/townscape character and amenity of the surrounding area; and is in accordance with Policy LP ENV 1.

Appendix A of the adopted Argyll and Bute Local Plan states that the impact on the landscape is a major consideration when new development is proposed and all significant developments require to be assessed for their compatibility with the present landscape character as detailed in the SNH Landscape Character Assessment.

In addition to the above, the proposal also has to be assessed for compliance with other relevant local plan policies which are detailed in Appendix A of this report.

The proposal has elicited a large number of objections from residents of the Island.

Easdale Island is characterised by a low lying land form with an absence of dramatic landscape features such as high hills or cliffs with the exception of the cliff at the centre of the island and it is vulnerable to change as a consequence of the introduction of inappropriate forms of development.

The island in its entirety has been designated as a Conservation Area and has a very special character arising from its remote location and high density of living resulting from its industrial past. It has a low lying built form of small terraced cottages of simple lines and finishing materials many of which have been listed by Historic Scotland as Buildings of Special Architectural or Historic Interest. The cottages, which are predominantly single storey white washed with tile roofs, are grouped together framing a series of large green open spaces which adds to the overall character of the island. Flooded former slate mines and shingle spoil beaches provide a distinctive settlement and island edge at the south and east free from any built features.

The village of Easdale shelters on low lying flat ground in the lee of the high cliff at the centre of the island with the rows of cottages sitting below this raised land. There are a number of flooded quarries to the southeast of the village which form deep lagoons but which are not visually prominent in this low lying built environment.

The special character and appearance of the island is highly vulnerable to change and could be easily damaged by modernisation and new development. There are a few areas on the island which could be developed without damaging the island's character and appearance principally by using lower lying ground and areas which are afforded a greater degree of backdropping / screening than the current proposal.

The proposed site is an open exposed area of land which is afforded no screening or backdrop. Whilst apparently desirable for improving wind resource, the exposed location will only emphasise the height and prominence of the proposed wind turbine in relation

to the low lying built form of Easdale village. The turbine would also be located close to the water edge surrounded by shingle and flooded mine which at present is undeveloped.

The visual impact from the verticality and height of the turbine shall be exacerbated by the topography of the proposed site which is approximately 2-3m above floor levels of the majority of existing cottages on the island. Furthermore, the modern materials used for such a turbine shall be incongruous to the simple pallet of materials found on Easdale and further attention shall be drawn by prominent location and rotational motion.

Its modern appearance, would introduce an incongruous feature which would detract from the special and historic character of the island and Conservation Area, the Conservation Area setting and have an adverse impact on the visual amenity of the rural settlement of Easdale village.

Furthermore, the proposed wind turbine would be a highly visible feature when viewed from the B844 public road on the approach to Ellenabeich. The main views into Easdale are from the village of Ellenabeich where the cliff behind the village is the most prominent feature and where there are notable viewpoints of the site looking towards Easdale from the village and harbour which would be particularly affected by the introduction of a wind turbine at this location. The turbine is notably smaller than a commercial windfarm turbine and singular in nature so impact on the wider landscape panorama is limited. However, the proposed positioning does affect views toward Easdale Conservation Area and its setting from most mainland viewpoints appearing as a dominate feature over the simple miners cottages with the rotational movement drawing further attention toward it.

Whilst the contribution that the proposal makes to renewable energy is to be commended, it is not considered that the proposed wind turbine is an appropriate structure to be sited within this area of the Easdale Conservation Area.

Planning Services has identified the potential for the proposed turbine to be relocated to the northwest where negative visual impacts and would be negated by removal of the turbine from the highly visible low lying land whilst still retaining an acceptable impact from views into the site from the north and east. The steep contours of this area of Easdale would also afford a degree of backdrop to help integrate the proposed wind turbine into the landscape and provides a buffer between the main built form of the Conservation Area and the proposed modern rotational turbine. The site is also partially screened by the topography of the island from the majority of sensitive viewpoints from the mainland and Conservation Area.

Having regard to all of the above, it is considered that the proposed wind turbine is contrary to Development Plan Policy which seeks to safeguard Conservation Areas and designated scenic areas from inappropriate development which would undermine the visual quality and landscape character of such areas and accordingly planning permission should be refused for the reasons appended to this report.

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

(R) Reasons why planning permission should be refused.

The proposal is contrary to Development Plan Policy for the reasons for refusal recommended below.

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

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

Author of Report: Fiona Scott **Date:** 21/03/11

Reviewing Officer: Angus Gilmour **Date:** 5/04/11

Angus Gilmour
Head of Planning and Regulatory Services

REASONS FOR REFUSAL RELATIVE TO APPLICATION 10/02000/PP

1. The proposed site is situated within Easdale Conservation Area which is characterised by a low lying built form of small terraced cottages of simple lines and finishing materials many of which have been listed by Historic Scotland as Buildings of Special Architectural or Historic Interest.

The proposed site is an open exposed area of land, currently free from development, which is afforded no screening or backdrop and which does not lend itself to the installation of a wind turbine which would tower above the low lying built form of the village, and, by virtue of its verticality, motion, height and modern appearance, would introduce an incongruous feature which would detract from the special and historic character of the island and Conservation Area, its setting and have an adverse impact on the visual amenity of the rural settlement of Easdale village.

The proposal is therefore contrary to Policies STRAT DC 2, STRAT DC 8, STRAT DC 9 and STRAT RE 1 of the approved Argyll and Bute Structure Plan and Policies LP CST 1, LP ENV 1, LP ENV 10, LP ENV 13(a), LP ENV 14 and LP REN 1 of the adopted Argyll and Bute Local Plan, and there are no other material considerations of sufficient weight, including the contribution which the development could make to renewable energy generation and to addressing the consequences of climate change, which would warrant anything other than the application being determined in accordance with the provisions of the development plan.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 10/02000/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

In terms of the adopted Argyll and Bute Local Plan, the site is situated within the Countryside Around Settlement Zone within which Policy STRAT DC 2 of the approved Argyll and Bute Structure Plan gives encouragement to development which accords with the settlement plan for the area.

The CAS zone corresponds to those peripheral areas close-in and around settlements where compatible developments and small scale, infill, rounding off and redevelopment proposals will be supported where appropriate, provided they do not compromise the long term growth of the settlement.

Whilst the single turbine is small scale in terms of its footprint size it would nevertheless be an incongruous vertically high and materially different feature in the context of landscape, modest settlement form and development pattern of this CAS Zone. Its impact would be adverse on the established levels of visual amenity currently afforded to the island and therefore would not be a compatible development adjacent to the settlement of Easdale village contrary to the provisions of this policy. The positioning of the turbine isolated on shingle headland to the south east of the main settlement area also cannot be considered as 'in filling' and is not consistent with the pattern of development on the island. For such a development to be considered consistent with policy in this specific location either a definitive locational need or exceptional circumstance should be demonstrated.

Policy REN 1, Wind Farms and Wind Turbines offers support to wind turbine development where the technology can operate efficiently, where servicing and access implications are acceptable and where the proposed development will not have an unacceptable adverse impact directly, indirectly or cumulatively on the economic, social or physical aspects of sustainable development. Policy LP REN 1 requires that a set of criteria must be satisfactorily addressed. This criteria-based assessment is addressed below.

The site is situated within the Easdale Conservation Area within which Policy LP ENV 14, Development in Conservation Areas and Special Built Environment Areas states that there is a presumption against development that does not preserve or enhance the character or appearance of an existing or proposed Conservation Area or its setting.

In addition to the above, the site is situated within the Knapdale and Melfort Area of Panoramic Quality within which Policy LP ENV 10, Impact on Areas of Panoramic Quality states that development in, or adjacent to, an Area of Panoramic Quality will be resisted where its scale, location or design will have a significant adverse impact on the character of the landscape.

Furthermore, consideration must be taken of Policy LP CST 1, Coastal Development on the Developed Coast, which states that applications for development will generally be supported where the development requires a coastal location; is of a form location and scale consistent with STRAT DC 2; provides economic and social benefits to the local community; respects the landscape/townscape character and amenity of the surrounding area; and is in accordance with Policy LP ENV 1.

Appendix A of the adopted Argyll and Bute Local Plan states that the impact on the landscape is a major consideration when new development is proposed and all significant developments require to be assessed for their compatibility with the present landscape character as detailed in the SNH Landscape Character Assessment.

B. Location, Nature and Design of Proposed Development

Planning permission is sought for erection of 1 No. 15 metre high (hub) 6 kilowatt wind turbine on an area on the southeast of Easdale Island.

The site for the proposed wind turbine is situated to the southeast of the island on a relatively flat area of ground close to the shore approximately 110 metres from the nearest residential dwellinghouse.

Easdale Island is generally characterised by a low lying land form and an absence of dramatic landscape features such as high hills or cliffs with the exception of the cliff at the centre of the island which is approximately 40 metres in height.

The landscape of Easdale has been greatly influenced by its industrial past as an important centre for slate quarrying. The village, which was developed as a result of this quarrying, is centred on the southeastern part of the island under the shelter of the rocky cliff at the centre of the island. The island was once home to many quarries extending well below sea level and at the peak of the industry had a population in excess of 500.

The following statement has been submitted by the applicant in support of the application.

Eilean Eisdeal, the community group and registered charity on Easdale Island were recently announced as one of the two Scottish Winners of the National British Gas Green Streets competition. An award of around £ 130,000 has been awarded to the group for their proactive approach in highlighting the increasing importance of renewable technology, particularly on an island, and the benefits it brings to the community.

The estimated generation of the turbine will produce approximately 15,700Kwh of electricity resulting in the reduction of the Island's carbon footprint by around 6.7 tonnes. It is anticipated that the vast majority of the energy consumption of the Community Hall will be offset by the electricity generated. The aim is to use this electricity to power a new installed air source heat pump which will become the primary means to heat the building. Both the wind turbine and heat pump will be incentivised by the recent introduction of the Government's Feed in Tariff and upcoming Renewable Heat Incentive.

A review of installations on neighbouring islands has been carried out. In comparison to other erected wind turbines, the Proven 6kw on Easdale Island is the smallest proposed installation with minimum visual impact. The photo montage study demonstrates the visual impact of the turbine from key locations around the island.

As well as its full and part time residents, Easdale Island attracts a significant number of visitors through the year. The wind turbine will be a small but important status symbol for the island and will give a clear message about its support for renewable technology. Eilean Eisdeal Community Development Group will also sue the turbine to educate residents and increase awareness of ways the community can reduce its carbon footprint.

The wind turbine will be a positive and educational step towards tackling the energy needs of Easdale Island".

The turbine subject of this application measures 15 metres from base to hub and has three blades each measuring 2.75 metres in length with an overall diameter of 5.5 metres. The overall height of the turbine is 17.75 metres. Information submitted by the applicant indicates that the turbine will produce in the region of 15,700 kWh of electricity per year.

As the hall has not been heated on a regular basis since its refurbishment approximately 7 years ago due to the costs involved, there is no accurate data on its current energy requirements as a comparison to the annual output of electricity from the proposed wind turbine. Accordingly, it is not considered appropriate to assess the proposal against Policy LP REN 2, On Site Commercial and Domestic Wind Turbines which assesses wind turbines which are located as close to the premises which they are intended to serve as is safely and technically possible and whose annual output of electricity does not exceed the energy requirements of those premises by more than 25%.

Accordingly, for the purposes of this report the turbine has been assessed against the provisions of Policy LP REN 1, Wind Farms and Wind Turbines which is more onerous than LP REN 2.

Local Plan policy LP REN 1 offers support to wind turbine development where the technology can operate efficiently, where servicing and access implications are acceptable and where the proposed development will not have an unacceptable adverse impact directly, indirectly or cumulatively on the economic, social or physical aspects of sustainable development. Policy LP REN 1 requires that a set of criteria must be satisfactorily addressed. This criteria-based assessment is dealt with below.

§ ***communities, settlements and their settings***

Easdale Island in its entirety has been designated as a Conservation Area and has a very special character arising from its remote location and high density of living resulting from its industrial past. It has a low lying built form of small terraced cottages of simple lines and finishing materials many of which have been listed by Historic Scotland as Buildings of Special Architectural or Historic Interest. The cottages are grouped together framing a series of large green open spaces which add to the overall character of the island. Flooded former slate mines and shingle spoil beaches provide a distinctive settlement and island edge at the south and east free from any built features.

The village of Easdale shelters on low lying flat ground in the lee of the high cliff at the centre of the island with the rows of cottages sitting below this raised land. There are a number of flooded quarries to the southeast of the village which form deep lagoons but which are not visually prominent in this low lying built environment.

The main views into Easdale are from the village of Ellenabeich where the cliff behind the village is the most prominent feature.

The special character and appearance of the island is highly vulnerable to change and could be easily damaged by modernisation and new development. There are a few areas on the island which could be developed without damaging the island's character and appearance principally by using lower lying ground and areas which are afforded a greater degree of backdropping / screening than the current proposal.

The proposed site is an open exposed area of land which is afforded no screening or backdrop. Whilst apparently desirable for improving wind resource, the exposed location will only emphasise the height and prominence of the proposed wind turbine in relation to the low lying built form of Easdale village. The turbine would also be

located close to the water edge surrounded by shingle and flooded mine which at present is undeveloped.

The visual impact from the verticality and height of the turbine shall be exacerbated by the topography of the proposed site which is approximately 2-3m above floor levels of the majority of existing cottages on the island. Furthermore, the modern materials used for such a turbine shall be incongruous to the simple pallet of materials found on Easdale and further attention shall be drawn by prominent location and rotational motion.

Its modern appearance, would introduce an incongruous feature which would detract from the special and historic character of the island and Conservation Area, the Conservation Area setting and have an adverse impact on the visual amenity of the rural settlement of Easdale village.

§ ***areas and interests of nature conservation significance including local biodiversity, ecology and the water environment***

The proposed development is not located within or adjacent to any nature conservation designation.

§ ***landscape and townscape character, scenic quality and visual and general amenity***

The proposed site is an open exposed area of land which is currently free from structures / buildings and is afforded no screening or backdrop. The exposed and isolated location would only emphasise the height and prominence of the proposed wind turbine in relation to the lower lying built form of Easdale village.

The proposed wind turbine would have a relatively small footprint and it is not considered it would have a significant adverse impact on the landscape setting of the area but would be detrimental to the visual amenity of the area and setting of the Conservation Area.

The site does not lend itself to the installation of a wind turbine which would tower above the low lying built form of the village, and by virtue of its verticality, motion, height and modern appearance, would introduce an incongruous feature into the area which would impose significant change upon its immediate surroundings and which would detract from the special and historic character of the island and Conservation Area and have an adverse impact on the visual amenity of the rural settlement of Easdale village.

§ ***core paths, rights of way, or other important access routes***

The proposed development will not impact on any core paths, rights of way or any other access routes.

§ ***sites of historic or archaeological interest and their settings***

No objection has been raised by the West of Scotland Archaeology Service and it is therefore concluded that the proposed development will have no impact upon any site of archaeological interest.

The site is situated on the historic island of Easdale which has been designated in its entirety as a Conservation Area and which is a major tourist destination. As detailed above, the special character and appearance of the island is highly

vulnerable to change and could be easily damaged by modernisation and new development. There are few areas on the island which could be developed without damaging the island's character and appearance.

It is considered that the proposed wind turbine would tower above the low lying built form of the village, and by virtue of its verticality, motion, height and modern appearance, would introduce an incongruous feature which will detract from the special and historic character of the island and setting of the Conservation Area.

§ ***telecommunications, transmitting and receiving systems***

The proposed development will not impact upon any telecommunications, transmitting and receiving systems.

§ ***important tourist facilities, attractions or routes***

The development site is highly visible from the main tourist route (B844) from Oban to Ellenabeich on its approach to the historic island of Easdale. The landscape and scenic qualities of the route to the island are important in creating a sense of place for visitors to the island, and the open, low lying land form and built development which the proposed turbine is to be situated in is therefore particularly sensitive to change. There are notable viewpoints of the site looking towards Easdale from Ellenabeich village and harbour which will be particularly affected by the introduction of a wind turbine at this location.

The introduction of a 15 metre high wind turbine would introduce a change which would have a material consequence for the visual amenity of the area, which in turn would detract from the existing qualities of this important tourist route.

§ ***stability of peat deposits***

The proposed development will not impact on any peat deposits.

It is considered that the proposal is contrary to the terms of Policy REN 1 as it would introduce an incongruous feature to the detriment of established levels of visual amenity which in turn would have an adverse environmental impact on the Knapdale and Melfort Area of Panoramic Quality, the setting of the rural settlement of Easdale, the main tourist route from Oban to Easdale and the setting of Easdale Conservation Area.

C. Landscape Character

The site is situated within the Knapdale and Melfort Area of Panoramic Quality.

In terms of The Landscape Assessment of Argyll and the Firth of Clyde (1996), it characterises the Slate Islands as consisting of undulating low moorland with low coastal cliffs and distinctive dark ledges of slate jutting into the sea. It states that the visual impact of new developments should be assessed in views from ferry crossings and adjacent views.

Structure Plan Policy STRAT DC 8, Landscape and Development Control, states that development which by reason of location, siting, scale, form design or cumulative impact, damages or undermines the key environmental features of a visually contained or wider landscape or coastscape shall be treated as 'non-sustainable' and is contrary to this policy.

Furthermore Policy LP ENV 10 Policy, Impact on Areas of Panoramic Quality of the adopted Argyll and Bute Local Plan states that development in, or adjacent to, an Area of Panoramic Quality will be resisted where its scale, location or design will have a significant adverse impact on the character of the landscape.

In this regard, as the proposed wind turbine would have a relatively small footprint it is not considered it would have a significant adverse impact on the landscape character of the area and therefore is acceptable in terms of Policies STRAT DC 8 and LP ENV 10.

As the site is situated in a coastal location, consideration must be taken of Policy LP CST 1, Coastal Development on the Developed Coast, which states that applications for development will generally be supported where (a) the development requires a coastal location; (b) is of a form location and scale consistent with STRAT DC 2; (c) provides economic and social benefits to the local community; (d) respects the landscape/townscape character and amenity of the surrounding area; AND (e) is in accordance with Policy LP ENV 1.

In this regard, whilst the proposal will result in a form of economic and social benefit to the local community by providing a source of electricity to heat the community hall, it is not considered that the proposal complies with the other criteria contained within this policy as it has not been demonstrated that the proposal requires a coastal location and it is considered that the proposal would have an adverse impact on the visual amenity of the area contrary to Policies STRAT DC 2 and LP ENV 1 and therefore is considered to be contrary to the provisions of Policy LP CST 1.

D. Built Environment

The site is situated on Easdale Island which has been designated in its entirety as a Conservation Area and which is steeped in history related to its industrial past connected to the slate islands.

Structure Plan Policy DC 9, Historic Environment and Development Control states that protection, conservation, enhancement and positive management of the historic environment is promoted. Development that damages or undermines the historic architectural or cultural qualities of the historic environment will be resisted, particularly if it would affect a Scheduled Ancient Monument or its setting, other recognised architectural site of national or regional importance, listed building or its setting, conservation area or historic garden and designed landscape.

Policy LP ENV 14, Development in Conservation Areas and Special Built Environment Areas state that there is a presumption against development that does not preserve or enhance the character or appearance of an existing or proposed Conservation Area or its setting.

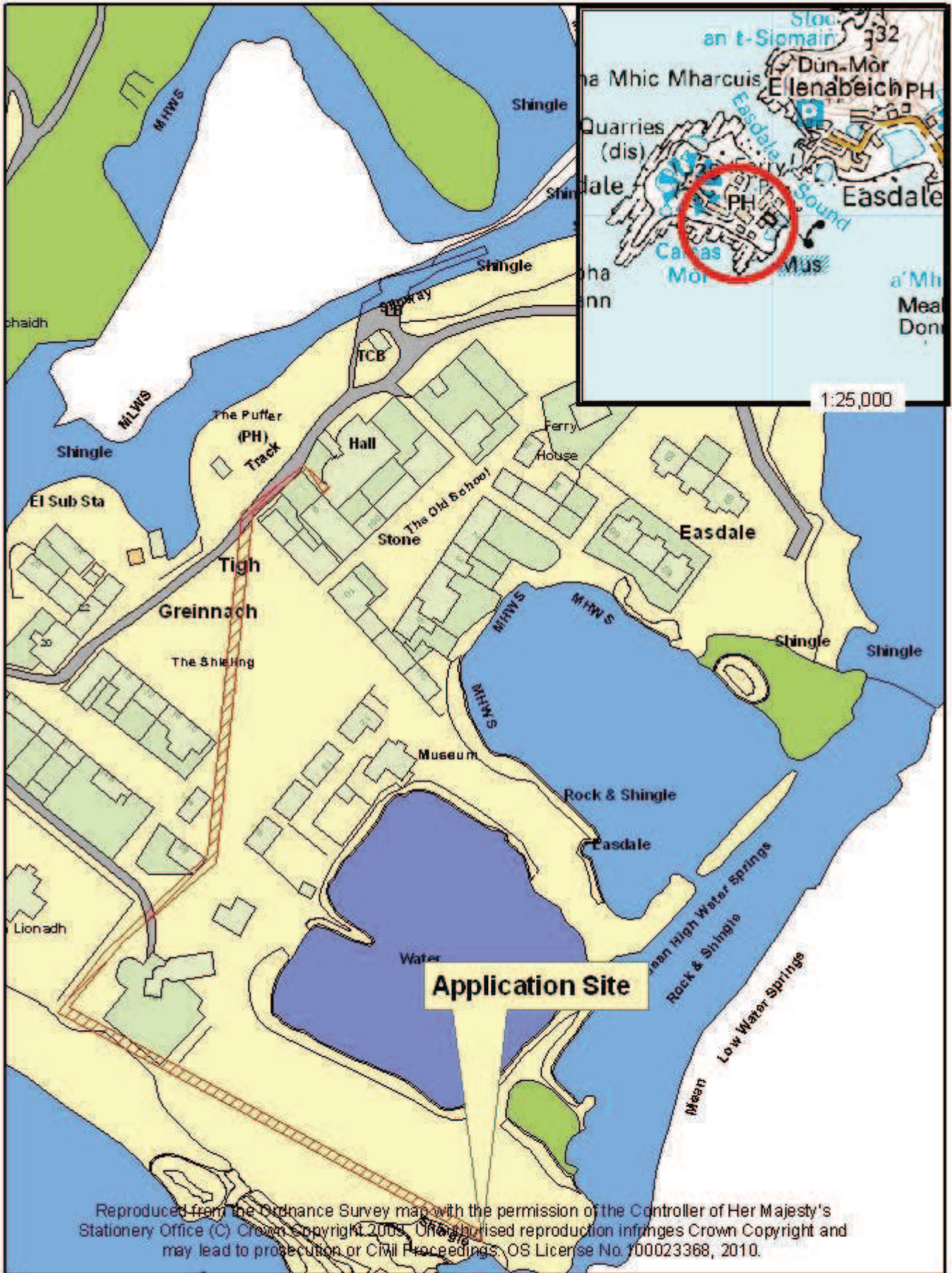
Policy LP ENV 13(a), Development Impact on Listed Buildings, states that development affecting a listed building or its setting shall preserve the building or its setting and any features of special architectural or historic interest that it possesses.

In this regard, it is considered that the proposal will result in the introduction of an incongruous feature into the area which would have an adverse environmental impact on the visual amenity of Easdale Island as a whole and, as no exceptional circumstances have been demonstrated, the proposal is considered to be contrary to the terms of Policies STRAT DC 9, LP ENV 13(a) and LP ENV 14 which seek to ensure that developments do not have an adverse impact on the character of the built environment.

E. Climate change considerations

In assessing any application associated with the generation of renewable energy it is necessary to have regard to macro environmental consequences as a material consideration. Government and Development Plan policy supports renewable electricity generation in principle, in the interests of addressing climate change, provided that development does not impinge to an unacceptable degree upon its surroundings. As part of the decision making process, it is necessary to consider whether the advantages associated with the production of electricity from renewable sources, consequent CO₂ savings and the contribution which a development might make to the tackling of global warming. In this case, the turbine size at 6kW is limited, and therefore the contribution which the development will make to climate change will inevitably be small. Whilst therefore the generating capacity of the development is a material consideration, the weight which it should be accorded is not sufficient to set aside the policy presumption against the development in terms of local adverse environmental impact.

In this regard it is concluded that there are no other material considerations of sufficient weight, including the contribution which the development could make to renewable energy generation, which would warrant anything other than the application being determined in accordance with the provisions of the development plan.



Committee Plan Relative to Planning Application Ref: 10/02000/PP

Date: 07.09.2010

Scale: 1:1,500



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**Argyll and Bute Council
Development and Infrastructure Services**

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 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 10/01729/PP

Planning Hierarchy: Local Development

Applicant: Eilean Eisdeal

Proposal: Installation of Solar PV Panels and Air Source Heat Pump

Site Address: Easdale Island Community Hall, Easdale Island

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Installation of 14 Solar PV Panels
 - Installation of Air Source Heat Pump
-

(B) RECOMMENDATION:

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

(C) HISTORY:

02/00057/DET

Renovation of Drill Hall (Revised Proposals) – granted: 06/03/02

02/00095/LIB

Renovation of Drill Hall (Revised Proposals) – granted: 06/03/02

00/01893/DET

Renovation of Drill Hall – granted 05/04/01

01/00008/LIB

Renovation of Drill Hall – granted 05/04/01

(D) CONSULTATIONS:

Conservation Officer

Memo dated 14/02/11 advising *"in principle no objection to the application. However, encouraging optimising the potential for energy efficiency improvements that exist in the Community Hall. This is not only best practise and more cost effective, but it will also help minimise the need for future alterations/installations that could lead to an accumulative effect of change which may be detrimental to the Conservation Area"*.

Public Protection Unit

Memo dated 15/02/11 advising no objection subject to a condition requiring the submission of a noise control plan.

Seil and Easdale Community Council

E-mail dated 20/02/11 advising that *"they urge caution on the grounds of noise and visual impact on the Conservation Area"*.

(E) PUBLICITY:

The proposal has been advertised in terms of Conservation Area and Regulation 20 procedures, closing dated 18/01/11.

(F) REPRESENTATIONS:

Representations have been received from 39 individuals as follows:

38 objections, 2 support

OBJECTIONS

Hamish Munton, The Old Inn, Ellenabeich, Isle Of Seil, Oban

L Munton, The Old Inn, Ellenabeich, Isle Of Seil, Oban

Sandra Hodson, 62 Easdale Island, Oban

Mr Henry Tarbatt, 33a Easdale Island, Oban, PA34 4TB

Jenny Smith, 33a Easdale Island, Oban, PA34 4TB

David Simcox, 60 Ellenabeich, Easdale, Oban, PA34 4RQ (2 representations)

Mrs I Coombes, 25 Easdale Island, Oban, PA34 4TB

David A Simcox, The Convent, Rockfield Road, Oban, PA34 5DQ

M R Leeson, 28 Easdale Island, Oban, PA34 4TB

E Munton, Creel Cottage, 64 Ellenabeich, Isle Of Seil, PA34 4RF

S Cooper, Creel Cottage, 64 Ellenabeich, Isle Of Seil, PA34 4RF

Mrs A S Wilson, Aite-Fois, Clachan Seil, Isle Of Seil, Oban

John Wilson, Aite-Fois, Clachan Seil, Isle Of Seil, Oban

Mrs Margaret Jones, 10 Kerrisk Drive, Dunfermline, Fife, KY11 8RG

Meurig Jones, 10 Kerrisk Drive, Dunfermline, Fife, KY1 8RG (3 representations)

Julian Penny, Stone's Throw Cottage, Easdale Island, Oban, PA34 4TB

Mrs Kathleen Hives, 101 Easdale Island, Oban, PA34 4TB

M M McLellan, 8 Ellenabeich, Isle Of Seil, Oban, PA34 4RQ

Mr Stuart Gordon, Carn Beag, 5 Roag, Dunvegan, Isle Of Skye, IV55 8ZA

D Robertson, 42 Ellenbeich, Isle Of Seil, Oban, PA34 4RQ

Mrs S Fairbairn, 9A Easdale Island, By Oban, PA34 4TB

Ruth Morris, 61 Ellenabeich, Isle Of Seil, Oban, PA34 4RQ

S Doyle, 41 Ellenabeich, Isle Of Seil, Oban, PA34 4RQ

Adele Knox, 22 Easdale Island, Oban, PA34 4TB

Keith Oversby, 55 Easdale Island, PA34 4TB (2 representations)

Tina Jordan, 55 Easdale Island, PA34 4TB

Mary Withall, 13A Easdale Island, Oban (2 representations)

Tim Flinn, 39 Easdale Island, Oban, PA34 4TB

Rose Sampson, 13B Easdale Island, Oban

Tom Tinney, 13B Easdale Island, Oban

A Clayton, 46 Easdale Island, Oban, PA34 4TB

Stuart A Clayton, 46 Easdale Island, Oban, PA34 4TB

Heather Chaplin 3 Easdale Island Oban PA34 4TB (3 representations)

Susan Jones 11f Auckland Crescent JHQ - Monchengladbach 41179 Germany

Elizabeth Rhodes, 49 Easdale Island, Oban, PA34 4TB (3 representations)

Ronald B And Wendy E Blakey, 38 Easdale Island, PA34 4TB

Easdale Island Residents And Property Owner's Association, C/o Keith Oversby, 55 Easdale Island, PA34 4TB

(i) Summary of objections raised

- The proposal is contrary to Policies LP ENV 1, LP ENV 13(a), LP ENV 14, LP BAD 1 and LP REN 3

Comment: *The proposal is assessed against the relevant policies in Appendix A of this report.*

- The proposed PV panels and air source heat pump are inappropriate developments on a Listed Building and would have a negative setting on all the Listed Buildings on Easdale Island.

Comment: *This is assessed in Appendix A of this report.*

- The proposed PV panels and air source heat pump are inappropriate developments within a Conservation Area and would undermine the status of Conservation Area.

Comment: *This is assessed in Appendix A of this report.*

- The proposed air source heat pump is unsightly and would result in noise disturbance to residents, workers and visitors to Easdale Island and Ellenabeich.

Comment: *The Council's Public Protection Unit raised no objection subject to a condition regarding suitable noise attenuation measures. This is discussed in further detail in Appendix A of this report.*

- The hall is not insulated and this should be the priority.

Comment: *The hall is insulated to the requirements of the Building Regulations in force at the time of its renovation.*

- The installation process and the weight of the pv panels could affect the stability of the roof.

Comment: *This is not a material consideration in the determination of the planning application.*

- Eilean Eisdeal has failed to act in an open and transparent manner and is not in a position to claim to represent the consensus of the views of the Easdale Island 'community'.

Comment: *This is not a material consideration in the determination of this planning application.*

- The equipment has a finite life and requires maintenance. Islanders will be left with an expensive debt once the main sponsors withdraw their funding.

Comment: *This is not a material consideration in the determination of this planning application.*

- It is not possible to assess the visual impact and the potential benefits of the solar pv without sizing, weight and rating information.

Comment: *The plans are to scale and show the size and location of the pv panels. In addition the applicant has provided a detailed specification which shows their appearance. It is therefore considered that sufficient information has been provided to allow the Council to fully assess the application.*

- No details of the type of solar pv panels have been submitted.

Comment: The application is accompanied by the manufacturer's literature which specifies a multicrystal photovoltaic module.

SUPPORT

Mrs Pamela Carr 60 Easdale Island Oban PA34 4TB

David Donnison, The Old School, Easdale Island, PA34 4TB

(ii) Summary of support raised

- The project will enable the community hall to be heated by sustainable, green energy.
- The project will provide funding to the community for at least the next 20 years enabling a multitude of projects from maintenance of the B Listed Harbour to funding an arts programme.
- The proposal represents a good example of community practice and will have a positive impact on the island.
- The proposal is fully consistent with the Scottish Government's policy on renewable.

The above represents a summary of the issues raised. Full details of the letters of representation are available on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

(i)	Environmental Statement:	No
(ii)	An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:	No
(iii)	A design or design/access statement:	No
(iv)	A report on the impact of the proposed development e.g. retail impact, transport impact, noise impact, flood risk,	No

(H) PLANNING OBLIGATIONS

(i)	Is a Section 75 agreement required:	No
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(I)	Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:	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.

Argyll and Bute Structure Plan 2002

STRAT DC 1 – Development within the Settlements

STRAT DC 8 – Landscape and Development Control

STRAT DC 9 – Historic Environment and Development Control

STRAT RE 2 – Other Forms of (Non-Wind) Energy Renewable Energy Related Development

Argyll and Bute Local Plan 2009

LP BAD 1 – Bad Neighbour Development

LP ENV 1 – Impact on the General Environment

LP ENV 13a – Development Impact on Listed Buildings

LP ENV 14 – Conservation Areas and Special Built Environment Areas

LP REN 3 – Other (Non-Wind) Forms of Renewable Energy Related Development

Appendix A – Sustainable Siting and Design Principles

(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 4/2009.

The Town & Country Planning Act (Scotland) 1997

The Planning etc. (Scotland) Act, 2006

SPP, Scottish Planning Policy, 2010

Planning Advice Note 45 : Renewable Energy Technologies

Scottish Historic Environment Policy, 2009

(K)	Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:	No
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(L)	Has the application been the subject of statutory pre-application consultation (PAC):	No
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(M) Has a sustainability check list been submitted: No

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

(O) Requirement for a hearing (PAN41 or other): No

In deciding whether to exercise the Council's discretion to allow respondents to appear at a discretionary hearing, the following are of significance:

- 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.

In this case, whilst many of the respondents have properties within the vicinity of the application site, it is not considered that the application raises any complex or technical issues and it is not considered that a hearing would add value to the process and therefore Members should exercise their discretion and decline to undertake a hearing prior to the application being determined.

(P) Assessment and summary of determining issues and material considerations

In terms of the adopted Argyll and Bute Local Plan, the site is situated within the minor Settlement Zone of Easdale within which Policy STRAT DC 1 of the approved Argyll and Bute Structure Plan gives encouragement to small scale development which is compatible with an essentially rural settlement location.

Policy LP REN 3, Other (Non-Wind) Forms of Renewable Energy Related Development offers support to non-wind renewable energy related development in forms, scales and locations where it will promote the aim of sustainable development, where servicing, electricity distribution and access impacts are acceptable, and all other material considerations including the Council's international and national obligations are satisfactorily addressed.

The property is a Category C(s) Listed Building within which Policy LP ENV 13(a), Development Impact on Listed Buildings states the development affecting a listed building or its setting shall preserve the building or its setting, and any features of special architectural or historic interest that it possesses.

The building is also situated within the Easdale Conservation Area within which Policy LP ENV 14, Development in Conservation Areas and Special Built Environment Areas states that there is a presumption against development that does not preserve or enhance the character or appearance of an existing or proposed Conservation Area or its setting.

The main issues in respect of the proposal are the impact of the PV panels and air source heat pump on the Listed Building and Conservation Area.

In addition to the above, the proposal also has to be assessed for compliance with other relevant local plan policies which are detailed in Appendix A of this report.

The proposal has elicited a large number of objections from residents of the Island.

The proposed photovoltaic panels and air source heat pump are considered to be acceptable alterations to the Listed Building and would not appear as significantly dominant or intrusive features which would detract from the buildings appearance or its setting within the Conservation Area.

On the basis of the foregoing, the proposal is considered to be acceptable and to accord with the relevant Development Plan policies and I recommend that Planning Permission be granted subject to the conditions appended to this report.

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

(R) Reasons why planning permission should be granted

It is considered that the proposed photovoltaic panels and air source heat pump are acceptable alterations to this Listed Building and will not detract from its overall appearance or setting within the Conservation Area.

Having due regard to the above, the proposal is considered to accord with Policies STRAT DC 1, STRAT DC 8, STRAT DC 9 and STRAT RE 2 of the approved Argyll and Bute Structure Plan and Policies LP ENV 1, LP ENV 10, LP ENV 13a, LP ENV 14 and LP REN 3 of the adopted Argyll and Bute Local Plan.

Furthermore there are no other material considerations, including issues raised by third parties, which would warrant anything other than the application being determined in accordance with the provisions of the development plan.

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

N/A

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

Author of Report: Fiona Scott Date: 21/03/11

Reviewing Officer: Angus Gilmour Date: 30/03/11

**Angus Gilmour
Head of Planning and Regulatory Services**

CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 10/01729/PP

1. That the development to which this permission relates must be begun within three years from the date of this permission.

Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended).

2. No development shall commence on site until full details of noise attenuation measures to the air source heat pump in order to provide a minimum of 10 dB reduction in the level of the transmitted noise have been submitted to, and approved in writing by the Planning Authority in consultation with the Public Protection Unit. Thereafter, the air source heat pump shall not be operated above the approved noise levels.

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

3. No development shall commence on site until full details, in plan form, of a form of screening for the air source heat pump has been submitted to, and approved in writing by the Planning Authority. Such details shall comprise a natural stone finish to match the community hall building.

Reason: In the interests of visual amenity and to ensure that the proposals do not adversely affect the architectural and historic character of the building and its setting within the Conservation Area.

4. The development shall be implemented in accordance with the details specified on the application form dated 06/10/10 and the approved drawing reference numbers:

Plan 1 of 9 (Drawing Number 0931-PL-001)
Plan 2 of 9 (Drawing Number 0931-PL-002)
Plan 3 of 9 (Drawing Number 0931-PL-003)
Plan 4 of 9 (Drawing Number 0931-PL-004)
Plan 5 of 9 (Drawing Number 0931-PL-005)
Plan 6 of 9 (Drawing Number 0931-PL-006)
Plan 7 of 9 (Drawing Number 0931-PL-007)
Plan 8 of 9 (Drawing Number 0931-PL-008)
Plan 9 of 9 (Manufacturers Specification)

unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997 (as amended).

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

NOTE TO APPLICANT

- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.

- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 (as amended) it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.

APPENDIX TO DECISION APPROVAL NOTICE

Appendix relative to application **10/01729/PP**

- (A)** Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended).

No

- (B)** Has the application been the subject of any non-material amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing.

No

- (C)** The reason why planning permission has been approved.

It is considered that the proposed photovoltaic panels and air source heat pump are acceptable alterations to this Listed Building and will not detract from its overall appearance or setting within the Conservation Area.

Having due regard to the above, the proposal is considered to accord with Policies STRAT DC 1, STRAT DC 8, STRAT DC 9 and STRAT RE 2 of the approved Argyll and Bute Structure Plan and Policies LP ENV 1, LP ENV 10, LP ENV 13a, LP ENV 14 and LP REN 3 of the adopted Argyll and Bute Local Plan.

Furthermore there are no other material considerations, including issues raised by third parties, which would warrant anything other than the application being determined in accordance with the provisions of the development plan.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 10/01729/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

In terms of the adopted Argyll and Bute Local Plan, the site is situated within the minor Settlement Zone of Easdale within which Policy STRAT DC 1 of the approved Argyll and Bute Structure Plan gives encouragement to small scale development which is compatible with an essentially rural settlement location.

Policy LP REN 3, Other (Non-Wind) Forms of Renewable Energy Related Development offers support to non-wind renewable energy related development in forms, scales and locations where it will promote the aim of sustainable development, where servicing, electricity distribution and access impacts are acceptable, and all other material considerations including the Council's international and national obligations are satisfactorily addressed.

The property is a Category C(s) Listed Building within which Policy LP ENV 13(a), Development Impact on Listed Buildings states the development affecting a listed building or its setting shall preserve the building or its setting, and any features of special architectural or historic interest that it possesses.

The building is also situated within the Easdale Conservation Area within which Policy LP ENV 14, Development in Conservation Areas and Special Built Environment Areas state that there is a presumption against development that does not preserve or enhance the character or appearance of an existing or proposed Conservation Area or its setting.

The main issues in respect of the proposal are the impact of the photovoltaic panels and air source heat pump on the Listed Building and Conservation Area.

In addition to the above, the proposal also requires to be assessed for compliance with other relevant local plan policies which are detailed below.

The proposal has elicited a large number of objections from residents of the Island.

B. Location, Nature and Design of Proposed Development

Planning permission is sought for the installation of 14 photovoltaic (pv) panels) and an air source heat pump to the Easdale Island Community Hall.

The community hall is a Category C(s) Listed Building situated within the Easdale Conservation Area.

The hall is a single storey structure with a pyramidal roof which was extensively refurbished and extended a number of years ago.

Each individual pv panel measures 1500mm x 990mm and the 3kW array of panels is predicted to have an annual average output of electricity of around 2400kWh.

The application shows the pv panels installed on the roof planes of the hall, 10 on the rear (southeast) elevation and the remaining four on the side (southwest) elevation. The rear elevation is the least visible elevation and is not visible from many public vantage

points on the island. Given the pyramidal roof of the hall and the existing horizontal banks of glazing which break up the natural slate roof, it is considered that it lends itself well to the introduction of the pv panels which will not detract from the character of the building, nor cause an undesirable visual impact on the buildings setting within the wider conservation area.

The air source heat pump is to be installed to the front (northwest) elevation of the hall with a drystone wall enclosure and measures 661 (length) x 167 (width) x 1290 (height).

The Council's Public Protection Unit was consulted on the proposal and, whilst acknowledging that the location and operation of the plant is likely to present noise problems to the surrounding residential properties, particularly during night time hours, raised no objection subject to the submission of suitable noise attenuation measures to the plant in order to provide a minimum of 13dB reduction in the level of transmitted noise. This is adequately controlled by means of a suspensive planning condition, which safeguards the neighbouring properties and prevents development from commencing until such time as a suitable noise control plan has been agreed with the Public Protection Unit.

It is concluded that, having examined all material considerations, the proposed photovoltaic panels and air source heat pump will have no materially adverse impact upon the character and visual amenity of the building or its setting within the Conservation Area and there are no adverse servicing, electricity distribution or access impacts and therefore the proposal accords with Policy LP REN 3.

C. Built Environment

The site is situated on Easdale Island which has been designated in its entirety as a Conservation Area.

Structure Plan Policy DC 9, Historic Environment and Development Control states that protection, conservation, enhancement and positive management of the historic environment is promoted. Development that damages or undermines the historic architectural or cultural qualities of the historic environment will be resisted, particularly if it would affect a Scheduled Ancient Monument or its setting, other recognised architectural site of national or regional importance, listed building or its setting, conservation area or historic garden and designed landscape.

Policy LP ENV 14, Development in Conservation Areas and Special Built Environment Areas state that there is a presumption against development that does not preserve or enhance the character or appearance of an existing or proposed Conservation Area or its setting.

Policy LP ENV 13(a), Development Impact on Listed Buildings, states that development affecting a listed building or its setting shall preserve the building or its setting and any features of special architectural or historic interest that it possesses. considered it will provide an acceptable contrast between the old and the modern and it is not considered

Accordingly, as a development affecting a Listed Building and within a Conservation Area, in deciding whether consent should be granted it is necessary to consider whether the pv panels and air source heat pump would prejudice the overall character of the Listed Building and its setting within the Conservation Area, thereby undermining the purpose of designation.

The conclusion in this case, is that whilst the pv panels and air source heat pump will be visible features on the Listed Building and within the Conservation Area, it is not considered they would appear over dominant or intrusive features on the building or

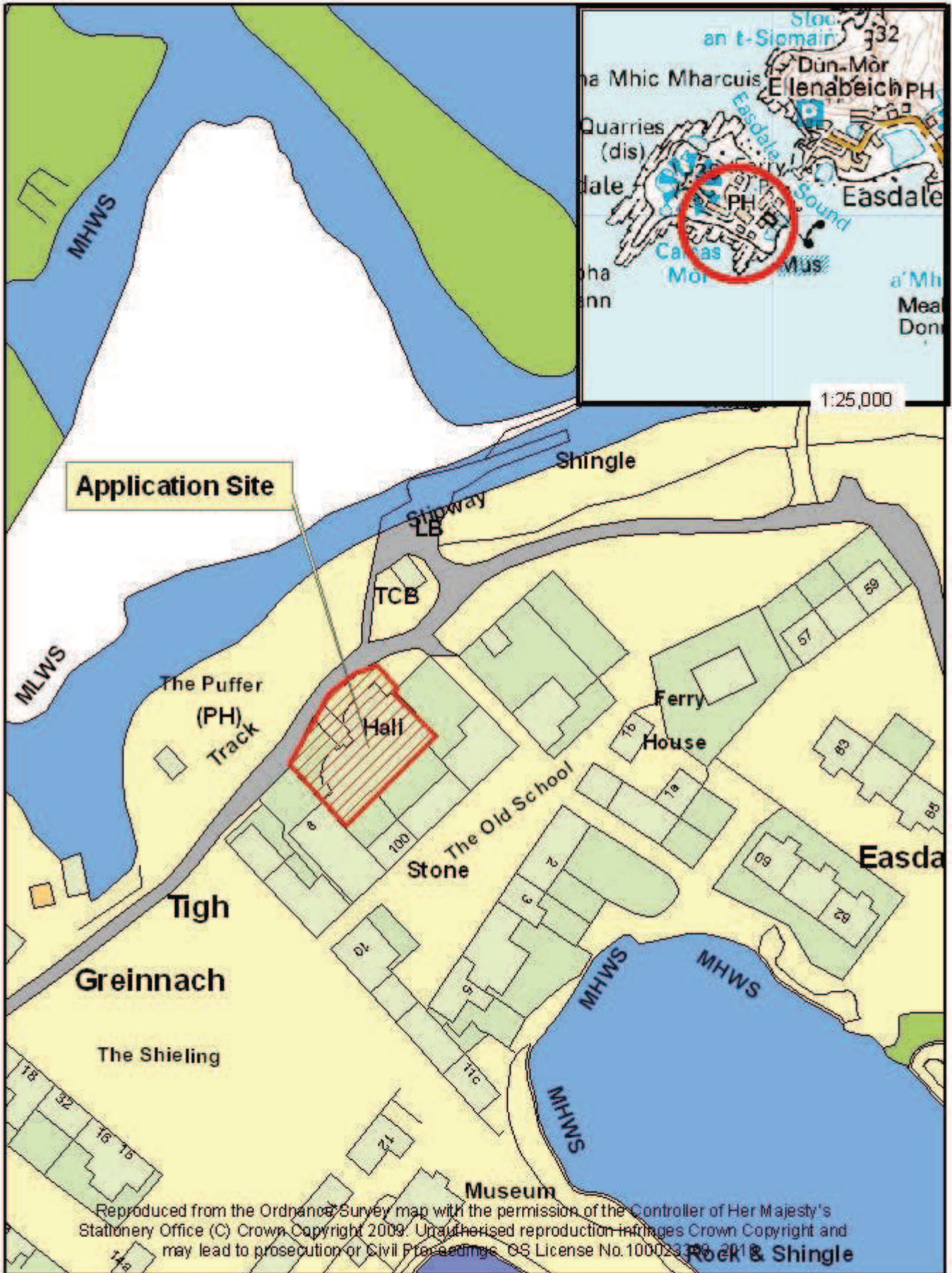
within the wider landscape and would not be so significant as to undermine the purposes of Listing or Conservation Area designation. Furthermore, the pv panels and air source heat pump will have no significant adverse impact on the setting of other Listed Buildings within the village.

In this regard it is not considered that the proposal will have an adverse impact on the building or its setting within the surrounding area and is consistent with the criteria set out in Policies DC 8, STRAT DC 9, LP ENV 13(a) and LP ENV 14 which seek to ensure that developments do not have an adverse impact on the character of the built environment.

D. Climate change considerations

In assessing any application associated with the generation of renewable energy it is necessary to have regard to macro environmental consequences as a material consideration. Government and Development Plan policy supports renewable electricity generation in principle, in the interests of addressing climate change, provided that development does not impinge to an unacceptable degree upon its surroundings. As part of the decision making process, it is necessary to consider whether the advantages associated with the production of electricity from renewable sources, consequent CO₂ savings and the contribution which a development might make to the tackling of global warming. In this case, the photovoltaic panels at 3 kW is limited, and therefore the contribution which the development will make to climate change will inevitably be small.

In this regard it is concluded that there are no other material considerations of sufficient weight, including the contribution which the development could make to renewable energy generation, which would warrant anything other than the application being determined in accordance with the provisions of the development plan.



Committee Plan Relative to Planning Application Ref: 10/01729/PP

Date: 07.09.2010

Scale: 1:1,000



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**Argyll and Bute Council
Development and Infrastructure Services**

Reference No: 10/02013/LIB
Applicant: Eilean Eisdeal
Proposal: Installation of Solar PV Panels and Air Source Heat Pump
Site Address: Easdale Island Community Hall, Easdale Island

DECISION ROUTE**Local Government Scotland Act 1973**

(A) THE APPLICATION**(i) Development Requiring Listed Building Consent**

- Installation of 14 Solar PV Panels
 - Installation of Air Source Heat Pump
-

(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that listed building consent be granted subject to the conditions and reasons set out in this report.

(C) HISTORY:

02/00057/DET

Renovation of Drill Hall (Revised Proposals) – granted: 06/03/02

02/00095/LIB

Renovation of Drill Hall (Revised Proposals) – granted: 06/03/02

00/01893/DET

Renovation of Drill Hall – granted 05/04/01

01/00008/LIB

Renovation of Drill Hall – granted 05/04/01

(D) CONSULTATIONS:

Historic Scotland

Letter dated 16/02/11 advising no locus on this particular case as the alterations are to a Category C(s) Listed Building.

Seil and Easdale Community Council

E-mail dated 20/02/11 advising that *“they urge caution on the grounds of noise and visual impact on the Conservation Area”*.

(E) PUBLICITY:

The proposal has been advertised in terms of Conservation Area and Listed Building procedures, closing dated 06/01/11.

(F) REPRESENTATIONS:

Representations have been received from 27 individuals as follows:

24 objections, 3 support

OBJECTIONS

Hamish Munton, The Old Inn, Ellenabeich, Isle Of Seil

L Munton, The Old Inn, Ellenabeich, Isle Of Seil

Mr Henry Tarbatt, 33a Easdale Island, Oban, PA34 4TB

Jenny Smith, 33a Easdale Island, Oban, PA34 4TB

David Simcox, 60 Ellenabeich, Easdale, Oban, PA34 4RQ (2 representations)

David A Simcox, The Convent, Rockfield Road, Oban, PA34 5DQ

Mrs I Coombes, 25 Easdale Island, Oban, PA34 4TB

E Munton, Creel Cottage, 64 Ellenabeich, Isle Of Seil, PA34 4RF

S Cooper, Creel Cottage, 64 Ellenabeich, Isle Of Seil, PA34 4RF

M M MacLellan, 8 Ellenabeich, Isle Of Seil, Oban, PA34 4RQ

D Robertson, 42 Ellenabeich, Isle Of Seil, Oban, PA34 4RQ

Mrs S Fairbairn, 9A Easdale Island, By Oban, PA34 4TB

Rose Sampson, 13B Easdale Island, Oban, PA34 4TB

C L Davies, 2 Pipers Road, Cairnbaan, Lochgilphead, PA31 8UF

Ruth Morris, 61 Ellenabeich, Isle Of Seil, Oban, PA34 4RQ

George Doyle, 41 Ellenabeich, Isle Of Seil, Oban, PA34 4RQ

Meurig Jones, 10 Kerrisk Drive, Dunfermline, Fife, KY11 8RG

A Clayton, 46 Easdale Island, Oban, PA34 4TB

Stuart A Clayton, 46 Easdale Island, Oban, PA34 4TB

Heather Chaplin 3 Easdale Island Oban PA34 4TB (3 representations)

Mrs Margaret Jones, 10 Kerrisk Drive, Dunfermline, Fife, KY11 8RG

Miss Susan Jones, 11f Auckland Crescent, JHQ – Monchengladback, 41179, Germany

Elizabeth Rhodes, 49 Easdale Island, Oban, PA34 4TB

Easdale Island Residents And Property Owner's Association, C/o Keith Oversby, 55 Easdale Island, PA34 4TB

(i) Summary of objections raised

- The proposal is contrary to Policies LP ENV 1, LP ENV 13(a), LP ENV 14, LP BAD 1 and LP REN 3

Comment: The proposal is assessed against the relevant policies in Appendix A of this report.

- The proposed PV panels and air source heat pump are inappropriate developments on a Listed Building and would have a negative setting on all the Listed Buildings on Easdale Island.

Comment: This is assessed in Appendix A of this report.

- The proposed PV panels and air source heat pump are inappropriate developments within a Conservation Area and would undermine the status of Conservation Area.

Comment: This is assessed in Appendix A of this report.

- The proposed air source heat pump is unsightly and would result in noise disturbance to residents, workers and visitors to Easdale Island and Ellenabeich.

Comment: The Council's Public Protection Unit raised no objection subject to a condition regarding suitable noise attenuation measures. This is discussed in further detail in Appendix A of this report.

- The hall is not insulated and this should be the priority.

Comment: The hall is insulated to the requirements of the Building Regulations in force at the time of its renovation.

- The installation process and the weight of the pv panels could affect the stability of the roof.

Comment: This is not a material consideration in the determination of the planning application.

- Eilean Eisdeal has failed to act in an open and transparent manner and is not in a position to claim to represent the consensus of the views of the Easdale Island 'community'.

Comment: This is not a material consideration in the determination of this planning application.

- The equipment has a finite life and requires maintenance. Islanders will be left with an expensive debt once the main sponsors withdraw their funding.

Comment: This is not a material consideration in the determination of this planning application.

- It is not possible to assess the visual impact and the potential benefits of the solar pv without sizing, weight and rating information.

Comment: The plans are to scale and show the size and location of the pv panels. In addition the applicant has provided a detailed specification which shows their appearance. It is therefore considered that sufficient information has been provided to allow the Council to fully assess the application.

- No details of the type of solar pv panels have been submitted.

Comment: The application is accompanied by the manufacturer's literature which specifies a multicrystal photovoltaic module.

SUPPORT

Mrs Pamela Carr, 60 Easdale Island, Oban, PA34 4TB

Voirrey Quillin, 1a Easdale Island, Oban, PA34 4TB

Steve Brown, 56 Easdale Island, Oban, PA34 4TB

(ii) Summary of support raised

- The project will enable the community hall to be heated by sustainable, green energy.
- The project will provide funding to the community for at least the next 20 years enabling a multitude of projects from maintenance of the B Listed Harbour to funding an arts programme.
- The proposal represents a good example of community practice and will have a positive impact on the island.
- The proposal is fully consistent with the Scottish Government's policy on renewable.

The above represents a summary of the issues raised. Full details of the letters of representation are available on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

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

Argyll and Bute Structure Plan 2002

STRAT DC 1 – Development within the Settlements

STRAT DC 8 – Landscape and Development Control

STRAT DC 9 – Historic Environment and Development Control

Argyll and Bute Local Plan 2009

LP BAD 1 – Bad Neighbour Development

LP ENV 1 – Impact on the General Environment

LP ENV 13a – Development Impact on Listed Buildings

LP ENV 14 – Conservation Areas and Special Built Environment Areas

Appendix A – Sustainable Siting and Design Principles

(ii) List of all other material planning considerations taken into account in the assessment of the application.

The Town & Country Planning Act (Scotland) 1997

The Planning etc. (Scotland) Act, 2006

SPP, Scottish Planning Policy, 2010

Planning Advice Note 45 : Renewable Energy Technologies

Scottish Historic Environment Policy, 2009

(G) Assessment and summary of determining issues and material considerations

In terms of the adopted Argyll and Bute Local Plan, the site is situated within the minor Settlement Zone of Easdale within which Policy STRAT DC 1 of the approved Argyll and Bute Structure Plan gives encouragement to small scale development which is compatible with an essentially rural settlement location.

The property is a Category C(s) Listed Building within which Policy LP ENV 13(a), Development Impact on Listed Buildings states the development affecting a listed building or its setting shall preserve the building or its setting, and any features of special architectural or historic interest that it possesses.

The building is also situated within the Easdale Conservation Area within which Policy LP ENV 14, Development in Conservation Areas and Special Built Environment Areas states that there is a presumption against development that does not preserve or enhance the character or appearance of an existing or proposed Conservation Area or its setting.

The main issues in respect of the proposal are the impact of the PV panels and air source heat pump on the Listed Building and Conservation Area.

In addition to the above, the proposal also has to be assessed for compliance with other relevant local plan policies which are detailed in Appendix A of this report.

The proposal has elicited a large number of objections from residents of the Island.

The proposed photovoltaic panels and air source heat pump are considered to be acceptable alterations to the Listed Building and would not appear as significantly dominant or intrusive features which would detract from the buildings appearance or its setting within the Conservation Area.

On the basis of the foregoing, the proposal is considered to be acceptable and to accord with the relevant Development Plan policies and I recommend that Listed Building Consent be granted subject to the conditions appended to this report.

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

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

Author of Report: Fiona Scott Date: 21/03/11

Reviewing Officer: Angus Gilmour Date: 30/03/11

**Angus Gilmour
Head of Planning and Regulatory Services**

CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 10/02013/LIB

1. That the development to which this permission relates must be begun within five years from the date of this permission.

Reason: To comply with Section 16 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

2. No development shall commence on site until full details of noise attenuation measures to the air source heat pump in order to provide a minimum of 10 dB reduction in the level of the transmitted noise have been submitted to, and approved in writing by the Planning Authority in consultation with the Public Protection Unit. Thereafter, the air source heat pump shall not be operated above the approved noise levels.

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

3. No development shall commence on site until full details, in plan form, of a form of screening for the air source heat pump has been submitted to, and approved in writing by the Planning Authority. Such details shall comprise a natural stone finish to match the community hall building.

Reason: In the interests of visual amenity and to ensure that the proposals do not adversely affect the architectural and historic character of the building and its setting within the Conservation Area.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 10/02013/LIB

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

In terms of the adopted Argyll and Bute Local Plan, the site is situated within the minor Settlement Zone of Easdale within which Policy STRAT DC 1 of the approved Argyll and Bute Structure Plan gives encouragement to small scale development which is compatible with an essentially rural settlement location.

The property is a Category C(s) Listed Building within which Policy LP ENV 13(a), Development Impact on Listed Buildings states the development affecting a listed building or its setting shall preserve the building or its setting, and any features of special architectural or historic interest that it possesses.

The building is also situated within the Easdale Conservation Area within which Policy LP ENV 14, Development in Conservation Areas and Special Built Environment Areas state that there is a presumption against development that does not preserve or enhance the character or appearance of an existing or proposed Conservation Area or its setting.

The main issues in respect of the proposal are the impact of the photovoltaic panels and air source heat pump on the Listed Building and Conservation Area.

In addition to the above, the proposal also requires to be assessed for compliance with other relevant local plan policies which are detailed below.

The proposal has elicited a large number of objections from residents of the Island.

B. Location, Nature and Design of Proposed Development

Listed Building Consent is sought for the installation of 14 photovoltaic (pv) panels) and an air source heat pump to the Easdale Island Community Hall.

The community hall is a Category C(s) Listed Building situated within the Easdale Conservation Area.

The hall is a single storey structure with a pyramidal roof which was extensively refurbished and extended a number of years ago.

Each individual pv panel measures 1500mm x 990mm and the 3kW array of panels is predicted to have an annual average output of electricity of around 2400kWh.

The application shows the pv panels installed on the roof planes of the hall, 10 on the rear (southeast) elevation and the remaining four on the side (southwest) elevation. The rear elevation is the least visible elevation and is not visible from many public vantage points on the island. Given the pyramidal roof of the hall and the existing horizontal banks of glazing which break up the natural slate roof, it is considered that it lends itself well to the introduction of the pv panels which will not detract from the character of the building, nor cause an undesirable visual impact on the buildings setting within the wider conservation area.

The air source heat pump is to be installed to the front (northwest) elevation of the hall with a drystone wall enclosure and measures 661 (length) x 167 (width) x 1290 (height).

The Council's Public Protection Unit was consulted on the proposal and, whilst acknowledging that the location and operation of the plant is likely to present noise problems to the surrounding residential properties, particularly during night time hours, raised no objection subject to the submission of suitable noise attenuation measures to the plant in order to provide a minimum of 13dB reduction in the level of transmitted noise. This is adequately controlled by means of a suspensive planning condition, which safeguards the neighbouring properties and prevents development from commencing until such time as a suitable noise control plan has been agreed with the Public Protection Unit.

C. Built Environment

The site is situated on Easdale Island which has been designated in its entirety as a Conservation Area.

Structure Plan Policy DC 9, Historic Environment and Development Control states that protection, conservation, enhancement and positive management of the historic environment is promoted. Development that damages or undermines the historic architectural or cultural qualities of the historic environment will be resisted, particularly if it would affect a Scheduled Ancient Monument or its setting, other recognised architectural site of national or regional importance, listed building or its setting, conservation area or historic garden and designed landscape.

Policy LP ENV 14, Development in Conservation Areas and Special Built Environment Areas state that there is a presumption against development that does not preserve or enhance the character or appearance of an existing or proposed Conservation Area or its setting.

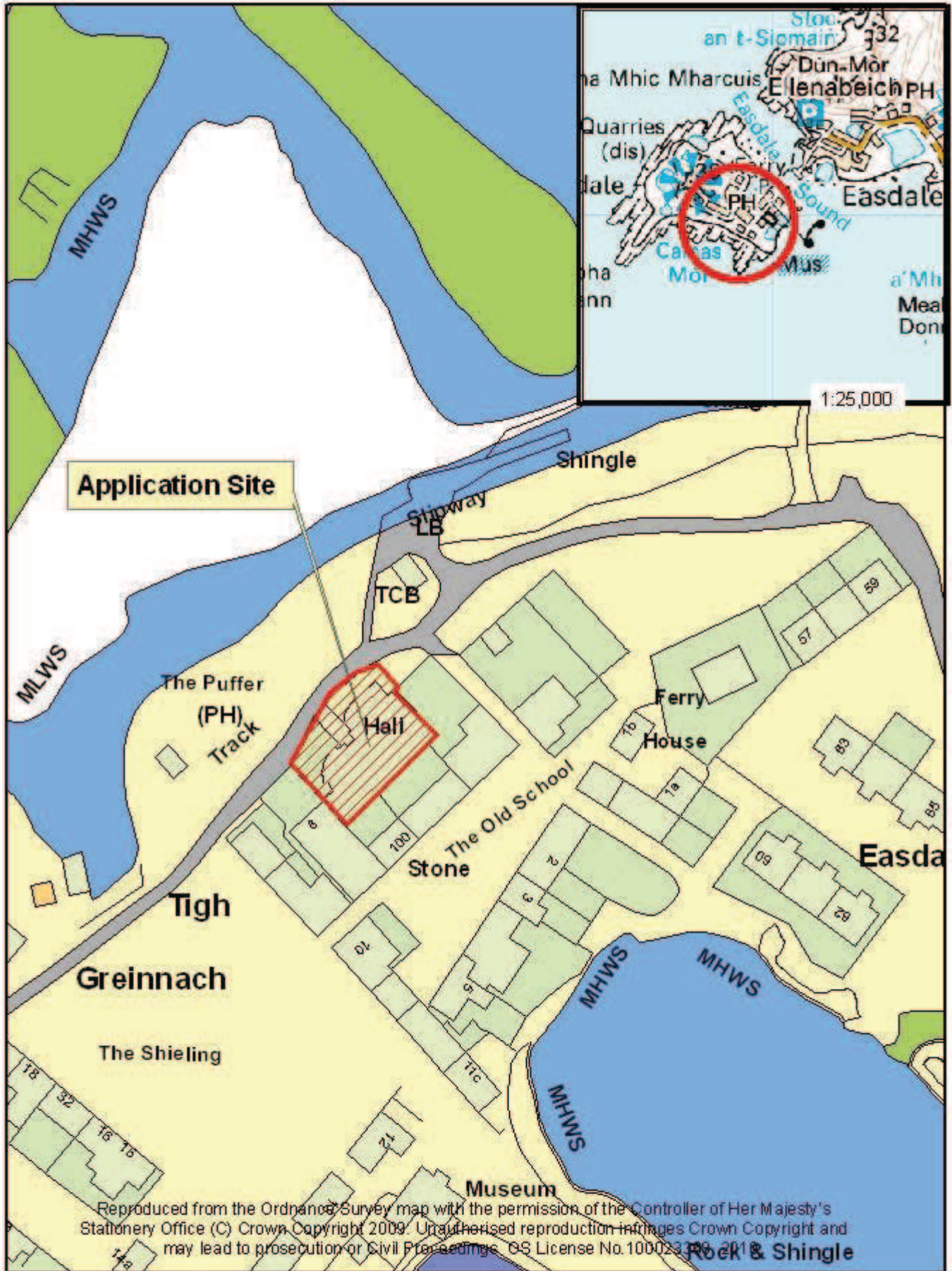
Policy LP ENV 13(a), Development Impact on Listed Buildings, states that development affecting a listed building or its setting shall preserve the building or its setting and any features of special architectural or historic interest that it possesses. considered it will provide an acceptable contrast between the old and the modern and it is not considered

Accordingly, as a development affecting a Listed Building and within a Conservation Area, in deciding whether consent should be granted it is necessary to consider whether the pv panels and air source heat pump would prejudice the overall character of the Listed Building and its setting within the Conservation Area, thereby undermining the purpose of designation.

The conclusion in this case, is that whilst the pv panels and air source heat pump will be visible features on the Listed Building and within the Conservation Area, it is not considered they would appear over dominant or intrusive features on the building or within the wider landscape and would not be so significant as to undermine the purposes of Listing or Conservation Area designation. Furthermore, the pv panels and air source heat pump will have no significant adverse impact on the setting of other Listed Buildings within the village.

In this regard it is not considered that the proposal will have an adverse impact on the building or its setting within the surrounding area and is consistent with the criteria set out in Policies DC 8, STRAT DC 9, LP ENV 13(a) and LP ENV 14 which seek to ensure that developments do not have an adverse impact on the character of the built environment.

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Committee Plan Relative to Planning Application Ref: 10/02013/LIB

Date: 07.09.2010

Scale: 1:1,000



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**Argyll and Bute Council
Development & Infrastructure Services**

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 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 10/02153/PP
Planning Hierarchy: Local
Applicant: Argyll Community Housing Association (ACHA)
Proposal: Erection of 30 residential units (comprising 2 semi-detached dwellinghouses and 28 flats over 4 blocks) with associated access road, parking and communal garden areas.
Site Address: Development Site, McCallum Street, Kinloch Road and Longrow, Campbeltown

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of 28 flats over 4 blocks
- Erection of 2 semi-detached town houses
- Formation of new access
- Formation of parking areas
- Formation of garden areas

(ii) Other specified operations

- Connection to public water supply
 - Connection to public waste water network
 - Site contamination remediation works
-

(B) RECOMMENDATION:

It is recommended that planning permission be granted subject to a section 69 agreement under the Local Government (Scotland) Act 1973 and to the conditions and reasons attached.

(C) CONSULTATIONS:

Area Roads Manager

Report dated 23rd February 2011

No objections on road safety matters subject to imposition of conditions relating to parking provision.

Concern noted in respect of potential flood risk and a stated requirement that no development should be commenced until such time as the finished floor levels have been agreed by the Council's Flood Alleviation Manager.

Scottish Water

Letter dated 2nd February 2011

No objection but advised that the applicant will be required to submit a Development Impact Assessment direct to Scottish Water on the event of the planning authority granting permission.

Public Protection Unit

Memo dated 1st February 2011

No objections. However, it is worth noting that subsequent discussions highlighted a potential contaminated land issue on the former Council depot site. Discussions are on-going between Argyll and Bute Council and the applicants and a course of remediation has been agreed. In order to ensure it is carried out prior to any works commencing on site a condition will be attached to any consent requiring confirmation that the contaminated material has been removed and the site remediated to safely allow for a housing development. Environmental Health has agreed this approach in correspondence dated 17 February 2011.

Health and Safety Executive

Report dated 1st February 2011 and PADHI+ consultation response 23rd March 2011

Initially HSE objected to the density of development within safeguarding zones, however upon discussion and re-consultation using the HSE's online consultation system (PADHI+) there are no objections.

Historic Scotland

Letter dated 3rd February 2011

No objections.

West of Scotland Archaeology Service

Email dated 2nd February 2011

No objections.

Scottish Environment Protection Agency

Letter dated

No objection but have raised concerns relating to the level of flood risk at blocks E and F and also about the potential blockage of access and egress during extreme flood events.

Flood Risk Officer

Emails dated 7th February 2011 and 30th March 2011

Originally the council's Flood Risk Officer objected to the proposal on the basis of finished floor levels being below the appropriate level to avoid flood risk. Since this objection the applicant has demonstrated that appropriate freeboard can be achieved within the site. With this in mind the objection has been removed subject to a minimum FFL of 4.0mAOD being achieved. It should be noted however that to address concerns of FFL and access/egress the planning authority has attached a condition to this report requiring the applicant to finalise FFLs and the level of the access/egress. This will ensure a minimum 600mm freeboard allowance and that emergency access/egress will be maintained at all times.

(D) HISTORY:

Although there is no formal planning history on the site it is worth noting that the site originally had a significant flatted development of Council housing until recently. These units have since been demolished – prior notification was provided to the Council in respect of the demolition in 2007 (ref. 07/00375/PNDEM). Part of the site also formed a Council roads depot which has recently been relocated to RAF Machrihanish and is presently being cleared and remediated in anticipation of this development.

As a part of this development a second application has been submitted for the development of Block B under reference 10/02137/PP. This was approved at the March meeting of the PPSL committee.

Planning permission has previously been granted for the re-alignment of Kinloch Road to accommodate large loads being transported to/from Campbeltown Harbour – ref. 10/00711/PP. The re-aligned public highway forms the northern boundary of the application site.

(E) PUBLICITY:

Advertised under the provisions of Regulation 20, closing date 25th February 2011

(F) REPRESENTATIONS:

(i) Representations received from:

Mr Angus McAllister, The Wallpaper Shop, 99 Longrow, Campbeltown PA28 6EX

(ii) Summary of issues raised:

- Concern is raised that construction activities may adversely impact upon adjacent business property – e.g. dust and noise emissions, disruptions to customer parking and access for delivery vehicles.

Comment: Issues of impact during construction can be resolved in some cases with a construction management plan, however impact on businesses in terms of ability to ensure delivery is not a planning material consideration. It should be noted that any access rights to ensure delivery should not be affected.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- | | | | |
|-------|---|-------------------|-----------------------|
| (i) | Environmental Statement: | No | |
| (ii) | An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: | No | |
| (iii) | General supporting statement: | No | |
| (iv) | A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: | Yes | Flood Risk Assessment |
| | | General Statement | Supporting Statement |

Flood Risk Assessment - The FRA set out the source of potential flooding and states the argument behind the proposed finished floor levels. In conclusion the FRA sets out that the proposed FFLs are appropriate to ensure properties aren't flooded.

General Supporting Statement - The supporting document outlines how the proposal links in with the larger scale CHORD regeneration project of Campbeltown. The CHORD project aims to create a renewables industry hub within the town and this development will provide a key gateway project upon entering Campbeltown town centre. This project is a key component of the overall regeneration and revitalisation of Campbeltown that the CHORD project aims to realise.

(H) PLANNING OBLIGATIONS

Section 69 Agreement under the Local Government (Scotland) Act 1973

A section 69 Agreement is proposed in order to secure a payment of £16,250 to be directed towards the upgrading of the existing play area at Kinloch Park and payable prior to the commencement of development.

Reason for Refusal in the event that the section 69 agreement is not concluded

The applicant has failed to provide a contribution for play provision. The proposal is therefore contrary to Policy LP HOU 4 of the Argyll and Bute Local Plan 2009 which requires a direct financial contribution for improvement to an existing Council play area where it is not possible to make on site provision and where there is such a facility in close proximity to the development.

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

'Argyll and Bute Structure Plan' 2002

STRAT DC 1 – Development within the Settlements
STRAT DC 9 – Historic Environment and Development Control
STRAT DC 10 – Flooding and Land Erosion

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment
LP ENV 14 – Conservation Areas and Special Built Environment Areas
LP ENV 17 – Impact on Sites of Archaeological Importance
LP ENV 19 – Development Setting, Layout and Design
LP BAD 2 – Bad Neighbour Development in Reverse

LP HOU 1 – General Housing Development
LP HOU 2 – Provision of Housing to Meet Local Needs including Affordable Housing Provision
LP HOU 3 – Special Needs Access Provision in Housing Developments
LP HOU 4 – Housing Green-Space

LP SERV 1 – Private Sewage Treatment Plants and Wastewater Systems
LP SERV 2 – Incorporation of Natural Features/Sustainable Drainage Systems
LP SERV 3 – Drainage Impact Assessment (DIA)
LP SERV 4 – Water Supply
LP SERV 5 – Waste Related Development and Waste Management Sites
LP SERV 7 – Contaminated Land
LP SERV 8 – Flooding and Land Erosion – The Risk Framework for Development
LP SERV 9 – Development in the Vicinity of Notifiable Installations

LP TRAN 1 – Public Access and Rights of Way
LP TRAN 2 – Development and Public Transport Accessibility
LP TRAN 3 – Special Needs Access Provision
LP TRAN 4 – New and Existing Public Roads and Private Access Regimes
LP TRAN 6 – Vehicle Parking Provision
LP REN 3 – Other (Non-Wind) Forms of Renewable Energy Related Development

Appendix A – Sustainable Siting and Design Principles
Appendix C – Access and Parking Standards
Appendix E – Allocations, Potential Development Area Schedules and Areas for Action Schedules

(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 4/2009.

- Argyll & Bute Sustainable Design Guidance (2006)
- Affordable Housing Guidance Note (2007)
- The Town & Country Planning Act (Scotland) 1997
- The Planning etc. (Scotland) Act, 2006
- SPP, Scottish Planning Policy, 2010
- Planning Advice Note (PAN) 69 – Planning and Building Standards Advice on Flooding, 2004
- Circular 4/1998 – Planning Conditions
- Circular 1/2010 – Planning Agreements

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

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

(M) Has a sustainability check list been submitted: No

(N) Does the Council have an interest in the site: Yes

(O) Requirement for a hearing (PAN41 or other): No

(P) Assessment and summary of determining issues and material considerations

This is an application for local scale development which requires to be reported to the PPSL committee for determination in light that the Council has a landownership interest in the development site – this interest being in relation to the site of a former Roads Depot and MacCallum Street.

The proposal seeks planning permission for a ‘medium’ scale housing development of 30 units for a registered social landlord on a brownfield site located within the ‘settlement area’ and adjacent to Campbeltown centre. The proposal replaces a former Council housing estate (recently demolished) and a Council Roads Depot; the proposed design, layout and finishes are considered to be of a high standard and will result in a positive improvement to what is a gateway site to the centre of Campbeltown and the wider setting of the Campbeltown Conservation Area.

Whilst the proposal requires some revision to comply with the provisions of the Council's policy on flood risk the content of the submitted Flood Risk Assessment and comment from SEPA and the Council's Flood Alleviation Manager indicate that such amendments can be readily achieved by planning conditions. During the processing of the application it has also been established that the proposal satisfies the requirements of the Health and Safety Executive in respect of the safeguarding of Campbeltown Gas Works and, that it is appropriate for the applicant to make offsite provision of equipped amenity space in the adjoining public Kinloch Park.

One third party representation has been received which raises concern in respect of the impact of construction activities upon the surrounds.

In addition to the above, the proposal is acceptable having regard to the relevant considerations in respect of access, parking, infrastructure and amenity and is accordingly supported as being consistent with the relevant provisions of the development plan.

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

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

1. The proposal will rejuvenate a vacant brownfield site in a prominent edge of centre location.
2. The development is of good quality and will provide a positive gateway development for those entering and exiting Campbeltown from and to the North.
3. The proposal conforms to the relevant development plan policies and that there are no other material considerations, including issues raised by third parties, which would warrant anything other than the application being determined in accordance with the provisions of the development plan.

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

n/a

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

Author of Report: David Love

Date: 5th April 2011

Reviewing Officer: Peter Bain

Date: 5th April 2011

Angus Gilmour
Head of Planning & Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 10/02153/PP

1. That the development to which this permission relates must be begun within three years from the date of this permission.

Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997.

2. The development shall be implemented in accordance with the details specified on the application form dated 8/12/2010 and the approved drawing reference numbers:

Plan 1 of 24 (Site Plan as Existing at scale of 1:1000)
Plan 2 of 24 (Park Square Flats Elevations as Existing at scale of 1:100)
Plan 3 of 24 (Park Square Flats as Existing at scale of 1:100)
Plan 4 of 24 (Site Plan as Proposed at scale of 1:200)
Plan 5 of 24 (Park Square Residential Drainage Scheme at scale of 1:200)
Plan 6 of 24 (Bin Store as Proposed at scale of 1:20)
Plan 7 of 24 (Block A Elevations as Proposed at scale of 1:100)
Plan 8 of 24 (Block A Floor Plans as Proposed at scale of 1:100)
Plan 9 of 24 (Block A Roof Plan as Proposed at scale of 1:50)
Plan 10 of 24 (Block A Section A-A as Proposed at scale of 1:50)
Plan 11 of 24 (Block A Section B-B as Proposed at scale of 1:50)
Plan 12 of 24 (Block C Elevations as Proposed at scale of 1:100)
Plan 13 of 24 (Block C Floor Plans as Proposed at scale of 1:100)
Plan 14 of 24 (Block C Roof Plan as Proposed at scale of 1:50)
Plan 15 of 24 (Block C Sections as Proposed at scale of 1:100)
Plan 16 of 24 (Block D Elevations as Proposed at scale of 1:100)
Plan 17 of 24 (Block D Floor Plans as Proposed at scale of 1:50)
Plan 18 of 24 (Block D Roof Plan as Proposed at scale of 1:50)
Plan 19 of 24 (Block D Sections as Proposed at scale of 1:50)
Plan 20 of 24 (Blocks E & F Elevations as Proposed at scale of 1:100)
Plan 21 of 24 (Blocks E & F Comprehensive Plan at scale of 1:50)
Plan 22 of 24 (Blocks E & F Comprehensive Roof Plan at scale of 1:50)
Plan 23 of 24 (Block E Sections as Proposed at scale of 1:50)
Plan 24 of 24 (Block F Section A-A as Proposed at scale of 1:50)

unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997 (as amended).

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

3. Prior to the commencement of works onsite, a contaminated land remediation scheme should be submitted to and approved in writing by the Planning Authority. The agreed remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Planning Authority. Following completion of measures identified in the agreed remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure the site is appropriately remediated of all contaminants and ensure the safety of those working and living on the site.

4. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared which is subject to the approval in writing of the Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Planning Authority in accordance with condition 4.

Reason: To ensure that any contaminants found during construction are appropriately dealt with in terms of safety to the environment and people working and living on the site.

5. Notwithstanding the details shown on the approved plans, the minimum finished floor level of ground floor properties within blocks C, D, E and F shall be 4.00mAOD. Prior to the commencement of built development within the site the details of the proposed finished floor levels of each block and, surrounding proposed finished ground levels shall be submitted to and approved in writing by the Planning Authority. Thereafter the development shall be implemented in accordance with the duly approved details.

Reason: To secure a minimum freeboard for the development over the design 1 in 200 year flood event as recommended by SEPA and the Council's Flood Alleviation Manager to sufficiently mitigate the development against the impact of flooding.

6. Notwithstanding the details shown on the approved plans, the finished levels shall be designed to permit access for emergency service vehicles to blocks C, D, E and F at all times during a design 1 in 200 year flood event. Prior to the commencement of works on site the details of the proposed finished site levels of vehicular and pedestrian access/egress routes within the development shall be submitted to and approved in writing by the Planning Authority. Such details shall demonstrate the availability of emergency vehicular access and pedestrian access to the development during the design 1 in 200 year flood event having regard to the recommendations of CIRIA Report C624. Thereafter the development shall be implemented in accordance with the duly approved details.

Reason: To secure safe access and egress for emergency service vehicles to the development in the event of the design 1 in 200 year flood event as recommended by SEPA and the Council's Flood Alleviation Officer to sufficiently mitigate the development against the impact of flooding.

7. That further flood resistant techniques shall be incorporated in the design of Block A as detailed in the Flood Risk Assessment submitted in support of this planning application. Full details of these measures including details of finished floor levels shall be submitted to and approved in writing by the Planning Authority prior to the commencement of the development of this block. Thereafter the development shall proceed in accordance with these details unless otherwise approved in writing by the Planning Authority.

Reason: In order to minimise the impact of flooding on this block during the 1 in 200 year event.

8. Prior to the commencement of development and notwithstanding the details specified on the approved plans, full details of the proposed roof covering shall be submitted to and approved in writing by the Planning Authority; such details shall show the use of natural slate or a high quality slate substitute tile coloured dark blue/grey. Thereafter the development shall thereafter be implemented in accordance with the approved details unless otherwise agreed in writing by the Planning Authority.

Reason: In the interests of visual amenity, in order to ensure that the development integrates with its surroundings.

9. Prior to the commencement of development, samples of the proposed external wall finishes shall be submitted to and approved in writing by the Planning Authority. Thereafter the development shall be implemented in accordance with the duly approved details, unless otherwise agreed in writing by the Planning Authority.

Reason: In the interests of visual amenity, in order to ensure that the development integrates with its surroundings.

10. The development shall not begin until details of a scheme of boundary treatment, surface treatment and landscaping works have been submitted to and approved in writing by the Council, as Planning Authority: Details of the scheme to include –

- i) location and design, including materials, of any walls, fences, hedges and gates.
- ii) surface treatment of means of access, communal gardens and hardstanding areas.

All the hard and soft landscaping works shall be carried out in accordance with the scheme approved in writing by the Council as planning authority, within six months of the associated dwelling unit being occupied or brought into use. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting season following the commencement of the development unless otherwise agreed in writing with the Council, as Planning Authority.

Reason: In the interests of visual amenity, in order to integrate the development with its surroundings and maintain the landscape character of the area.

11. Prior to the development commencing full details of the surface water drainage system to be incorporated into the development shall be submitted to and approved in writing by the Council as Planning Authority, and in consultation with the Scottish Environment Protection Agency. Such measures shall show the provision of a Sustainable Urban Drainage System; thereafter the surface water drainage system shall be implemented in accordance with the duly approved details.

Reason: To ensure the provision of a SUDS surface water drainage system to meet the requirements of the development and no such details having been submitted.

NOTE TO APPLICANT

- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.
- Please note the advice contained within the attached letter from Scottish Water. Please contact them direct to discuss any of the issues raised.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 10/02153/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The site is located within the 'settlement area' of Campbeltown wherein the provisions of policies STRAT DC 1 and LP HOU 1 would support the principle of up to and including 'large' scale housing development on appropriate sites and subject to compliance with all other relevant policy requirements. The current proposal relates to a 'medium' scale housing development.

The proposal lies within the 'Edge of Town Centre' designation as per the adopted Argyll and Bute Local Plan 2009. Additionally, the site is allocated as an 'Area for Action' (AfA) reference 14/4.

The AfA intends to make effective use of this area of Campbeltown as part of the regeneration of fragile communities in the Kintyre Peninsula. With regard to this site the AfA requires consideration of appropriate redevelopment opportunities and townscape enhancement opportunities (particularly on the Kinloch Road and Longrow frontages).

B. Location, Nature and Design of Proposed Development

The application site relates to 0.6ha of vacant land which straddles MacCallum Street and extends from Longrow within the town centre to Kinloch Park to the west. The site is bounded to the north by a further parcel of vacant land which is also within the control of ACHA and Lochend Street; the southern portion of the site is bounded by existing commercial properties.

Historically the site contained a number of run down, flatted residential properties known as Park Square which were formerly part of the Council's housing portfolio. These have since been demolished in recent years and this proposal aims to replace those units with a more iconic development on the approach into Campbeltown town centre, the prominence of the site having been increased by the Council's intentions to re-align Kinloch Road to facilitate large vehicles travelling to/from Campbeltown Harbour with the resultant creation of a corner site.

The proposal is to erect 30 dwellings consisting of 28 flats over 4 blocks and 2 semi-detached units. In order to achieve this development and make best use of the site McCallum Street is being closed to through traffic and a former Council depot, located South of the original site, is being incorporated into the development area.

The current proposal is split into 5 blocks (A, C, D, E and F). Blocks A and C are wholly located on the original site of the Council housing, whilst the remaining blocks are partly located on the former depot site and the original housing site. Each block is described below. It should be noted a separate application (ref. 10/02137/PP) has been approved for Block B which is an extension to the northern gable of the existing flats and provided for 2 flatted units. This has been included in the descriptions below for completeness and to give an overall view of the development proposal. The development is set out to create an enclosed area consisting of landscaped space, communal gardens and parking within the grouping of buildings – this layout makes

adequate provision for pedestrian access and egress between Kinloch Road and Longrow.

Block A

This part of the development sits on Longrow at the North West section of the development site. This is a small extension onto the southern gable of an existing row of flats which are the only section of the original Council housing not to be demolished. The original block consists of a 3-storey gabled building which is being refurbished and currently a terraced group of 4 houses. The extension will be 2-storey gabled building and will be connected via a low ridged modern link. Solar panels will adorn the roof with tiles and a precast stone will provide the external wall finish on the front and gable elevations (street facing), the rear wall shall be finished in smooth white render. The link will have a zinc clad roof and with an aluminium framed curtain wall. The extension will consist of 2 properties whilst the refurbishment will maintain the existing 4 units.

Block B

A separate application (reference 10/02137/PP) has been approved for the development of block B located in the uppermost North West corner of the site. This block consists of a second extension to the northern gable of the existing flatted development protruding toward the north and west and a formation of enclosed garden space. The proposal will add an additional 2 units forming a corner unit consisting of a ground floor 1-bedroom flat with the upper 2 floors as a 2-bedroom flat. Externally the extension will have a flat roofed semi-circular feature on the gable totalling 3-storeys in height sitting below the ridge line of the existing flats. The extension will be finished in sandstone with a zinc roof.

Block C

Block 'C' will be positioned at the northern most boundary of the site measuring 51.3m x 8.6m x 13.6m from base to ridge and will be aligned along the new section of Kinloch Road as it cuts through the heart of the old Park Square site. This three storey block will be finished in tiles with solar panels on the southern (rear) elevation with an external wall finish of pre-cast stone on the front (north) and gable elevations and a white smooth render to the south (rear) elevation. The front elevation has been designed with well proportioned windows of vertical emphasis which will complement the surrounding townscape, the overall bulk of the block is divided by two sections of front and back curtain wall glazing from floor to wall head height which will provide natural light to the stairwells and reduce the overall mass of the building. The rear (south facing) elevation of the block incorporates enclosed balconies within each unit which will overlook the communal gardens. The block will consist of 12x2 bed units. The block provides for significant levels of communal garden space, boundary landscaping, bin storage and parking areas.

Block D

This block sits on the north east boundary of the site parallel to the existing line of Kinloch Road and opposite Kinloch Park. The block will measure 45m x 8.6m x 13.6m from base to ridge consisting of 12 units – 6 x 2 bed and 6 x 1 bed. This three storey block will be finished in tiles with solar panels on the west (rear) elevation with an external wall finish of pre-cast stone on the east (front) and gable elevations and a white smooth render to the rear elevation. The front elevation has been designed with well proportioned windows of vertical emphasis, the overall bulk of the block is divided by two sections of front and back curtain wall glazing from floor to wall head height which will provide natural light to the stairwells and reduce the overall mass of the building. The rear (south facing) elevation of the block incorporates enclosed balconies within each unit which will overlook the communal gardens. The block

provides for significant levels of communal garden space, boundary landscaping, bin storage and parking areas.

Blocks E and F

Blocks E and F sit partly in the former Council depot site in the southern most section of the site. Block F sits at an approximate 45 degree angle to Block E which is perpendicular to Block D. Block E measures 16.5m x 6.5m x 8m and is finished in smooth white render, tiles and solar panels. The block contains 2no. semi detached 2 bed, dwellinghouses. Block F measures 12m x 6m x 10m and is finished in pre-cast stone, tiles and solar panels. The block contains 1 x 2 bed flat and 1 x 3 bed flat. These 2 blocks are connected to one another by a single storey bedroom unit on the ground floor of Block F. Both of these blocks contain areas of private garden amenity space, parking and bin storage facilities.

Overall, the proposal amounts to a well considered housing development which with the inclusion of substantial three storey elements, a variety of building scale and mass, a strong vernacular emphasis to building design and high quality finishes will work well at a location which provides a transition between the built up urban core of Campbeltown and the wide open space of Kinloch Park and Campbeltown Loch beyond. A single element of concern however, is the applicant's proposed use of a concrete roof tile as the roof covering throughout the development. Whilst it is noted that the now demolished Park Square development was tile clad, the visible roofscape of all the buildings surrounding the application site, with the sole exception of the surviving block from Park Square, are finished in West Highland slate. It is considered that the use of natural slate should also be the preferred roof finish within the current proposal and will sufficiently contribute to the integration of the new development with the existing built environment; it is however acknowledged that the proposal is being taken forward by a Registered Social Landlord in an adverse financial climate, in the event that cost of such a requirement proved prohibitive then it would be appropriate to accept a specification of a high quality slate substitute coloured dark grey/blue – this requirement can readily be secured by planning condition as can a sample of the proposed pre-cast stone finish and render to be applied to the external walls. The proposal is considered acceptable having regard to the provisions of policy LP ENV 19, Appendix A and the Council's Sustainable Design Guidance. The installation of solar panels on internal roof planes of the development is considered consistent with the provisions of LP REN 3.

It is worth noting that Block F sits 5m from the closest point to the boundary it shares with an adjacent pub to the west. The upper floors of the pub potentially house a self contained accommodation unit but there are no windows facing directly onto this building and they are approximately 15m apart. There are not considered to be any issues of privacy due to the angular nature of Block F to these windows. In terms of height difference Block F is 10m tall over 2 levels whilst the pub building is also over 2 levels, therefore there are no issues of day lighting as the buildings will be of an approximate similar height. The provisions of policy LP BAD 2 seek to resist inappropriate development which would be adversely affected by existing 'bad neighbour' land uses; in this instance however, it is noted that Council's Environmental Health Officer's have not raised objection to the proximity of the proposed new housing development to an existing public house.

C. Built Environment

The site lies adjacent the Campbeltown Conservation Area and therefore the design of the development needs to be of a high quality; the provisions of policy LP ENV 14 would seek to resist new development which has an adverse impact upon the setting,

character or appearance of the conservation area. Firstly, it is noted that the development is in effect a replacement of a former three storey, dilapidated Council Housing scheme which, until its demolition, created an unfavourable impression upon arrival at Campbeltown town centre. The redeveloped site will also act as a gateway development for the town as it will sit adjacent the new main route through the town. With this in mind it is considered that the proposal achieves the high quality in design through the use of appropriate scale, massing, form and materials which sufficiently reflect the key characteristics of the adjoining conservation area and townscape setting.

It is also noted that part of the site falls within an archaeological trigger zone. The West of Scotland Archaeology Service has advised that they have no objections and the proposal is considered consistent with the provisions of LP ENV 17.

D. Affordable Housing

The provisions of policy LP HOU 2 requires all housing development of 8 units and above to include a minimum of 25% 'affordable housing' provision. The applicant is the Argyll Community Housing Association, it is stated in the application details that all 30 units within this application are to be made available as 'affordable housing' for rent managed by a registered social landlord.

E. Road Network, Parking and Associated Transport Matters.

The proposal will seek to access the site off Longrow with McCallum Street being closed. The proposal provides 50 car parking spaces along the access road, landscaping and bin collection areas.

The development is readily accessible from Longrow and Kinloch Road with means of egress on identified desire lines through the site and is located in an edge of centre location which is as accessible to residents by public transport as the adjacent core shopping area of Campbeltown where local services are concentrated.

The adopted local plan 2009 sets out car parking standards for flatted developments as requiring 1.5 spaces per each 1-bed unit, 2 spaces per each 2-bed unit and 2 spaces per every 3-bed unit. This totals a requirement of 61 spaces. The site, however, is within easy walking distance of the town centre as it occupies an Edge of Centre Location and as such is well served by public transport and pedestrian links. Additionally, significant on-street parking is available around Kinloch Park should peak demand require additional spaces. With the above in mind a reduced car parking provision can be accepted due to compliance with one of the criteria in Appendix C (Access and Parking Standards) of the adopted local plan. The Area Roads Manager has not raised objection to the proposals in respect of access or parking.

The proposal is considered consistent with the relevant provisions of LP TRAN 1, LP TRAN 2, LP TRAN 3, LP TRAN 4 and LP TRAN 5 of the Local Plan.

F. Infrastructure

The development intends to connect to the public water supply and waste water systems. Scottish Water has not objected but has advised that further details will be required from the applicant prior to connection to their network.

The submitted details show a surface water drainage system for the site which connects to the existing surface water sewer; these details indicate that surface water can readily be contained within the site boundaries and indicate a single level of SuDS treatment. Details accompanying the Flood Risk Assessment indicate that the re-development of this site is unlikely to affect local surface water drainage in particular that relating to overtopping of the Milknowe Burn as any surface water flows along adjacent streets will be directed to the lower lying areas of Kinloch Park and surrounding roads – neither SEPA or the Council's Flood Alleviation Manager have raised concern in this respect. SEPA have however noted that the means of SuDS treatment remains unclear from the submitted details, however this can readily be addressed by planning condition. The proposal is considered consistent with the provisions of LP SERV 2 and 3.

G. Amenity Space Provision

The provisions of policy LP HOU 4 set out the Council's minimum requirement for provision of open space and equipped play areas for development in excess of 20 dwelling units. In this instance the proposed play space will be provided off-site and the applicant has indicated that they will contribute a commuted sum to the upgrade of the nearest public play park facility. The play area for upgrade would be the one in Kinloch Park which is located some 120m to the north east of the development site, on the opposite side of Kinloch Road and forms part of a larger, public amenity space that is within easy walking distance and will undoubtedly be utilised by residents of the proposed development. It is further noted that proposal for the realignment of Kinloch Road will also introduce new uncontrolled road crossings facilitating safe pedestrian access from the development to Kinloch Park. Although this application is for 30 units another application for 2 units also forms part of the overall development, therefore it is considered appropriate to seek a commuted sum for 32 units in total.

As per Council policy the applicant is required to provide £500 per each 1 and 2 bed units and £750 per each 3-bed unit this totals £16,250 (7 x 1-bed, 24 x 2 bed, 1 x 3 bed). Please note this figure includes the proposal under reference 10/02137/PP for the development of Block B. On its own the development of Block B calculates at £1,250 (1 x 2 bed and 1 x 3 bed) with £15,000 remaining for this application, the condition on the current application addressing the cumulative impact of the re-development of Park Square.

It is proposed to secure this amount and direct it toward the play space at Kinloch Park via a section 69 agreement as defined by the Local Government (Scotland) Act 1973.

H. Flood Risk

Policies STRAT DC 10 and LP SERV 8 set out the Council's detailed policies in respect of the acceptability of new development in relation to risk of flooding. In this instance the development site is located within a 'medium to higher risk area' with a 1:200 or greater annual probability of flooding, the principle risk in this instance being from coastal inundation.

The accompanying Flood Risk Assessment (FRA) submitted in support of the application identifies that the 1 in 200 year still water level is 3.04mAOD. Taking into account the potential effect of wave action and climate increase the design flood level to 3.34mAOD; the minimum freeboard has been identified as 600mm above this level, this figure has been agreed by both SEPA and the Council's Flood Alleviation Manager who states that a minimum FFL of 4.0mAOD should be achieved. SEPA

have also confirmed that, given that the principle source of flood risk is coastal, the proposed development of the site is not likely to have a significant detrimental effect on flood plain storage, conveyance or impact local flooding problems.

The proposed finished floor level of blocks A and B is set at 3.3mAOD on the site plan and FRA (shown as 2.86 metres on the section plan) which is significantly below the minimum freeboard prescribed but ties in with the ground levels of the existing building which these blocks will physically tie into. The applicant has confirmed that as this portion of the development involves tying onto an existing structure this places significant constraint on the vertical arrangement of these blocks; it is however recommended that the freeboard provided will approximately equal the 1 in 200 design tide level and will be above the 1 in 100 year event. It is further stated that it is possible to design and construct the ground floor level of these blocks using flood resistant techniques for at least the lower 250mm of the outer walls to allow the building to conform to this environment. This might include use of water resistant materials, raised electrical equipment and appropriate door systems which would minimise damage to ground floor levels in the very infrequent 1 in 200 year event – it is noted that in such a case the depth of flooding if any water entered the building would be minimal 40-240mm and that refuge would be readily available on the lower landings of the property. SEPA has confirmed that the proposals for blocks A and B are acceptable as they involve the redevelopment of an existing building and are therefore considered to be outwith the scope of flooding advice contained within the Scottish Planning Policy and PAN 69 although the use of the afore-mentioned design improvements to minimise the impact of a flood event is recommended.

Blocks C & D are shown in the submitted plans as having a proposed finished floor level of 4.0mAOD which is approximately 660mm above the design flood level and is considered acceptable to SEPA and the Council's Flood Alleviation Manager.

Blocks E & F are shown in the submitted plans as having a proposed finished floor level of 3.5mAOD on the site plan and 3.25mAOD on the sections plan; the submitted FRA however details a design floor level of 3.475mAOD and it is upon this figure that SEPA have provided flood risk comment which notes that the FFL is only some 135mm above the design flood level it does not allow the provision of the recommended freeboard. Application of the minimum FFL of 4.0mAOD recommended by the Council's Flood Alleviation Manager would require the level of blocks E & F to be raised by at least 525mm; in this respect it is considered that such an increase can readily be accommodated without impact to privacy/amenity or existing streetscape given the location of these blocks away from the site frontage and the requirement of SEPA and the Council's Flood Alleviation Manager that ground levels within the site be raised to ensure safe access and egress to the development for emergency vehicles during a flood event (see below).

Existing site levels vary from 2.6m on Longrow rising to 3.44mAOD on the realigned section of Kinloch Road, falling off to 2.5m within the site of the former Council Roads Depot and 3.04m on the existing section of Kinloch Road to the east of the application site boundary. The submitted details indicate that site levels will be increased within the south eastern portion of the site with varying levels of between 3.2mAOD and 4.0mAOD to accommodate the new development. SEPA and the Council's Flood Alleviation Manager have both raised concern that the details as submitted would restrict access to the site for emergency service vehicles would be temporarily restricted during a design flood event – CIRIA report C624 indicates that viable access/egress is only available at low flood depths of 0.3m and less (i.e. 3.04mAOD in this instance). In this instance it is noted that the principle means of access comes from Longrow and will utilise the existing route of MacCallum Street

with existing site levels of approximately 2.65m which cannot be readily altered given the presence of existing buildings (in the event of a design flood event this would result in a flood depth which exceeds this requirement by approximately 0.1m). The submitted FRA notes that access for emergency vehicles can be achieved to blocks C,D,E & F during the design flood event; access to blocks A & B would be temporarily restricted as would access to existing adjoining property on Longrow. It is however unclear from the details submitted how emergency vehicles would gain access to the block E & F which lie to the rear of the site unless provision is made to utilise a proposed pedestrian link from the realigned Kinloch Road. SEPA also note that the proposed ground levels around blocks C, D, E & F are at or slightly below the design flood level – it is considered that these levels are capable of being raised marginally to accommodate these concerns without adverse impact to the existing streetscape, such an increase would also facilitate pedestrian access/egress during a design flood event and can be achieved by planning condition.

Having regard to the above, neither SEPA or the Council's Flood Alleviation Manager have raised objection to the proposal on grounds of flooding subject to minimum floor levels and emergency access being achieved; therefore subject to conditions, the proposal is considered to be consistent with the relevant requirements of the SPP, PAN 69, STRAT DC 10 and LP SERV 8.

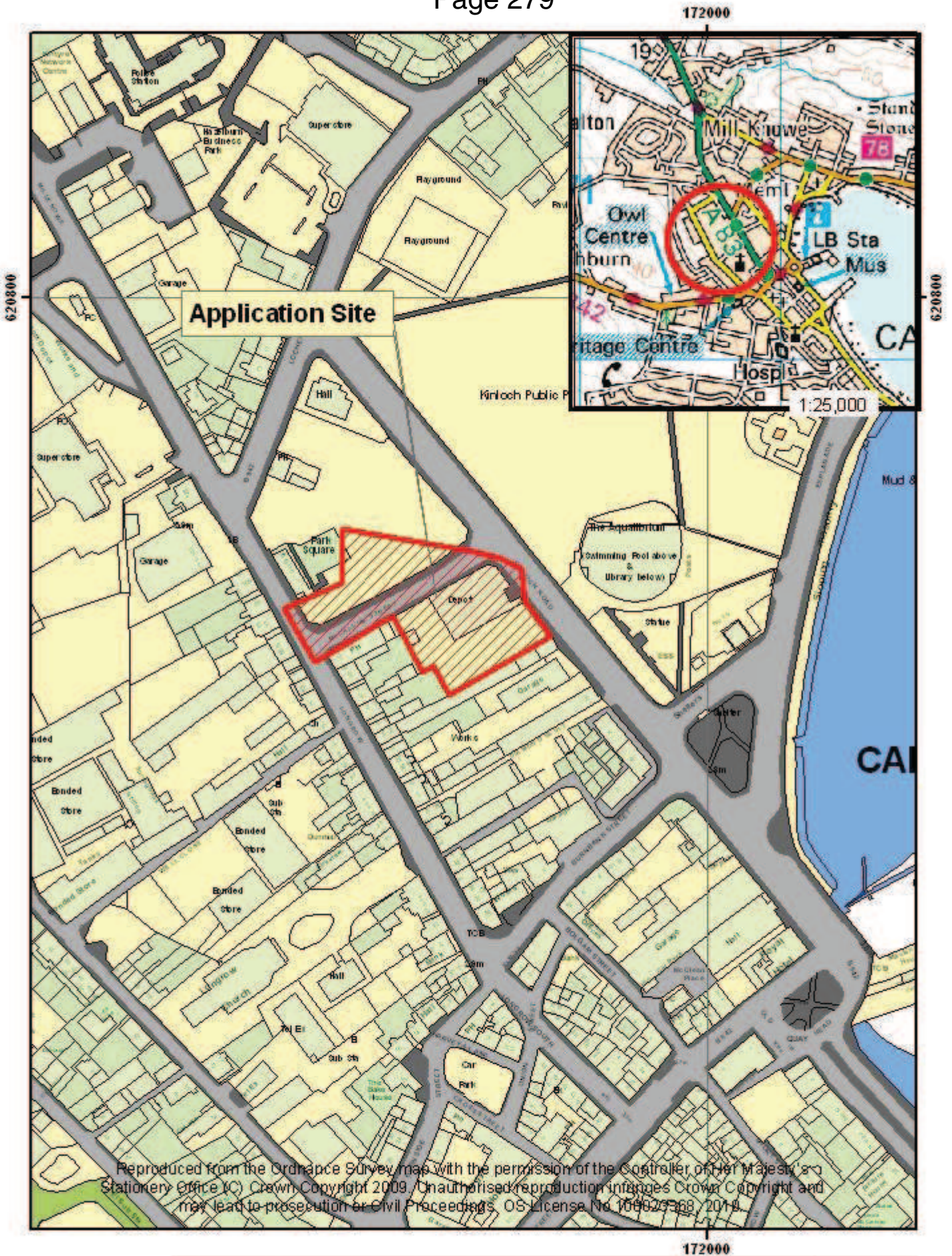
I. Contaminated Land

The former Council depot site has been investigated for contaminants and the significant levels of hydrocarbons have been found. The Council's contaminated land specialist has confirmed that remediation works to remove the contaminated material have been agreed and therefore is content for a suitably worded planning condition to be attached to any consent to ensure these works are carried out and the site remediated prior to the commencement of works.

J. Safeguarding of Notifiable Installations

The provisions of policy LP SERV 9 seeks to protect the interests of existing notifiable installations from encroachment by development which is incompatible with the safeguarding criteria for the installation.

The proposal lies within the safeguarding radius for the nearby gas storage facility and as such the Health and Safety Executive has been consulted for their comments. A consultation response dated 1st February has indicated an objection however discussions with HSE has resolved the issue. The applicant has essentially increased the site area through the use of the rear gardens in block B and incorporating part of the main road into the development area. Notice has been served onto the council as landowner of the road and the Area Roads Manager has not raised any concerns. This has effectively lowered the density of the development within the safeguarding zones to levels acceptable to the HSE development methodology. A consultation through HSE's online system (23rd March 2011) has removed the objection.



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**Committee Plan Relative to
Planning Application Ref: 10/02153/PP**

Date: 20.04.2011

Scale: 1:2,500



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**Argyll and Bute Council
Development & Infrastructure Services**

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 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 11/00021/PP
Planning Hierarchy: Local
Applicant: Royal National Lifeboat Institution
Proposal: Erection of new crew facilities and souvenir shop.
Site Address: Port Askaig Pier, Port Askaig, Isle Of Islay

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of a two storey detached building consisting of offices, administration areas, lifeboat crew changing areas, crew kitchen and mess areas, crew training area, workshop and storage areas plus separate Jura ferry crew admin and mess areas and R.N.L.I. souvenir shop.

(ii) Other specified operations

- Demolition of existing disused toilet block
 - Connection to existing public water main
 - Connection to existing public sewer
-

(B) RECOMMENDATION:

That permission be Granted subject to the conditions and reasons contained in this report.

(C) CONSULTATIONS:

Historic Scotland Planning	09.02.2011	No comment / No objection.
Health And Safety Executive	07.02.2011	Does not advise against permission being granted.
Area Roads Mid Argyll Kintyre And Islay	10.02.2011	No objection subject to note to Applicant.
Environmental Health	31.01.2011	No objection.

- MAKI

(D) HISTORY:

00/01302/NID - Redevelopment of Port Askaig pier and ferry facilities (Notification of Intent to Develop on behalf of Argyll and Bute Council) – Approved 20.09.2001

02/01477/NID – Redevelopment of Port Askaig pier and ferry facilities (Amendment to 00/01302/NID) (Notification of Intent to Develop on behalf of Argyll and Bute Council) – Approved 23.12.2002

03/00176/VARCON – Variation of planning conditions relative to 02/01477/NID – Approved 17.03.2003

04/00407/NMA – Non-material amendment to 02/01477/NID (amended layout of vehicle mustering area) – Approved 19.03.2004

(E) PUBLICITY:

ADVERT TYPE:
Listed Building/Conservation Advert
EXPIRY DATE: 24.02.2011

(F) REPRESENTATIONS:

(i) Representations received from:

Iain and Marion Spears, Port Askaig Hotel, Port Askaig, Isle of Islay

(ii) Summary of issues raised:

- The Port Askaig grouping is B listed and therefore we would ask has Historic Scotland been consulted about this proposed building? The proposed building is, in our opinion, totally out of keeping with the adjacent old and historic Pier Store building, in both size and scale. The old Pier Store is also of importance in terms of local history as it has featured in many, now archived, films both factual and fictional.
- The proposed roof height in such close proximity (1.3 metres) to the older buildings turns the whole facade into a mono slab which is much less pleasing than the contrasting aspects and roof heights which is present with the old toilet block and recently has continued to the south with a new rotunda ticket office, probably at extra expense!
- At the Port Askaig redevelopment planning inquiry which was conducted in 2001 by the Reporters unit of the Scottish Executive [now the Scottish Government] a similarly hideous proposal drew adverse criticism from Historic Scotland and was dropped from the plan, though we note that the original intention was to provide a Pier Masters flat which might still be desirable.

- We also object to other detail of this proposed building which looks as if it has been shoehorned into a site too small for it! – Namely, a) the roof lights are out of character with the site; b) the window numbers seem excessive; c) the balcony jutting out is hideous and would not be deemed necessary if the building were nearer the boats proposed mooring at the north end of the pier; d) the two parking spaces block the route from the waiting room to the ferry gangway. It is also likely that the RNLI would demand extra parking were they to occupy this site – we have some experience of this in the past; e) the doors of the proposed building open outward, which would be in the face of ferry passengers walking to the ferry.
- The proposal is also strategically bad for the following reasons regarding traffic, parking or access problems: 1) proposed building is too far from the applicant's boat which would cause them to demand and therefore waste an excessive amount of limited pier space in so called 'emergency access' (this we know from bitter experience) to the detriment of legitimate pier users among which we intend being included (our property is within 20 metres of the application site); 2) excessive size of proposed building closes off gap access to a potential parking/storage area; 3) an insultingly small amount of space is to be provided for the Jura ferry operators' crew accommodation and equipment storage. Further there does not appear to be any Jura ferry crew parking provision – this could restrict the possibility of larger vessels being deployed on this lifeline route in the future. The rumoured reason for the tiny provision is that the applicants are bearing the costs – the applicants appear to have forgotten that they are gaining a site for which the rent or lease cost over a long lease would probably equal the expenditure required to convert the existing toilet block for use by the Jura ferry operators and providing them with a much deserved superior base, in terms of size, outlook (to see their ferry, to monitor sea conditions and traffic volumes gathering on the opposite berth at Feolin).
- A different arrangement whereby the RNLI built on an alternative site to the north of the historic pier buildings, nearer the proposed location of their boat, if sympathetically designed with regard to roof heights, and a slightly increased distance from the historic buildings – and at a slightly different angle, with no out-of-keeping roof lights or balconies would be much more satisfactory [the objector has enclosed sketches to illustrate the suggested alternative scheme].

Comments:

- *The proposed development is on a site currently occupied by a single storey redundant public toilet block with a separate RNLI storage shed to the rear. These buildings are not listed though are flanked on both sides by the Category B listed CalMac ferry office and toilets to the south and the pier store building to the north, also a category B listed building. The proposed development is immediately adjacent to both listed buildings (it occupies a site between them) but is not physically attached to either. The proposals have been advertised as potentially affecting the setting of the adjacent listed buildings and Historic Scotland have been directly*

consulted on these proposals. Historic Scotland raise no objections and have made no adverse comment on these proposals.

- *The proposed development is considered to be wholly appropriate with regard to its design, detailing, setting and impact upon the flanking listed buildings and on the area as a whole. Full details of the appropriate assessment of these matters are included in the report of handling below.*
- *The comments regarding the previous application for the redevelopment of Port Askaig and the subsequent Public Local Inquiry (PLI) are somewhat misleading. Although Historic Scotland did raise objections to the 2000/2001 redevelopment scheme, their comments related not to the proposed replacement of the existing toilet block building which forms the focus of the current application, but to elements of the proposed alterations of the listed building to the south (now the CalMac offices/waiting room/toilet building). The proposals for this building were indeed amended at that time to take into account the concerns of Historic Scotland, but these amendments were made before the PLI and not as a result of the Reporters Unit findings. On the contrary, the previous proposals for the redevelopment of Port Askaig included a new building to replace the existing toilet block which, although not of the same scale and design as the current proposals for its replacement, was not subject to any objection by Historic Scotland and remained unchanged in its design from the plans originally submitted to those eventually approved. The Reporters Unit raised no objections to this element of the scheme. Ultimately, the previously approved building on the site of the toilet block, which now forms the current application site, was not implemented. The elements of the design of the adjacent listed building objected to by Historic Scotland and subsequently deleted from the approved scheme to allow discussions regarding a more appropriate design are in no respect similar to the design details of the currently proposed building. Historic Scotland have raised no objections to the current proposals.*
- *There is no current proposal to move the existing lifeboat mooring to the north end of the pier. In response to this, the RNLI have commented as follows: "Mr. Spears has received no official communication from the RNLI stating that we intend to move the lifeboat to any alternative location. We have looked at a great variety of options in the past but remain of the opinion that the current lifeboat berth fully meets our needs and we intend to continue operating our vessel from this location".*
- *It is not considered that the two proposed additional car parking spaces will block the foot-passenger route from the waiting room to the ferry gangway. There is currently no specifically designated route; foot passengers simply walk to the boarding gangway across the pier and in front of the existing row of harbour buildings. It is not considered that any aspect of the proposed development will cause an inappropriate obstruction to pedestrian ferry access. CalMac, the ferry operators, have raised no objection to this or any aspect of the proposed development.*
- *The RNLI have offered a written response to the allegation that they would 'demand extra parking were they to occupy this site'. The applicant states that, "The RNLI will not be 'demanding' anything. We are a responsibly run charity and are acutely aware of the importance of our*

hard-won reputation for working in full co-operation with the local community wherever possible. It is clear that excessive numbers of cars parked outside the proposed lifeboat station location could cause an obstruction and we would intend to respect that fact by instructing crewmembers to park in the car park adjacent to the ferry ticket office or other areas available to the public. This is current practice and has so far caused us no concern”.

- *The RNLI have offered a written response to the assertion that the proposed building is too far from the applicants’ boat which would cause them to demand and, therefore, waste an excessive amount of pier space. The applicant states that, “I do not share the opinion that the proposed facility will be too far from the lifeboat and I do not see how this would cause the RNLI to waste any pier space at all. As stated above, we would require our crew to utilise public parking spaces and would certainly not tolerate crewmembers’ cars obstructing the public highway. I think it is worthy of note that we have no parking whatsoever adjacent to our current facility yet we still manage to launch within our operational parameters - the new facility would actually offer an improvement in real terms”.*
- *The RNLI have offered a written response to claims that the space to be provided for the Jura ferry crew is too small. The applicant states that, “I can confirm that the Jura Ferry operators have been consulted throughout and are happy with the proposed layout of their accommodation. Our architect has willingly incorporated changes to the original design at the request of the ferry crew and I understand the current iteration fully meets their requirements. Of course, I cannot comment on possible changes of vessel on the Jura route in the future, neither can I comment on Mr Spear’s understanding of the various rumours he refers to”.*
- *The suggested alternative location for the proposed development is not a material planning consideration. The proposals as submitted have been conceived by the applicant as the best location and best form of development to serve their specific operational requirements and it is this proposed development that falls to be considered under the current planning application.*

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- | | |
|---|-----------|
| (i) Environmental Statement: | No |
| (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: | No |
| (iii) A design or design/access statement: | No |

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

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: No

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

'Argyll and Bute Structure Plan' 2002

STRAT DC 1 – Development within the Settlements
STRAT DC 9 – Historic Environment and Development Control

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment
LP ENV 13a – Development Impact on Listed Buildings
LP ENV 19 – Development Setting, Layout and Design

LP CST 1 – Coastal Development on the Developed Coast

LP RET 3 – Retail Development in the Villages and Minor Settlements

LP SERV 9 – Development in the Vicinity of Notifiable Installations

LP TRAN 6 – Vehicle Parking Provision
LP TRAN 8 – Piers and Harbours

Appendix A – Sustainable Siting and Design Principles

Argyll and Bute Sustainable Design Guidance

- (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 4/2009.**

- N/A
-

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

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

(M) Has a sustainability check list been submitted: No

(N) Does the Council have an interest in the site: Yes – Land owner

(O) Requirement for a hearing (PAN41 or other): No

(P) Assessment and summary of determining issues and material considerations

This application for planning permission is being reported to Committee solely because the application involves land owned by Argyll and Bute Council.

The proposals relate to an existing redundant single storey toilet block with RNLI storage shed to the rear. These buildings form part of an existing harbour-side group of operational port buildings and are located within the defined settlement boundary.

The buildings the subjects of this application are not listed themselves but occupy a site immediately between two other existing buildings, both of which are Category B listed.

It is proposed to remove the existing buildings and to replace them with a new detached two storey building to accommodate a new RNLI lifeboat crew station with ancillary souvenir shop and separate, though integral, accommodation for the Jura ferry crew.

A full assessment of the proposals is contained within Appendix A below.

The proposed building is considered appropriate to its setting in terms of its scale, design and detailing and raises no material access, servicing or infrastructure concerns. The proposed development would accord with all relevant Development Plan policies and is considered acceptable having had regard to the provisions of the Development Plan, relevant supplementary guidance, statutory consultee responses and to all other material planning considerations, including the objections raised by local residents.

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

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

The proposed building is considered appropriate to its setting in terms of its scale, design and detailing and raises no material access, servicing or infrastructure

concerns. The proposed development would accord with all relevant Development Plan policies and is considered acceptable having had regard to the provisions of the Development Plan, relevant supplementary guidance, statutory consultee responses and to all other material planning considerations, including the objections raised by local residents.

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

N/A

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

Author of Report: Tim Williams

Date: 24th March 2011

Reviewing Officer:

Date: 29th March 2011



Angus Gilmour
Head of Planning & Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 11/00021/PP

1. That the development to which this permission relates must be begun within three years from the date of this permission.

Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997.

2. The proposed development shall be carried out in accordance with the details specified in the application form dated 14th December 2010; and the approved drawings and details numbered 1 of 9 to 9 of 9; and stamped approved by Argyll and Bute Council.

Reason: In order to ensure that the proposed development is carried out in accordance with the details submitted and the approved drawings.

Standard Note: In terms of condition 2 above, the council can approve minor variations to the approved plans in terms of Section 64 of the Town and Country Planning (Scotland) Act 1997 although no variations should be undertaken without obtaining the prior written approval of the Planning Authority. If you wish to seek any minor variation of the application, an application for a non material amendment (NMA) should be made in writing to Planning Services, Dalriada House, Lochgilphead, PA31 8ST which should list all the proposed changes, enclosing a copy of a plan(s) detailing these changes together with a copy of the original approved plans. Any amendments deemed by the Council to be material, would require the submission of a further application for planning permission.

3. Before any works commence on site, a sample of the proposed roofing slate shall be submitted to and approved in writing by the Planning Authority. The approved slates shall thereafter be used in the development unless otherwise agreed in writing with the Planning Authority.

Reason: In the interests of preserving the character and appearance of the development and its setting adjacent to two Category B listed buildings.

4. Before any works commence on site, full details of the design and detailing of the proposed balcony railings and any infill security screens shall be submitted to and approved in writing by the Planning Authority. The approved details shall thereafter be implemented in the development unless otherwise agreed in writing with the Planning Authority.

Reason: In the interests of preserving the character and appearance of the development and its setting adjacent to two Category B listed buildings and no such details having been submitted.

5. The retail use of this building shall be limited solely to the area within the building shown on the approved plans and shall be limited to that of an RNLI gift shop/souvenir shop ancillary to the main use of the building as an RNLI crew facility. Notwithstanding the provisions of The Town and Country Planning (Use Classes) (Scotland) Order 1997, or as subsequently amended, no other retail use of this or other any part of this building shall be permitted unless as a result of the prior submission and approval of a specific planning application in that regard.

Reason: In recognition of the specific locational requirement for an RNLI souvenir shop and in order to comply with the provisions of the Development Plan which would, in the absence of any convincing 'sequential retail assessment' or 'retail impact assessment', be unlikely to support any other form of retail development in this location.

6. This planning permission does not purport to grant any consent for the display of advertisements. The indicative signage to the front wall of the building shown on the approved elevational drawings shall be subject to the submission and approval of a specific application for consent to display advertisements unless the proposed sign boards benefit from 'Deemed Consent' under the provisions of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 (or as subsequently amended). In which case, full details of the design and detailing of the advertisement(s) benefitting from such Deemed Consent shall be submitted to and approved in writing by the Planning Authority before they are first displayed.

Reason: In order to define the permission and in the interests of preserving the character and appearance of the development and its setting adjacent to two Category B listed buildings.

NOTE TO APPLICANT

- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.
- The Area Roads manager has suggested that there may be an opportunity to increase the amount of car parking dedicated to the approved building by removing the two parallel parking spaces at the front of the building and replacing them with an estimated 6 car parking spaces arranged at 90 degrees to the front wall of the building hereby approved.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 11/00021/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The application proposes the demolition of an existing redundant public toilet building and RNLI storage shed and their replacement by a new two storey detached building to provide new crew facilities and a new RNLI lifeboat station plus crew facilities for the operational requirements of the Jura passenger ferry plus a small RNLI souvenir shop.

The proposed building is located within the defined Port Askaig settlement area, a 'minor settlement', within which Structure Plan policy STRAT DC 1 would support up to small scale development compatible with an essentially rural settlement location on appropriate infill, rounding off and redevelopment sites.

'Small scale' in the context of the current application is defined as buildings not exceeding a 200 square metre footprint and on sites not exceeding 0.5 hectares. The current proposals are for a single detached two storey building with a footprint area of approximately 109 square metres and on a site some 0.02 hectares in area.

The proposed building would be located on an infill site immediately between two existing substantial buildings and on a site currently occupied by two smaller buildings.

The proposed development is therefore considered wholly consistent with settlement strategy policy STRAT DC 1.

B. Location, Nature and Design of Proposed Development

The application site is currently occupied by a modest single storey redundant public toilet block; a detached building with a hipped and slated roof and white rendered walls to the rear of which is a small storage shed and an existing waste oil tank for the Jura ferry.

The site is within the operational pier area for the CalMac passenger ferry and is situated immediately due north of the existing CalMac ferry office/ booking area/ waiting room/toilet building and immediately due south of an existing pier store building. Both of these flanking buildings are category B listed and both have a white render and natural slate finish. The CalMac building is of two storey traditional design with gabled roofs incorporating roof skews and chimneys. The pier store building is a one and three quarter height design with a hipped roof.

This compact row of harbour buildings occupies a generally north/south axis, abutting the operational ferry pier and facing the sea, with a steep and substantial rock cliff face immediately to the rear (west).

The proposed replacement building would be of traditional two storey design with a natural slate roof incorporating roof skews and with white rendered walls. The building would be gable ended and with a rectangular footprint with overall

proportions closely matching those of the existing CalMac building immediately to the south. Windows would be of traditional timber sash and case movement with white painted hardwood frames throughout, except for four small timber casement windows to the toilets / shower rooms on the rear elevation and hard against the cliff face.

Five 'conservation' roof light windows are proposed to the front (east) elevation and four to the rear (west) elevation. These roof windows will have a very low profile to sit almost flush with the outer surface of the roofing slates and will have slender steel glazing bars and frames designed to replicate the appearance of a traditional Victorian cast iron roof light window. The glazing bars and frames will be colour matched to the slate roof covering of the proposed building and the windows will have lead flashing beneath, dressed into the gutter-line of the building.

The proposals would include a single dormer window to the front elevation incorporating a cantilevered balcony with metal barrier rails in a galvanised finish. A pair of timber framed and glazed double doors would give access onto the balcony area which would act as a viewing platform necessary for the operational requirements of the building. The dormer itself would be of traditional gabled design; slated and with a roof skew to the gable.

The proposed doors would all be of traditional hardwood framed and vertical panelled construction and brown stained. Three of the proposed doors would incorporate three small glazed panels. The remaining three would be boarded and unglazed.

The proposed building would also incorporate a 4.5 metre high flagpole for the RNLI flag. This proposed flagpole would be attached to the front face of the building and would project some 1.7 metres above the height of the ridge.

Although the proposed building would be substantially larger than the existing toilet block, it is not considered that the redevelopment of this gap site in the manner proposed would be out of character with the immediately adjacent development or the area as a whole. This group of existing harbour buildings occupies a gently sloping site which declines from south to north. The proposed building would have the same wall-head height and roof pitch as the CalMac building to the south but would appear slightly lower than the southern end of the main CalMac building due to the decreasing street level. Although the proposed building would be somewhat higher than the existing pier store building immediately to the north, the general impression would be of a building at mid-height between the two existing flanking buildings with a trend of decreasing ridge heights along the 'street' from south to north. This would make for a more uniform and attractive pattern of development rather than the current situation which is of a low ridge-height single storey toilet block building of utilitarian design, flanked by two considerably more substantial and attractive, traditional buildings.

The previous application for the redevelopment of the whole of the operational port (application reference 02/01477/NID, approved December 2002) included the replacement of the existing toilet block building with a considerably more substantial detached building of greatly increased width and height, albeit with a hipped roof. This building, although approved, was not implemented though the permission remains capable of development.

It is considered that the design, form and scale of the proposed development are appropriate in terms of its contextual setting and consistent with settlement strategy policy STRAT DC 1. The proposed development would protect and enhance the established character and local distinctiveness of the area and would accord with

Local Plan policies LP ENV 1, LP ENV 19 and with the general design principles set out in Appendix A of the Local Plan.

The intended uses of the proposed building are also considered appropriate to its location within the operational harbour-side area of a working port. The RNLI have submitted a statement in support of the current application which states that, *“The RNLI have been providing a first class lifeboat service in the Sound of Jura and the waters surrounding Islay since 1934. Like most organisations we have evolved, as have our lifeboats, equipment and standards of training. In order to continue this high level of service we need to build a larger two storey crew facility providing adequate and up to date crew changing, crew training, disabled toilets, workshop, souvenir outlet, visitors facilities, storage and administration area. We also want to encourage the general public to visit our stations and where possible inform them about sea safety and why we exist as an organisation. The existing RNLI station does not provide these facilities and there is no scope to extend or refurbish. The proposed new facility would allow the RNLI to train its staff and volunteers in a fit for purpose environment providing the appropriate equipment, training aids and personnel which is vital to keeping our crews motivated and competent when saving lives at sea. The location of the proposed new crew facility is in a prominent position on Port Askaig pier. This location would encourage locals and tourists to visit the station creating interest and good feeling within the community”*.

The proposed building would also include improved crew facilities for the Jura ferry and, in this regard, is located almost immediately adjacent to the Jura ferry slipway, thus serving an existing operational / locational need.

The proposed RNLI souvenir shop constitutes a very small part of the overall development and could be considered ancillary to the main proposed use of the building. Local Plan policy LP RET 3 would support the introduction of this small and specialised ‘convenience’ retail use within a minor settlement and without the need to satisfy any ‘sequential test’ for retail development or to provide any supporting ‘retail impact assessment’.

Local Plan policy LP CST 1, ‘Coastal Development on the Developed Coast’, would support development which requires a coastal location, is of a form and scale consistent with settlement strategy policy STRAT DC 1, would provide economic and/or social benefits to the local community, respects the landscape / townscape character and amenity of the surrounding area and is in accordance with policy LP ENV 1. The proposed development is considered wholly consistent with all aspects of policy LP CST 1.

C. Built Environment

The proposed two storey detached building would replace an existing redundant toilet block building, storage shed and oil container and would, effectively, infill an existing ‘gap site’ between two substantial listed buildings within a short row of harbour-side buildings utilised for the operational requirements of this working port.

The proposed building would be sited immediately adjacent to two Category B listed buildings of differing scales and designs but displaying a uniformity of building materials and external finishes. The proposed development has been advertised as potentially affecting the setting of the two adjacent listed buildings and Historic Scotland were directly consulted on these proposals.

The proposed development is considered to be wholly consistent and compatible with the scale and design of the adjacent listed buildings. Historic Scotland have raised no objections to the proposed development and the proposals are therefore considered to be in accordance with Development Plan policies STRAT DC 9 and LP ENV 13a.

D. Piers and harbours.

This application proposes development for the operational requirements of two existing users of Port Askaig; the RNLI lifeboat service and the Jura passenger ferry.

Local Plan policy LP TRAN 8, 'Piers and Harbours', states that development within harbour areas is to be encouraged provided that such development promotes the retention of the harbour for commercial marine related uses in that the proposals require a harbour-side location or are ancillary to activities taking place within the harbour; that the proposals would not compromise the efficient working of the harbour, including the provision of public or commercial ferry services; that the design, scale and siting of the new development respects, as much as is reasonably possible, the character or appearance of adjacent areas, and; the improvement of existing properties and their redevelopment is considered before the development of new buildings.

The proposed development is considered wholly consistent with the provisions of policy LP TRAN 8. The proposed development is for the operational requirements of existing harbour users and requires a harbour-side location. The proposed development will enhance the efficient working of the harbour, including improved facilities for an existing ferry operator. The scale, design and siting of the proposed development respects the character and amenity of the immediate surrounding area and there is no realistic scope for the redevelopment or improvement of the existing RNLI lifeboat station building.

E. Road Network, Parking and Associated Transport Matters.

The proposed development is a replacement facility, enlarged and improved, for the existing RNLI lifeboat station crew plus new facilities for the Jura ferry operators. Both of these users currently have no dedicated parking spaces and there is adequate public car parking within the immediate vicinity of the site which has served, and would continue to serve, the operational parking needs of the users/occupiers of the proposed development.

The proposed development would include two dedicated parking spaces parallel to the building. This is an improvement on the current parking provision and the area roads manager has stated that this is acceptable within the context of the current development but that there may be scope to improve the parking facilities for this building yet further by providing instead five spaces positioned at 90 degrees to the front wall of the building. Whilst this would appear feasible in principle, there is insufficient space within the current application site boundary to achieve this within the context of the current application. The area roads manager has proposed that this potential alternative parking arrangement be put to the applicant by means of an informative note attached to any planning permission. It is considered that such a note would be appropriate in this case.

The proposed development raises no access or parking concerns and will have no material impact upon the local road network. The proposed development is therefore considered to be in accordance with Local Plan policy LP TRAN 6.

F. Development in the Vicinity of Notifiable Installations

The proposed development lies within the Health and Safety Executive consultation zone of Port Askaig pier due to the presence of an explosives license consent granted allow the possibility of the need to transport explosives onto or off the Island.

Local Plan policy LP SERV 9, 'Development in the Vicinity of Notifiable Installations', requires the Planning Authority to formally consult the Health and Safety Executive (HSE) to assess the risk to the proposed development.

In this case the HSE have raised no objections as the scale and type of development proposed is below the threshold whereby they would advise against the development being permitted. There is therefore no conflict with policy LP SERVE 9.

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**Argyll and Bute Council
Development & Infrastructure Services**

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 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 11/00037/PP
Planning Hierarchy: Local
Applicant: Mr and Mrs S McKinlay
Proposal: Erection of car port extension with decking area above (retrospective)
Site Address: Coul-Na-Mara, Peninver, Campbeltown

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of car port
- Decking area formed above car port

(ii) Other specified operations

- Installation of patio doors at first floor level (internal access to decking area)
-

(B) RECOMMENDATION:

It is recommended that this application be refused for the reasons contained within this report.

(C) CONSULTATIONS:

West Of Scotland Archaeologist Service	13.01.2011	no objections
Historic Scotland	14.01.2011	no objections

(D) HISTORY:

10/00394/ENFHS – Related enforcement investigation – recommendation in respect of the requirement for formal enforcement action appears elsewhere on the agenda for Members consideration.

(E) PUBLICITY:

Regulation 20 Advert Local Application
EXPIRY DATE: 11.02.2011

(F) REPRESENTATIONS:

(i) Representations received from:

One letter of support has been received from the immediate neighbouring property, Michael Read, 'Four Winds', Peninver.

(ii) Summary of issues raised:

- The application should be supported as there are no objections from people within the village
 - This proposal will not change the character of the village which is a mixture of traditional and modern buildings, caravan sites, village hall and pub.
 - Rural communities are under pressure, working families with young children are vital to the rural community and should be supported.
-

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- | | |
|--|----|
| (i) Environmental Statement: | No |
| (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: | No |
| (iii) A design or design/access statement: | No |
| (iv) A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: | No |
-

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: No

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

'Argyll and Bute Structure Plan' 2002

STRAT DC 1 – Development within the Settlements

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment

LP ENV 19 – Development Setting, Layout and Design

LP HOU 5 – House Extensions

LP ENF 1 – Enforcement Action

Appendix A – Sustainable Siting and Design Principles

(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 4/2009.

- Third party representation.

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

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

(M) Has a sustainability check list been submitted: No

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

(O) Requirement for a hearing (PAN41 or other): No

(P) Assessment and summary of determining issues and material considerations

Retrospective planning consent is sought for the erection of a carport with a decking area at first floor level at the bungalow known as 'Coul-Na-Mara', Peninver, by Campbeltown. This retrospective application has been submitted as the result of an enforcement enquiry in relation to this unauthorised development.

Local Plan policy LP ENV 1 – 'Development Impact On The General Environment', states that all development should protect, restore or, where possible, enhance the

established character of the landscape in terms of its location, scale, form and design and that the Council will resist development proposals which do not take proper account of layout, design, external appearance, density and privacy of existing and proposed developments.

Similarly, Local Plan policy LP ENV 19 – ‘Development Setting, Layout and Design’, requires developers and their agents to produce and execute a high standard of appropriate design in accordance with the design principles set out in Appendix A of the Local Plan and that new development shall be sited and positioned to pay regard to the context within which it is located. Developments with poor quality or inappropriate layouts or densities, including over-development and over-shadowing of sites shall be resisted.

Appendix A of the Local Plan referred to above states at Paragraph 8.1 that,*‘care needs to be taken to ensure that the design, scale and materials used are appropriate in relation to the existing house and neighbouring properties’*. Paragraph 8.2 continues, *‘Alterations and extensions should be in scale and designed to reflect the character of the original dwelling house or building, so that the appearance of the building and the amenity of the surrounding area are not adversely affected’*.

The Council’s Sustainable Design Guidance expands on this and advises that ‘sometimes extensions and alterations can look completely out of place even though they have used similar building materials and details to the older settlements around them. Even small extensions and alterations can have a disproportionate effect on their surroundings’.

The design principles of Appendix A are encapsulated by Local Plan LP HOU 5 – ‘House Extensions’, which supports extensions to residential properties but only where they cause no significant detriment to the building, the neighbours of the immediate vicinity. Where they comply with the relevant design and siting principles set out in Appendix A, and where they satisfy a set of specific design considerations, including that extensions would not dominate the original building by way of size, scale, proportion or design; and that extensions should not have a significant adverse impact on the privacy of neighbours.

The application site is located at the northern end of a row of detached, single storey dwellinghouses which incorporate some limited variation between design and finishes but which are all ultimately of similar scale and set back from the public highway. The site is bounded to the west by agricultural land which has the benefit of an extant planning permission for housing development, to the east by the B842 public highway and Peninver Sands Caravan Park beyond and, to the north by a small strip of vacant land and the private Glen Lussa road with one further single storey property on the opposite side of this private road.

The property in question is a single storey (with attic accommodation), timber clad dwellinghouse with a 13m frontage and 9m gable depth (approx. 117 sq m); the external walls are stained dark brown with a red tile roof covering. The dwellinghouse has previously been extended to the rear and has a number of single storey outbuildings contained within the residential curtilage to the rear of the building.

The car port has been constructed in timber on the north facing gable elevation of the dwellinghouse where the car parking area existed for the dwellinghouse, projecting 5.7m off the gable with a depth of 5.8m covering an area of 33sq m, just under a third of the footprint of the original dwellinghouse. A decking area has been formed above the carport at a height of 2.75 from ground level (4.4m to the highest part of the

balustrade from ground level) which also has 33sqm floor area and is accessed via a flight of steps to the rear of the carport. However it is also proposed within this application to form an opening at first floor level to access the decking area direct from the dwellinghouse. In addition, it is proposed to stain the extension a dark brown to match the existing dwellinghouse. The provision of decking at first floor level allows the applicant's an outlook over the top of the Peninver Sands Caravan Park which is located upon the opposite side of the B842 public highway which obstructs the view out of ground floor accommodation within Ceol na Mara and the four adjacent properties to the south.

The car port and decking area are poorly designed and conceived, and inappropriate in terms of the scale and character of the existing dwellinghouse. The development as implemented gives rise to the following specific concerns:

- The design of the installed carport/decking has required the installation of railings above the first floor level of the dwellinghouse, given the depth of the carport and prominent position of the access staircase, the railings extend to a point where they significantly interrupt the basic form, shape and proportions of the original property;
- Whilst the structure fulfils the practical purpose of a carport, it is noted that it is of a significantly more robust, chunky construction than would ordinarily be associated with this type of addition in order to accommodate the weight of the first floor decking; this substantially increases the presence of the structure and its visual intrusion upon the overall form and scale of the original building;
- The installed structure covers a footprint of 33sq m which is just less than a third of the footprint of the original dwellinghouse and, taking into account the two storey nature and appearance of the structure, provides a cumulative 'extension' of 66sqm which is considered excessive having regard to the modest scale and appearance of the original single storey building.
- The carport/decking is located on the northern end of the property and as such is readily open to view at both close quarters and for some distance on the approach to Peninver from the B842 public highway and the Glen Lussa road with no intervening visual screen to mitigate for the impact of the inappropriate development; the lack of intervening curtilage would prevent any such landscape mitigation being provided retrospectively.

Having regard to the above, the unauthorised carport/decking is considered, by virtue of its scale, design and overall mass, to be a prominent and incongruous feature which is substantially out of character with the modest character, scale and appearance of the original dwellinghouse; the significance and extent of this impact upon the surrounds is exacerbated by the location of the unauthorised structure on the north facing gable of the building which is open to view over a significant distance from the B842 on the northern approach to Peninver, and as such is considered to have a significant detrimental impact upon the visual amenity of the locale.

It is noted that the details contained within the application indicate that the decking is to be stained dark brown to match the external walls of the dwelling with the aim of the structure blending in against the wall of the original building. It is considered that application of a colour stain will not provide sufficient mitigation having regard to the concerns set out above, indeed application of a dark stain is likely to increase the prominence of railings and access steps and therefore exaggerate the overall bulk

and visual impact of the structure as being out of scale and proportion with that of the original building.

It should however be noted that the north facing gable of the property does have potential to accommodate a more appropriately sized and designed extension to the property. Having regard to the shortcomings of the current application, it is considered likely that a more traditional lightweight carport structure, or a lower decking structure with railings that do not protrude above the wall-head height of the original building, could potentially be accommodated without adversely impacting upon the overall appearance or character of the original building.

It is the view of officers that the north facing elevation of the property is capable of accommodating a modest extension, to this end discussions have been undertaken with the Applicant's Agent during which it was advised that a more appropriate design and smaller scale of extension may be considered acceptable provided that was in keeping with the existing dwellinghouse in terms of scale, proportion and design. However the applicant has requested the application be processed in its current form without any amendments and further exploration of such alternatives has therefore not been undertaken.

In summary, the scale, proportion and design of this car port/decking extension to 'Coul-Na-Mara' is considered inappropriate and unacceptable. The development is over dominant in respect of the scale of the existing dwelling and has adverse implications for its surroundings. The retrospective proposal is therefore contrary to adopted Local Plan policies ENV 1, LP ENV 19, LP HOU 5 and to the design principles as set out in Appendix A of the Local Plan and the Council's Sustainable Design Guidance..

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

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

The scale, proportion and design of this car port/decking extension to Coul-Na-Mara is considered inappropriate and unacceptable. The development is over dominant to the scale of the existing dwelling and surrounding area. Having regard to the above, and notwithstanding the limited third party support expressed for the development, this retrospective application is considered contrary to adopted Local Plan policies ENV 1, LP ENV 19, LP HOU 5 and to the design principles as set out in Appendix A of the Local Plan and the Council's Sustainable Design Guidance.

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

N/A

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

Author of Report: Kim MacKay

Date: 23rd February 2011

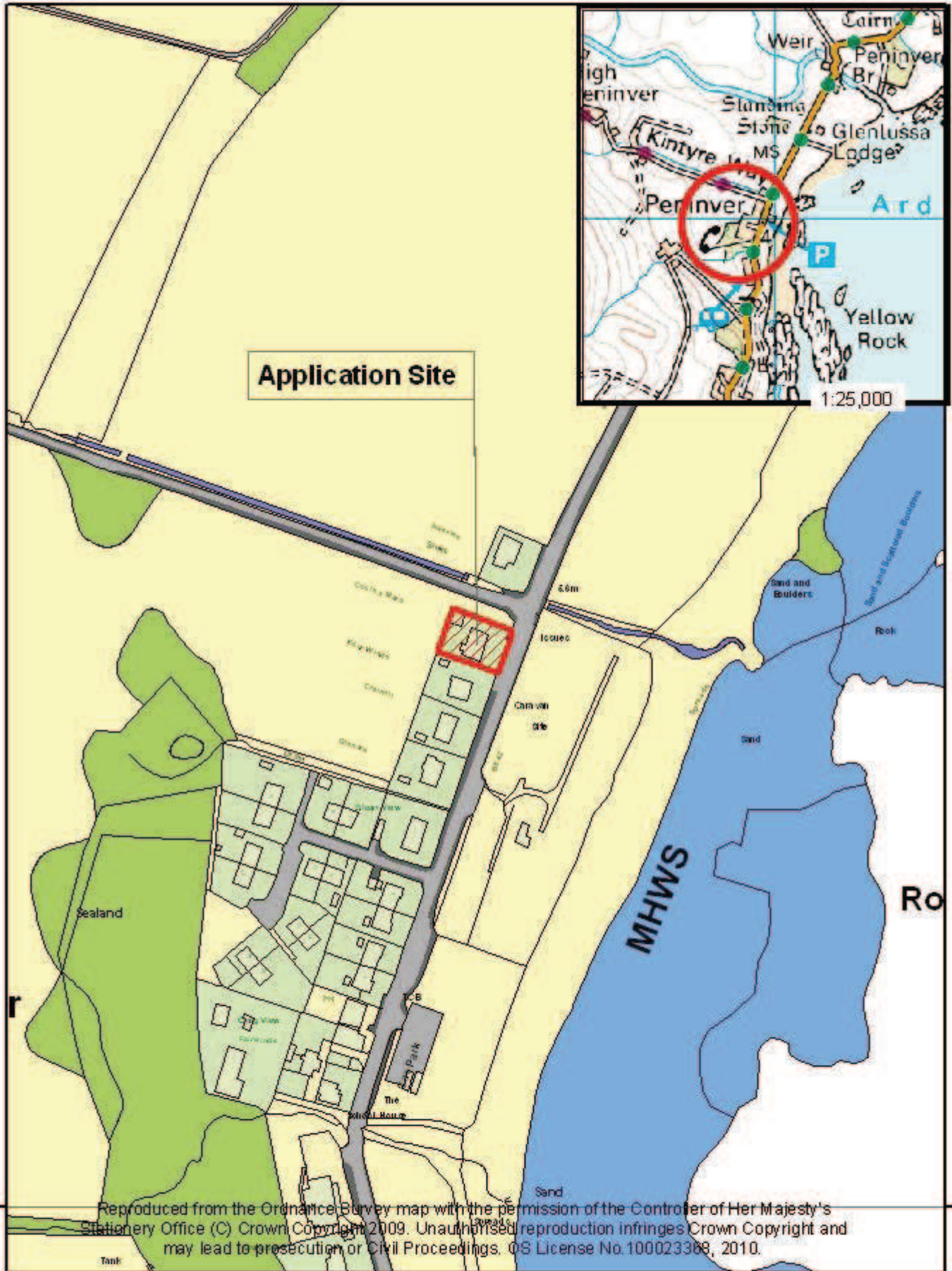
Reviewing Officer: Peter Bain

Date: 23rd February 2011

Angus Gilmour
Head of Planning & Regulatory Services

REASONS FOR REFUSAL RELATIVE TO APPLICATION 11/00037/PP

1. The unauthorised carport/decking is considered, by virtue of its scale, design and overall mass, to be a prominent and incongruous feature which is substantially out of character with the modest character, scale and appearance of the original dwellinghouse. The significance and extent of this impact upon the surrounds is exacerbated by the location of the unauthorised structure on the north facing gable of the building which is open to view over a significant distance from the B842 on the northern approach to Peninver, and as such is considered to have a significant detrimental impact upon the visual amenity of the locale. The development is therefore considered contrary to adopted Local Plan policies ENV 1, LP ENV 19, LP HOU 5 and to the design principles as set out in Appendix A of the Local Plan and the Council's Sustainable Design Guidance.



**Committee Plan Relative to
Planning Application Ref: 11/00037/PP**

Date: 20.04.2011

Scale: 1:2,500



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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 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 11/00158/PP

Planning Hierarchy: Local application.

Applicant: TSL Contractors Limited

Proposal: Retention of concrete batching plant for a temporary period of 18 months.

Site Address: Robertson's Yard, Sandbank, Dunoon, Argyll

DECISION ROUTE

Local Government (Scotland) Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Retention of concrete batching plant (maximum temporary period of 18 months, i.e. until September 2012);
- Associated site screening works.

(ii) Other specified operations

- Connection to public water main.
-

(B) RECOMMENDATION:

It is recommended that planning permission be refused for the reasons set out below.

(C) HISTORY:

Planning permission (ref. 10/00674/PP) for ground re-profiling and erection of kiosk associated with wastewater pumping station Scottish Water was granted on and currently nearing completion.

Planning permissions (ref. 06/00589/DET and 08/02242/VARCON) for the formation of a marina and port development comprising an additional 300 berths, floating breakwater, infilling and land reclamation to provide 361 car parking spaces, erection of restaurant/shop, retail units, pier services building and construction of commercial pier etc. granted in 2007 and 2009 have been implemented and at the infilling phase of development.

(D) CONSULTATIONS:

Area Roads Manager (response dated 23rd February 2011): No objections subject to conditions regarding surfacing of access road, wheel-washing facilities, car parking and visibility splays. Advisory notes regarding Roads Construction Consent, Road Bond and Road Opening Permit.

Scottish Environment Protection Agency (response dated 11th February 2011, email dated 22nd February 2011): Initial standard response and refer to standing advice. It is confirmed that the concrete batching plant will require a permit from SEPA and under the provisions of that permit SEPA will have the opportunity to assess any impacts to the loch through emissions to air etc.

Public Protection (responses dated 14th February and 24th March 2011): No objections in principle but safeguarding conditions regarding lighting, hours of operation and deliveries and surfacing of access.

Loch Lomond & Trossachs National Park (response dated 22nd March 2011): The site is highly visible on the lochshre fringe. Conditions recommended to reduce the overall landscape and visual impact.

(E) PUBLICITY:

Regulation 20(1) Advert: Publication date 11th February 2011; expiry date 4th March 2011.

(F) REPRESENTATIONS:

Letters and emails of objection have been received from 79 contributors and a letter received from Sandbank Community Council dated 24th February 2011 which included a letter of petition dated 20th February 2011 with 23 signatures.

Richard W Gault, 88 Sandhaven, Sandbank (letter dated 18th February 2011);
J A Moen, Trentino House Shore Road Sandbank (letter dated 20th February 2011);
Grace MacKenzie, 3 Southern Beeches Sandbank (letter dated 21st February 2011);
David and Mary Honer, 93 Sandhaven Sandbank (letter dated 20th February 2011);
C M Talbot 12 McKinlays Quay Sandbank (email dated 21st February 2011 and letter dated 22nd February 2011);
CJ Talbot 12 McKinlays Quay Sandbank (email dated 21st February 2011);
Graeme and Judith Murray, Scougal, Sandbank (letters dated 23rd and 24th February 2011);
Louise Perrett and Jonathan Bond Bow- Lynn Main Road Sandbank (letter dated 19th February 2011);
Maureen Paul 6 Sanda Gardens Dunoon (letter received 23rd February 2011);
S Wilson The Beeches Sandbank (letter received 24th February 2011);
Kevin Wilson 3 Clyde Cottages Sandbank (email dated 24th February 2011);
Catriona and Jonathan Burke Westfield Sandbank (letter dated 25th February 2011);
Hazel Burke Westfield Sandbank (letter dated 25th February 2011);
Richard Baisley 10 McKinlays Quay Sandbank (email dated 25th February 2011);
Mr R A Winstanley 9 McKinlays Quay Sandbank (email dated 25th February 2011);
Mrs R Winstanley 9 McKinlays Quay Sandbank (email dated 25th February 2011);
Kenneth Kirkland 3 McKinlays Quay Sandbank (email dated 24th February 2011);
T Hutchinson 87 Sandhaven Sandbank (letter dated 25th February 2011);
Rob Sinclair 12 Ros Mhor Gardens Sandbank (letter dated 24th February 2011);
Scarlett Main 7 Broomfield Drive Dunoon (letter received 24th February 2011);
T Wilson The Beeches Sandbank (letter received 24th February 2011);
DH McGilvray 71 Sandhaven Sandbank (letter dated 23rd January 2011);
John P Burke 1 Hailing Park Kirn (letter dated 23rd February 2011);
Mr Robert Rheumer 4 McKinlays Quay Sandbank (letter dated 24th February 2011);
Mrs Linda Rheumer 4 McKinlays Quay Sandbank (letter dated 24th February 2011);

Jean McKenzie 1 Seaforth Sandbank (letter received February 2011);
R W and S J Keen Broxwood Park Sandbank (letter dated 23rd February 2011);
Mr and Mrs D Gracie Bornish Sandbank (letter dated 28th February 2011);
H Black Clyde View Main Road Sandbank (letter dated 28th February 2011);
Kenneth MacLeod Wellmeadow Sandbank (letter dated 28th February 2011);
Jody Williamson 11 McKinlays Quay Sandbank (letter dated 28th February 2011);
Captain J R Williams Woodbank Sandbank (letter dated 28th February 2011);
Mr and Mrs Moretti Woodbank Main Road Sandbank (letter dated 28th February 2011);
Mrs P Wright Travencore High Road Sandbank (letter received 28th February 2011);
E C and N M Robertson 2 Southern Beeches Sandbank (letter received 28th February 2011);
Jason Locke 11 McKinlays Quay Sandbank (letter received 28th February 2011);
Matt Webb 5 McKinlays Quay Sandbank (letter received 28th February 2011);
Caroline Baisley 10 McKinlays Quay Sandbank (letter dated 26th February 2011);
Mrs J Webb 5 McKinlays Quay Sandbank (letter dated 26th February 2011);
A Stoddart 8 McKinlays Quay Sandbank (letter dated 26th February 2011);
K Stoddart 8 McKinlays Quay Sandbank (letter dated 26th February 2011);
Isobel D Collier Burnside Villa Sandbank (letter dated 24th February 2011);
Danny Bonner, Bonnar Sand and Gravel Co Ltd Clachan Quarry Cairndow (letter dated 28th February 2011);
Claire and Desmond Conlon 110 Sandhaven Sandbank (letter dated 28th February 2011);
Kevin Conlon 105 Sandhaven Sandbank (letter dated 28th February 2011);
Cecilia Colquhoun 1 Clyde Cottages Main Street Sandbank (letter dated 28th February 2011);
Mrs M G Lamont and Robert Lamont Rockbank Cottage Main Road Sandbank (letter dated 25th February 2011);
John Campbell Carbisdale Sandbank (letter dated 28th February 2011);
David and Anne Simpson Miller Cottage Sandbank (emails dated 2nd March 2011);
E Thompson Staffa Cromlech Road Sandbank (letter dated 2nd March 2011);
Mrs J A Thompson Staffa Cromlech Road Sandbank (letter dated 2nd March 2011);
J C and C A Whitton Wabana Sandbank (letter dated 2nd March 2011);
Robert McFarlane Holland Cottage Main Road Sandbank (letter received 1st March 2011);
Richard and Sally Taylor Glenalmond Main Road Sandbank (2 letters dated 3rd March 2011);
Linda Buchanan and Allan McIntosh Annfield Shore Road Sandbank (letter dated 2nd March 2011);
F Auld 3 Glebe View Cottages Dunoon (e mail dated 3rd March 2011);
S Auld 3 Glebe View Cottages Dunoon Argyll (e mail dated 3rd March 2011);
Mr. T. McKillop Broxwood Cottage, Shore Road, Sandbank (letter received 4th March 2011);
Mrs. S. McKillop Broxwood Cottage, Shore Road, Sandbank (letter received 4th March 2011);
Gary Kerr 54 Sandhaven Sandbank (letter dated 3rd March 2011);
Mr. And Mrs. Brunt Craigiemichael Cottage Shore Road Innellan (letter dated 3rd March 2011);
Archibald Morton Kirkside House Kilmun (letter received 4th March 2011);
Fiona Masters 3 Tom-nan-Righ Dalinlongart (letter received 4th March 2011);
A. Stuart, 9 Deercroft, Hafton (letter dated 3rd March 2011);
Arddinglas Estate, Cairndow, Argyll PA26 8BG (letter dated 5/4/11)

Letters of representation have also been received from Sandbank Community Council (dated 22nd / 23rd March 2011) regarding environmental concerns raised directly with Public Protection and the Scottish Traffic Area Office in respect of an operators licence.

The points raised can be summarised as follows:

- *Understand that the batching plant was necessary to carry out the water treatment works that is nearing completion;*
- *Impact on society and quality of life for local community – residents have been subjected to major disruption over the past few years;*
- *The plant necessitates increased traffic on a very minor and narrow road;*
- *The land the plant is on was given to the marina for car parking*

- *Should temporary permission be granted, it is not unreasonable to expect that permanent permission would be applied for;*
- *A815 road is in a terrible condition due to high usage by heavy vehicles and plant;*
- *Noise from existing activities at the plant;*
- *At a time when Sandbank is making many improvements, we do not need an industrial site to welcome visitors;*
- *Residents accepted the batching plant as part of the Scottish Water works because there was an agreed date when the plant would be removed;*
- *Evidence of dust, noise and debris associated with the plant that is a 'Bad Neighbour' development;*
- *A815 Shore Road is covered in mud with no on-site wheel-washing facilities evident;*
- *High engine revs from the concrete mixer LGV and this noise can be heard inside homes;*
- *The Holy Loch along with the greater Dunoon area is cited as 'Maritime Gateway to Loch Lomond and the Trossachs National Park- tourism is vital for the area and approving the concrete batching plant in this location would have a detrimental impact to tourism as well as creating a major visual blight;*
- *Noise from the batching plant would have a detrimental impact to the wading bird population;*
- *If there is commercial demand, then the best location would be on Sandbank Industrial Estate where there are plenty of vacant sites and neither HIE or Argyll and Bute Council would turn away the trade.*

Two letters of support have been received from:

Robert Mitchell, Cowal Sand and Gravel Killellan Farm Toward (dated 22nd February 2011);

- *Cowal Sand and Gravel as suppliers to TSL Contractors offer their support as it has helped to keep employment local and provide a much needed facility with very little disruption to the local community. Previously, concrete has come from outside the local area and producing it locally can only be an improvement to the local economy.*

Ian McLean Anchorage Villa, Kilmun (dated 18th February 2011).

- *Offers support for the continuation of the plant and anything else which generates work locally.*

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) Environmental Statement:** No
- (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:**
No
- (iii) A design or design/access statement:** Yes

A supporting planning statement has been submitted by the applicant's agent and summarised below.

It is confirmed that TSL Contractor's Ltd. Currently operate a concrete batching plant at the application site under the provisions of Class 14 of the of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended), which states that the provision on land of buildings, moveable structures, works, plant or machinery required

temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land is permitted development unless the operations being or to be carried out are mining operations; or planning permission is required for the operations but has not yet been granted.

However, upon completion of the adjacent Scottish Water development, the provisions of Class 14 of the GPDO will cease to apply, the batching plant will have to be removed and the land reinstated to its former condition.

Concrete from this plant is at present being supplied to the main contractors involved in the construction of the new Dunoon Waste Water Treatment Works (Black and Veatch) and Collection and Transfer System (GMJV) for Scottish Water, both of whom indicated that they wished to meet their requirements locally.

The current application proposes the continuation of the use of the land at Robertson's Yard for the purposes of batching concrete, on the basis of a temporary (3 year) planning permission. All of the plant and equipment currently operated at the site is low level, with the highest part being less than 5 metres above ground level.

Noise levels are low because the plant loads constituent materials directly into the truck mixers, rather than mixing on site through a pan mixer. Aggregates for the batching plant are sourced from Cowal Sand and Gravel at Toward and cement is delivered from Kincardine Power Station in enclosed tankers.

Alongside supplying concrete to the contractors involved in the construction of the Dunoon WWTW and Collection and Transfer System, the applicants will also be supplying over 2,500m³ of concrete directly to Seavision (Scotland) Ltd., once the Holy Loch Marina development reaches the implementation phase. Furthermore, there are many other projects in the Dunoon area that will, in the short to medium term, require a local source of ready mixed concrete.

Without a local batching facility, concrete would otherwise need to be transported via Loch Eck either from Bonnar Sand and Gravel at Clachan (a distance of 30 miles) or Ennstone at Furnace (a distance of 48 miles).

The applicants agent has submitted (letter dated 4th March 2011) an updated statement confirming that the temporary use applied for is now for a maximum of 18 months, and not 3 years as originally proposed. The agent also confirms that, "the preferred site for the batching plant operation is, on Phase 3 of the Sandbank Industrial Estate which is currently under the ownership of Highland and Islands Enterprise (HIE). Negotiations regarding the purchase of the site are underway, and at the present point in time I am advised that my clients and HIE are in discussions regarding the 'Heads of Terms' in respect of their acquisition of the land. I already have a detailed planning application prepared for the batching plant, and an associated office building, to be relocated to the Industrial Estate, and this will be submitted as soon as my client's purchase of the site has been secured.

Once my clients' involvement in the Scottish Water development comes to an end, unless concrete is by then required for the Holy Loch Marina development, the existing batching plant will be required to be removed from the application site, and the land reinstated. The Scottish Water development is expected to be completed by the end of this year. It is hoped that the ongoing negotiations with HIE will have been finalised prior to the completion of the Scottish Water development, and that planning permission for the use of the Sandbank Industrial Estate site will have been able to have been submitted and approved, thus enabling the batching plant to be moved from its current location without the necessity to implement the temporary planning permission currently being sought.

Approval of the current planning application will, however, enable there to be a continuity of local supply, should my clients purchase of the Industrial Estate site become protracted. This is important commercially, not only for my clients, but also for their clients. Nevertheless, on the basis that at the moment discussions with HIE are proceeding well, and in recognition of the concerns expressed by objectors to the current application, I would formally wish to request that it now be considered as being only for a maximum temporary period of 18 months. It

should not be necessary to withdraw and resubmit the current application to effect this change to its description, and the maximum length of the temporary period can effectively be controlled by the imposition of a suitably worded condition.”

The applicant (email dated 23rd March 2011) has confirmed that the contract with Scottish Water will come to an end in October 2011. It is also confirmed that his clients are drafting a conditional offer to purchase a site in Sandbank Industrial Estate at the time of writing. The closing date for offers for the plot is 8th April 2011. I

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

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: No

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

'Argyll and Bute Structure Plan' 2002:

STRAT SI 1 – Sustainable Development
STRAT DC 1 - Development Within The Settlements
STRAT DC 8 – Landscape and Development Control
REC TOUR1 – Water Related Tourism Opportunities

'Argyll and Bute Local Plan' (2009)

The application site is located within the small town and village settlement of Sandbank where the following policies are applicable:

LP ENV 1 Development Impact on the General Environment;
LP ENV2 Development Impact on Biodiversity;
LP ENV6 Development Impact on Habitats and Species;
LP ENV8 Development Impact on Local Nature Conservation Sites;
LP ENV12 Water Quality and Environment;
LP ENV 19 Development Setting, Layout and Design (*including Appendix A Sustainable Siting and Design Principles*);
Policy LP CST 1 - Coastal Development on the Developed Coast (Settlements and Countryside Around Settlements)
LP BUS1 – Business and Industry Proposals in Existing Settlements;
LP BAD1 – Bad Neighbour Development;
LP SERV4 – Water Supply
LP TRAN4 – New and Existing Public Roads and Private Access Regimes.

- (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 4/2009.**

- a) Scottish Planning Policy (February 2010)
b) Landscape Assessment of Argyll and The Firth of Clyde – SNH 1996.

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

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

(M) **Has a sustainability check list been submitted:** No

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

(O) **Requirement for a hearing (PAN41 or other):** Yes

The proposal represents a departure from the Development Plan and is recommended for refusal. For this reason and in view of the large volume of objections received which would support the refusal of the application, it is considered that a discretionary local hearing would not add value to the application decision process in this instance.

(P) **Assessment and summary of determining issues and material considerations**

In a letter from Development Management to the applicant's agent on 5th August 2010, it was advised that, provided that the concrete batching works would be consistent only with the Dunoon Wastewater Transfer Scheme and in particular to the pumping station within Robertson's Yard (covered by application ref. 10/00674/PP), the proposed development would be '*permitted development*' as a consequence of the effect of Class 14 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992,. It was also advised that such a proposal could only be regarded as '*permitted development*' in respect of specified adjacent Scottish Water works, but could not form any part of the Holy Loch Marina project which is not yet at the construction phases.

The concrete batching plant has been on-site from October 2010 and is regarded as '*permitted development*' until the Scottish Water contract ends later this year. The current application is to retain the plant beyond that contract date for a further 18 months.

Letters and e-mails of objection have received from 78 contributors and a petition with 23 signatures regarding the continued use of the site as a concrete batching plant. Whilst local residents appear to generally accept the related Scottish Water works and the associated need for the batching plant, they do not find the continued use acceptable in visual, land use and environmental terms. Objectors suggest that better alternative sites exist for such a 'bad neighbour' operation without it having to operate in such a prominent and sensitive location.

The applicants agent has responded to the many letters of objection and comments from the department and has confirmed that the original temporary period be reduced from 3 years to 18 months. Whilst the statutory consultees have no objections in principle, concerns have been raised that could be addressed via planning conditions. However, whilst the use of necessary safeguarding conditions may be required to alleviate some of the concerns raised by consultees (and residents), it may be unreasonable to place such onerous conditions on a temporary use (i.e. a 12 metre sealed surface, Road Bond and Roads Construction Consent). The plant itself is not considered to constitute a particular 'Bad Neighbour' type development adjacent to existing ongoing Scottish Water and marina works, but the presence of this industrial operation on this particular site being redeveloped for tourism/marine uses beyond '*permitted development works*' is considered to be unacceptable in land use terms where better industrial sites exist locally. In this regard, the applicants' agent has also confirmed that his

clients are actively pursuing a more suitable permanent site on Sandbank Industrial Estate and an application is imminent.

Such an industrial development with its particular industrial use, siting and layout would be contrary to the principles of sustainable development and of protecting and enhancing the quality of the surrounding environment and the marina redevelopment site (PDA 2/50). The proposal would therefore be contrary to Scottish Planning Policy (February 2010); Policies STRAT SI 1 'Sustainable Development', STRAT DC1 'Development Within The Settlements' and STRAT DC8 'Landscape and Development Control' of the Argyll and Bute Structure Plan 2002; and Policies LP ENV 1 'Development Impact on the General Environment', LP ENV 19 'Development Setting, Layout and Design' (*including Appendix A Sustainable Siting and Design Principles*); Policy LP CST 1 'Coastal Development on the Developed Coast (Settlements and Countryside Around Settlements)'; and LP BUS1 'Business and Industry Proposals in Existing Settlements' of the Argyll and Bute Local Plan (August 2009), all of which presume against the nature of the development proposed and does not justify the grant of planning permission.

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

(R) Reasons why Planning Permission should be refused

These are set out on the following page.

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

N/a

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

Author of Report: Brian Close
Reviewing Officer: David Eaglesham

Date: 31 March 2011
Date: 4 April 2011

Angus Gilmour
Head of Planning

REASONS FOR REFUSAL RELATIVE TO APPLICATION 11/00158/PP

1. The proposed development is not considered to be an appropriate infill, rounding-off or redevelopment and is therefore inconsistent with Policy STRAT DC1 of the Argyll and Bute Structure Plan. Having regard to the industrial nature of the concrete batching plant, there is no justification for such a location on the Holy Loch Marina redevelopment site (Potential Development Area PDA 2/50) that is proposed for mixed use tourism/marine uses.

On completion of the Scottish Water works on the adjacent pumping station, there would no longer remain any locational need associated with construction activities on the site. The concrete batching plant would represent an isolated industrial use (Class 5) that would be out of character with PDA 2/50. This portion of the marina redevelopment site is not zoned for industrial purposes and, in the absence of a justifiable locational requirement for the concrete batching, it would be inappropriate in such a prominent location, even on a temporary 18 month basis.

The proposal would therefore be contrary to development plan policies STRAT SI 1 'Sustainable Development' and STRAT DC 1 'Development Within The Settlements' of the Argyll and Bute Structure Plan 2002; and Policy LP ENV 1 'Development Impact on the General Environment' and Potential Development Area PDA 2/50 of the Argyll and Bute Local Plan (August 2009), all of which presume against the nature of the development proposed in the location for which permission has been sought.

2. There is no justification for the siting of the concrete batching plant in such a prominent coastal location on the loch side of the Holy Loch. The shore road is characterised by a ribbon of residential properties on the landward side of the A815 Shore Road and by the emerging tourism/leisure development of the marina on the seaward side and the proposed development does not respect this landscape/townscape character. Consequently, the proposal is contrary to Policy LP CST 1 of the Argyll and Bute Local Plan (August 2009).

3. The site for the concrete batching plant is not located on a preferred Established Business and Industry Area (EBIA) as identified in the Argyll and Bute Local Plan but on land currently being developed for tourism/marine uses. Additionally, the siting of the concrete batching plant would not respect the landscape character and appearance of the surrounding area where safeguarding conditions could not be imposed to address the particular land use issues.

The proposal would therefore be contrary to development plan policies STRAT SI 1 'Sustainable Development', STRAT DC1 'Development Within The Settlements' of the Argyll and Bute Structure Plan 2002; and policies LP ENV 19 'Development Setting, Layout and Design' (*including Appendix A Sustainable Siting and Design Principles*) and LP BUS1 'Business and Industry Proposals in Existing Settlements' of the Argyll and Bute Local Plan (August 2009), all of which presume against the nature of the development proposed in the location for which permission has been sought. The proposed development would also be contrary to Scottish Planning Policy (February 2010).

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 11/00158/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

Within the Argyll and Bute Local Plan, the application site is located within the ‘small town and village’ settlement of Sandbank within Potential Development Area (PDA) 2/50 Sandbank-Hooper’s Yard (sic) and partly within a Local Nature Conservation Site (the Holy Loch Saltmarsh and Estuarine habitat). The site lies at the south western side of the Holy Loch and overlooked by residential properties along the A815 on the south side of the loch and at a greater distance by residential properties in Kilmun along the A880 on the north bank of the loch within the Loch Lomond and Trossachs National Park area.

The application site is located at the northern end of the Holy Loch Marina redevelopment scheme that is currently under construction, and adjacent to on-going works by Scottish Water in respect of the formation of an underground pumping station and related above ground apparatus.

PDA 2/50 identifies the site of Robertson’s Yard for mixed use – tourism/marine and a mini development brief identifies the site for marine related leisure where a Master Plan approach will be required for development of the site. This part of the marina redevelopment is not zoned for industrial purposes whereas an Established Business and Industry zoning covers the main boat shed area at the Holy Loch Marina.

Whilst Sandbank was historically an industrial village, the removal of Hooper’s Yard buildings, ongoing land reclamation as part of the proposed marina redevelopment and other environmental developments, have altered the character of the village. Furthermore, the Argyll and Bute Local Plan has identified Established Business and Industry Areas and industrial allocations where industrial classes (i.e. Use Classes 4, 5 and 6) are preferred locations away from residential properties.

The shore road is characterised by a ribbon of residential properties on the landward side of the A815 Shore Road and by the emerging tourism/leisure development of the marina on the seaward side. Whilst the proposal is considered to have a limited environmental and visual impact on immediately adjacent residential properties along Shore Road, the concrete batching plant does not respect the wider landscape/townscape character of the lochside. Its presence on such an isolated coastal location would be contrary to the zoning of the site for leisure/marine activities. It is therefore considered that the continued operation of this Class 5 industrial use (albeit of a temporary nature) and beyond ‘permitted development’ is unacceptable where an industrially zoned site would be preferable.

The proposal is considered to be inconsistent with policies STRAT DC1 and STRAT DC8 of the ‘Argyll and Bute Structure Plan’ and Policies LP ENV 19 and LP CST1 of the ‘Argyll and Bute Local Plan’.

B. Location, Nature and Design of Proposed Development

(i) Development Setting

The application site is located at the northern extremity of the Holy Loch Marina redevelopment on the site of the former Robertson’s Yard. The majority of the pumping station scheme is underground and is located to the west of the concrete batching plant. The application site is bounded to the north and east by the Holy Loch and to the south by the Holy Loch Marina site where infilling works are on-going. The application site includes an existing vehicular access from the A815 Shore Road that currently serves the marina infilling works and the Scottish Water Pumping Station scheme. The concrete batching plant is partially screened from the A815 by a 2 metre high earth bund.

(ii) Development Layout

The concrete batching plant currently comprises:

- 3 open aggregate bins for sand and stone;
- An aggregate weigh bin with a horizontal conveyor;
- An inclined conveyor to load aggregate into the truck mixer;
- A sealed cement silo;
- A fully enclosed cement screw to load cement into a weigh bin;
- A fully enclosed screw conveyor to load cement, water and admixtures systems into the truck mixer, and;
- A 3 metre wide and 2 metre high earth bund along the western boundary of the site;
- Rip-rap revetment along the northern and southern boundaries to the Holy Loch;
- A generator.

The onsite bins hold 160 tonnes of sand, 160 tonnes of 20mm gravel and 120 tonnes of 10mm gravel, making a total of 480 tonnes. Sand and gravel incoming is estimated at 700 tonnes per month = 35 loads per month = 8 loads per week = 2 loads per day on average and supplied by Cowal Sand and Gravel, Toward. Cement incoming is estimated at 1 load per week on average and supplied by Lafarge Cement, Uddingston. Concrete outgoing is estimated at 350m³ per month = 58 loads per month = 14 loads per week = 3 loads per day on average.

It is proposed to connect to the public water supply system but there are no proposals for foul drainage or SudS.

(i) Assessment

The proposal must be assessed against the provisions of Policy LP ENV 19 - Development Setting, Layout and Design of the 'Argyll and Bute Local Plan' where a high standard of appropriate design is expected in accordance with the Council's design principles. Development shall be sited and positioned to pay regard to the context within which it is located. Development layout and density shall effectively integrate with the suburban setting of the development. Policy LP ENV19 of the 'Argyll and Bute Local Plan' includes in Appendix A – 'Sustainable Siting and Design Principles' guidance relative to 'Isolated/Commercial Development';

18.1 the appearance of the development should be considered. The form and pattern of the landscape will largely determine the acceptability of the proposal. The extent to which the proposal would be clearly visible from public roads, viewpoints and neighbouring local communities is also an important factor.

18.2 When assessing the appearance of isolated commercial development, the Planning Authority will take the following into consideration:

- *The size and extent of the proposal. This includes the visual impact of the scheme and the distance/location from which it is visible;*
- *The location of the proposal and its landscape setting, including the way in which the development has used the natural contours of the site is of prime importance. A large building must be absorbed by the landscape as much as possible, whether by excavating and building into the landform, using existing landforms to mask the development or screening by new trees;*
- *The design and colour of the development(s) and ancillary structures can be used to minimise their perceived bulk and visual impact. Natural materials such as timber and stone will help to fit a large building into the landscape, as will dark natural colours (particularly on the roof).*

The proposal must also be assessed against the provisions of Policy LP BUS1 'Business and Industry Proposals in Existing Settlements' where the proposal is regarded as a 'small-scale' Class 5 development. The preferred location for any new industry proposal is within an Established Business and Industry Area (EBIA) or an industrial allocation. It is also stated that in residential locations the proposed development would not erode the residential

character of the area or adversely affect local residents through an increase in traffic levels, noise, fumes or hours of operation.

The closest EBAs are around the Holy Loch Marina complex and at Sandbank Industrial Estate where there are also large industrial allocations. Whilst no alternative temporary sites appear to have been considered by the applicants, they have now confirmed that an application for a permanent batching plant at Sandbank Industrial Estate may be imminent following productive discussions with Highland and Islands Enterprise (HIE).

Loch Lomond and The Trossachs National Park comment that it appears that materials are not restricted to the aggregate bays and that the fringes of the site appear to have materials outwith the site boundary. Whilst of a temporary nature, the site is likely to continue to be a highly visible construction site on the loch shore fringe due to the nature of the operations. Conditions are recommended in respect of site management and material storage, screen fencing and landscaping of the bund and site to reduce the overall landscape and visual impact for this stretch of the loch shore fringe and enhance views from within the Holy Loch itself and for communities around it and from the National Park.

The proposed isolated industrial development is only on-site at present as a result of being '*permitted development*' where it has a locational requirement associated with the adjacent pumping station works. Were it not for the '*permitted development*' temporary status, then such a development would have been guided to an industrial zoned site in the first instance. On completion of the pumping station works adjacent, the concrete batching plant will be an isolated industrial development with potential 'Bad Neighbour' implications on a prominent site that is proposed for leisure/marine purposes. Following completion of the Scottish Water pumping station, the isolated industrial development would not sit comfortably within the immediate surroundings or within the wider landscape while suggested mitigation measures may not be appropriate for the short-term period. .

Having due regard to the above, the proposal is considered to be inconsistent with Policies LP ENV 19 including Appendix A and LP BUS1 of the Argyll and Bute Local Plan (August 2009).

C. Bad Neighbour Assessment

Public Protection noted on 14th February 2011 that there may be issues regarding lighting of the site, noise and operating hours and dust/particulates but either suggest safeguarding conditions to mitigate such concerns or confirm that any complaints can also be resolved by legislation of that service.

Further Observations to support response dated 14th February 2011

"The application has generated considerable public objection in particular concerning the number of vehicle movements that will ensue due to delivery of materials and the transportation of concrete outwith the boundaries of the site.

It is noted that there is likely to be an intensification of use of the concrete batching process as it will not only serve the Scottish Water development but the marina and other commercial operations in the immediate Cowal area. There is a potential that this may give rise to increased operations. The site is located adjacent to the main trunk road (on the opposite side to residential accommodation) servicing Dunoon and so, provided safeguarding conditions are imposed to limit the hours of operation of the site, it is not likely that vehicle movement within the site during daytime hours will have further detriment to the amenity of the area.

In assessing the potential impact, it should be noted that the existing concrete batching operation has operated for some 4 months without significant issues. It is possible to minimise the impact of the development through the use of planning conditions; reliance on the authorisation process whereby the Scottish Environment Protection Agency will licence and regulate the activities on the site; and through the provisions available to the Councils' Environmental Health service under the Environmental Protection Act 1990.

The potential impact of the development in terms of POLCOM5 Bad neighbour development has also been assessed, and considers that with safeguarding planning conditions and the regulation and licensing provisions available through the Scottish Environment Protection Agency, and the Council, this will place additional conditions of land, air and water pollution sources. This will mitigate any potential bad neighbour development.

In conclusion, the recommendation in the previous response remains valid. To further protect residents from likely noise sources it is recommended that increased safeguarding conditions are imposed to control noise from vehicles and deliveries directly attributable to the operation of the concrete batching plant (as opposed to the vehicle movements associated with the Scottish Water WWTW Project and the Marina Development). The conditions advised are to control the delivery of materials and pneumatic blowing of cement to between 08.00 and 18.00 Monday to Friday and, to prevent vehicles waiting for cement from parking up early to await the opening of the site.

In conclusion, subject to the safeguarding conditions detailed in both responses being attached to any consent, Public Protection has no objection of an environmental health nature to lodge.”

In terms of ‘Bad Neighbour’ development, the temporary plant operation is located behind a 2-metre high earth bund and the main cement screws, screw conveyor and cement silo are fully enclosed to reduce the amount of noise or dust/particulate spillage. On this basis, it is considered that the current operation of the facility would not in itself constitute a ‘Bad Neighbour’ development but it is its isolated presence and inappropriate use and siting that would be contrary to the land use zonings for the marina site that is assessed in sections A and B above.

Having due regard to the above, and with appropriate safeguarding conditions, the proposal is considered to be consistent with Policy LP BAD 1 of the Argyll and Bute Local Plan (August 2009).

D. Road Network, Parking and Associated Transport Matters

It is proposed to utilise the existing site access into Robertson’s Yard which has been used for the Scottish Water works and the infilling of the marina site. No other improvements are proposed

Whilst Roads offer no objections in principle subject to conditions and advisory notes, the following comments are made.

- This development is accessed from A815 Shore Road Sandbank within an urban 30mph speed restriction using an existing access. The A815 is one of the busiest roads in the area and is the only route north from Dunoon and South Cowal. No vehicles connected with these works to be parked on or adjacent to the A815;
- The current access is in poor condition and design, surface water gathers in the bellmouth being drawn into the carriageway along with debris from wheels of vehicles using the site. This will require to be constructed to standards agreed with the Area Roads Manager. A sealed surface for a minimum of 12 metres from the road edge;
- This access will require sightlines of 90 x 2.5 m as previously agreed as per previous planning application 06/00589/DET; All hedges, fences and walls within the visibility splays must be maintained at a height not exceeding 1 metre above the road;
- The gradient of the access not to exceed 5% for the first 5 metres or 8% for the remainder;

- Parking for applicants own fleet and employees vehicles must be provided within the site. All vehicles associated with the works must be accommodated within the site boundaries;
- A suitable turning area must be provided within the site for all vehicles including delivery of bulk raw materials;
- All means of cleaning vehicles wheels must be in place to prevent debris from being deposited onto the carriageway. At present this access is being used by applicant and others and has resulted in complaints about debris etc being dragged onto the road;
- A positive surface water drainage system is required to prevent water running onto the road.

A Roads Construction Consent and Road Bond will be required for the Works on the carriageway and a Road Opening Permit will be required for the necessary improvement works to the existing access.

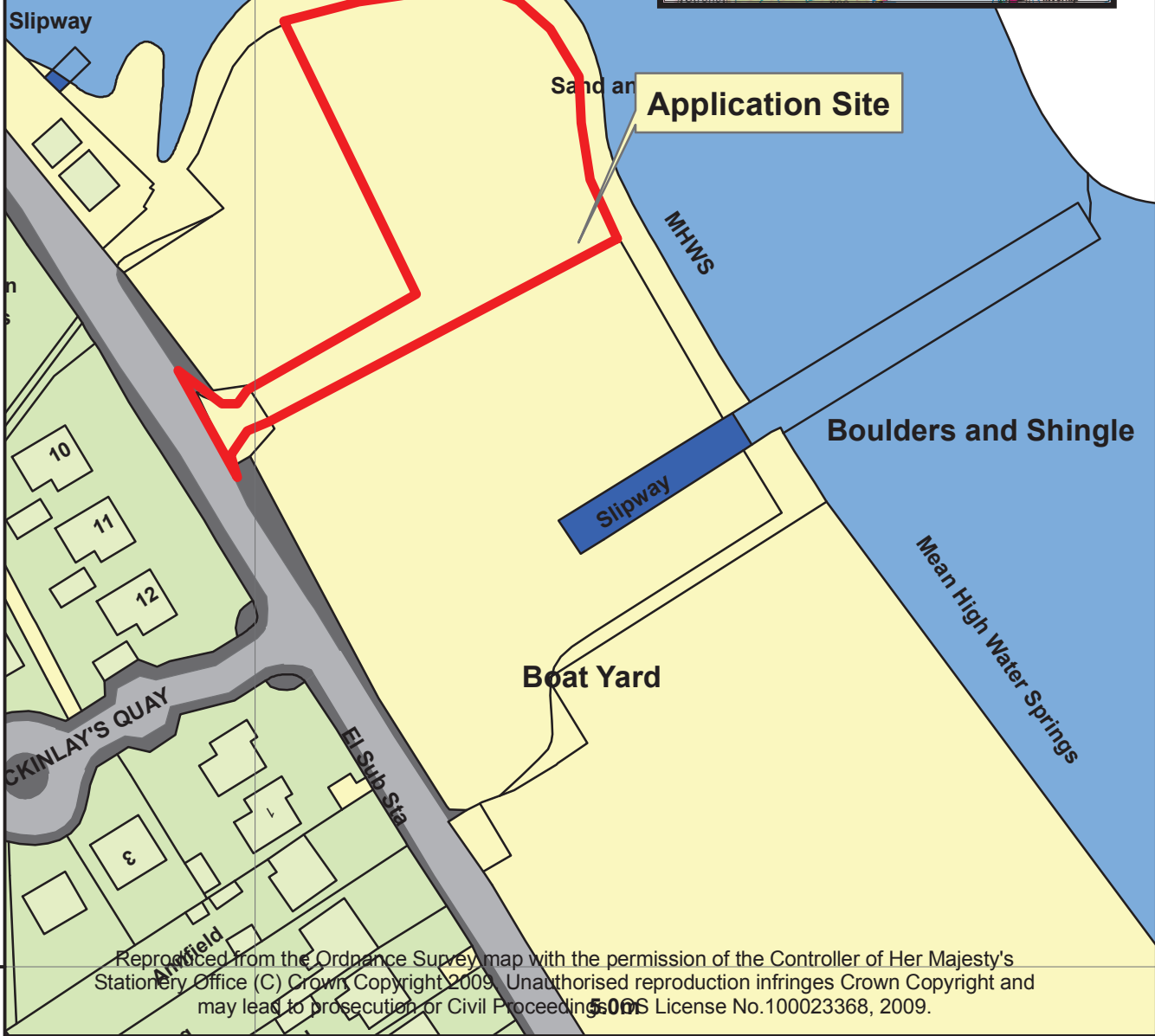
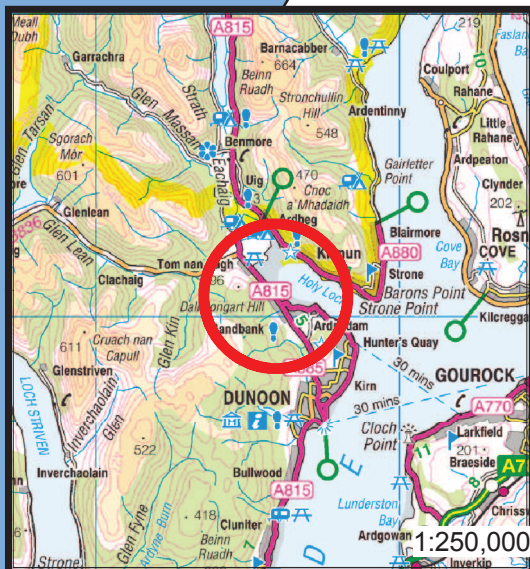
Having due regard to the above the proposal and on the basis of appropriate safeguarding conditions, the proposal could be considered consistent with Policies LP TRAN 4 and TRAN 6 of the Argyll and Bute Local Plan.

E. Infrastructure – Water Supply

It is proposed to connect to the public water systems. Scottish Water has not been consulted but it is not anticipated that this would present any difficulties. A suspensive condition could address any perceived concerns.

On the basis of the above, the proposal is considered consistent with the provisions of Policies LP SERV 4 of the Argyll and Bute Local Plan (August 2009).

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Location Plan relative to Application Ref: 11/00158/PP

Date: 21.02.11

Scale: 1:1,250



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**Argyll and Bute Council
Development and Infrastructure Services**

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 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 11/00428/PP

Planning Hierarchy: Local

Applicant: Scottish Water

Proposal: Re-profiling of ground and re-alignment of handrail to accommodate buried pumping station chambers and CSO chamber; installation of rock armouring and retaining wall; and drop kerbs for vehicular access

Site Address: Land Opposite 11 and 12 Ardbeg Road, Rothesay, Isle of Bute

DECISION ROUTE

(i) Local Government (Scotland) Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Re-profiling of ground including installation of rock armouring and retaining wall to accommodate a pumping station and valve chamber;
- Removal of existing handrails and rebuilding around the perimeter of the pumping station;
- Dropping of kerbs to facilitate vehicular access

(ii) Other specified operations

- § Erection of control cabinet.
-

(B) RECOMMENDATION:

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

(C) HISTORY:

Planning Application (ref: 05/00085/DET) for a layby was withdrawn in May 2005.

Planning Permission (ref: 10/01777/PP) for the formation of a lay-by at the site was approved on 21st January 2011.

(D) CONSULTATIONS:

Environmental Health Officer

No comments at the time of writing.

Area Roads Manager

No comments at the time of writing

E) PUBLICITY:

Article 9 neighbour notification procedure (closing date 11th April 2011) and Conservation Area Advert (closing date 15th April 2011).

(F) REPRESENTATIONS:

No representations have been received at the time of writing.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) Environmental Statement:** No
- (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
- (iii) A design or design/access statement:** No
- (iv) Supporting Information**

Scottish Water (letter dated 18th March 2011) has advised of the following:

The purpose of the Ardbeg and Port Bannatyne Sewerage Scheme is to intercept the numerous foul gravity outfalls to the sea within the area and convey the flows to the existing sewerage system in Rothesay. This would be carried out by pumping stations and combined storm overflows (CSO's) to be located throughout the catchment of Ardbeg and Port Bannatyne north of the main settlement of Rothesay, on the Isle of Bute. The original design of the scheme incorporated five pumping stations accessible from the coast road, together with lengths of intercepting sewer and rising main, with the majority of pipework including on-line storage located in the roadway. During discussions with Argyll and Bute Council, concern had been expressed in relation to the extent of the storage pipework and underground infrastructure in the road. As such, Scottish Water has since reviewed and altered the design of the scheme.

The revised Ardbeg and Port Bannatyne Sewerage Scheme has been reduced to 3 new pumping stations and 4 combined storm overflows (CSO's): Port Bannatyne Pumping Station by the recreational area pavilion at the marina and boatyard; Marine Place South Pumping Station opposite No's 8 and 9 Marine Place; and Ardbeg Road South Pumping Station, opposite No.12 Ardbeg Road (the subject of this application). Each pumping station will be equipped with

pumps, associated pipework and outfalls, ancillary development and control kiosk. An additional CSO chamber will also be located opposite No's 19 & 20 Pointhouse Crescent.

The planning application comprises the following works:

- Re-profiling of Ground and Installation of Pumping Station Chambers: The ground level shall be raised and built out to accommodate the new pumping station chambers (wet well and valve chamber) and CSO chamber. The new handrailing shall be realigned around the re-profiled ground and shall be installed to tie into the existing handrailing at the site.
- Installation of Retaining Wall and Rock Armouring: Rock armouring is to be installed around the new pumping station to dissipate wave energy and prevent damage to the pumping station chambers from the tides.
- Formation of Drop Kerbs for Vehicular Access: In order to enable periodic vehicular access, drop kerbs would be provided at the site's boundary with Ardbeg Road. Maintenance vehicles would therefore be able to access and park over the pumping station chambers without obstructing the existing footpath. It is estimated that Scottish Water operatives would access the site an average of 10 times per year as part of routine maintenance of the site, for example to check the pumping station chambers and condition of the screens.

Permitted Development

In addition to the above works, a new control cabinet for the pumping station is to be erected at the site. The kiosk (2.8m x 0.6m x 1.2m high) shall house telemetry and control equipment. Scottish Water benefit from 'Permitted Development' for sewerage undertakings under the terms of Class 43A of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended (the GPDO). It is our understanding that the proposed control equipment constitutes permitted development under Class 43A (b) (i).

Given the site's coastal location within the designated conservation area, the kiosk shall be constructed from glass reinforced plastic, however it is proposed that the kiosk be coloured 'Rothesay Blue' in order to integrate more effectively with surrounding handrailings and street furniture, such as the existing handrailings and bus shelter located to the south of the application site.

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

(H) PLANNING OBLIGATIONS

- (i) **Is a Section 75 agreement required:** No
-

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

Argyll and Bute Structure Plan 2002

STRAT DC 1 – Development within the Settlements
STRAT DC 9 – Historic Environment and Development Control

Argyll & Bute Local Plan 2009

LP ENV 10 seeks to resist development within Areas of Panoramic Quality where its scale, location or design will have a significant adverse effect on the character of the landscape.

LP ENV 14 presumes against development that does not preserve or enhance the character or appearance of an existing Conservation Area.

LP ENV 19 *'Development Layout, Setting & Design'* requires developers to execute a high standard of setting, layout and design where new developments are proposed.

LP CST 1 advances support for coastal development where certain criteria can be met.

LP BAD 1 seeks to ensure that developments do not have an unacceptable adverse effect on the amenity of neighbouring residents and that they include appropriate measures to reduce the impact on amenity.

(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 4/2009.

Not applicable

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

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

(M) Has a sustainability check list been submitted: No

(N) Does the Council have an interest in the site: Yes

(O) Requirement for a hearing (PAN41 or other): No

(P) Assessment and summary of determining issues and material considerations

This proposal is one of a number of sites for pumping stations that Scottish Water has identified in order to meet the appropriate project drivers under the Quality and Standards (Q&SIII) investment programme and to comply with the Urban Waste Water Treatment Directive. The overall scheme seeks to address the problem of untreated sewage being discharged into the waters surrounding *Port Bannatyne* and *Ardbeg*.

The operation of the plant will introduce a new noise and the nearest residential property is the opposite side of *Ardbeg Road* in the region of 10 metres to the residential curtilage and around 13 metres to the front face of the nearest dwelling but no concern from any party has been received on this potential issue at the time of writing. In previous similar situations, the Environmental Health Service has raised no objections and suitable planning conditions have been imposed to protect residential amenity and to prevent a '*bad neighbour*' development resulting whilst other powers are also at the disposal under the Control of Pollution Act 1974 and the Environment Protection Act 1990.

Whilst within the Rothesay Conservation Area, the design of the scheme together with other conditions relative to its visual appearance would result in a development that would have a '*neutral*' effect upon this shoreline environment.

The formal comments of the Area Roads Manager are awaited in respect of road safety; however, the previous permission at this site can be used as a gauge for conditions.

On the basis of the foregoing, the proposal is considered to be acceptable and to accord with the relevant Development Plan policies.

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

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

The proposal accords with policies STRAT DC 1 and STRAT DC 9 of the Argyll and Bute Structure Plan 2002 and policies LP ENV 10, LP ENV 14, LP ENV 19, LP CST 1 and LP BAD 1 of the Argyll and Bute Local Plan (2009) and the proposal raises no other material consideration which would justify refusal of permission.

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

Not applicable

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

Author of Report: Steven Gove

Date: 30/3/2011

Reviewing Officer: David Eaglesham

Date: 30/3/2011

**Angus Gilmour
Head of Planning**

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO: 11/00428/PP

1. That the development to which this permission relates must be begun within three years from the date of this permission.

Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997

2. The development shall be implemented in accordance with the details specified on the approved drawings numbers: Drawing No. 400114-0000-20-DRG-9965-0B; Drawing No. 400114-0000-20-DRG-9966-0C; Drawing No. 400114-0000-20-DRG-9967-0C; and Drawing No. 400114-0000-20-DRG-9968-0B unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

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

3. Notwithstanding the provisions of Article 3 and Class 43A of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, no works shall be carried out within the development site in respect of the erection of the control kiosk until its details have been submitted to and approved in writing by the Planning Authority. Such details shall show the erection of a kiosk that shall be constructed of glass reinforced plastic; shall have a colour similar to the bus shelter to the south of the site; and be no higher than 1.2 metres above the level of the carriageway as it adjoins the frontage of the site. The kiosk shall be erected in accordance with such details as may be approved, unless the prior written consent of the Planning Authority is obtained for variation.

Reason: In order to safeguard the visual amenity of the Rothesay Conservation Area from the unsympathetic siting and design of sewerage infrastructure normally carried out without Planning Permission under Article 3 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992.

4. Prior to the commencement of any development, details shall be submitted of the composition of rock armour including, source and size of material. Such material as may be approved shall be used in the approved development.

Reason: In order to integrate the development along the shore and in the interests of health and amenity to ensure that there is no potential for flooding either within or outwith the site.

5. No lighting units shall be installed unless the prior written consent of the Planning Authority is obtained in consultation with the Public Protection Service. Any lighting units that are approved shall be operated, positioned and angled to prevent any glare or light spillage outwith the boundary of the site, having regard to the Institute of Lighting Engineers Guidance.

Reason: In order to avoid the potential for light pollution.

6. The calculated noise levels, arising from the operation of the pumping station, shall not increase pre-determined ambient background noise levels (LA90), as agreed with the Planning Authority, by more than 3dBA at the nearest noise sensitive property. All measurements shall be taken in accordance with BS 4142:1997.

Reason: In the interests of public health and amenity and in accordance with Policy LP BAD 1 of the Argyll and Local Plan 2009.

7. No part of the development shall take place until a detailed scheme of odour control measures for the works has been submitted to, and approved in writing by the Planning Authority. Details shall include the design of plant, operational procedures and maintenance arrangements with particular reference to odour control. The scheme shall include details of the best practicable means of odour suppression and procedures to be followed in the event of an emergency.

Reason: In the interests of public health and amenity and in accordance with Policy LP BAD 1 of the Argyll and Bute Local Plan 2009.

8. The pumping station and all associated plant shall be maintained in accordance with the manufacturer's recommendations and a system for keeping records of maintenance and monitoring of plant performance, including response to complaints, shall be submitted to and approved in writing by the Planning Authority prior to the commencement of the development.

Reason: In the interests of public health and amenity and in accordance with Policy LP BAD 1 of the Argyll and Bute Local Plan 2009.

9. The access shall be formed with visibility splays of 42 metres in both directions measured from a distance of 2.4 metres back from the edge of the carriageway at the centre point of the access. Thereafter, no obstructions to visibility above a height of 1 metre from the level of the carriageway shall be permitted within the requisite splays unless the prior written consent of the Planning Authority is obtained for variation.

Reason: In the interests of road safety.

NOTES TO APPLICANT

1. In order to comply with Section 27A(1) of the Town & Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
2. In order to comply with Section 27B(1) of the Town & Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was complete.
3. Public Protection Service has powers under the Environmental Protection Act 1990 to remedy any environmental nuisance. It is **strongly recommended** that prior to any works taking place agreement is reached with Jo Rains, Area Environmental Health Manager, Argyll and Bute Council, Hill Street, Dunoon (telephone Number 01369 707124).
4. It is **strongly recommended** that prior to any works taking place agreement is reached relative to the method to suppress dust for the construction of the pumping station. You are advised to contact Jo Rains, Area Environmental Health Manager, Argyll and Bute Council, Hill Street, Dunoon (telephone Number 01369 707124).
5. A Road Opening Permit would be required in connection with the proposed works.
6. A system of surface water drainage is required to prevent water running onto the road in accordance with Section 99 of the Roads (Scotland) Act 1984 that states that:

"(i) The owner and occupier of any land, whether or not that land is such as constitutes a structure over or across a road, shall prevent any flow of water, or of filth, dirt or offensive matter from, or any percolation of water through, the land onto the road."

ANNEX A – RELATIVE TO APPLICATION NUMBER 11/00428/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

This particular new pumping station will be located opposite 11 and 12 Ardbeg Road, Rothesay with vehicular access to the site to be provided by the installation of a new dropped kerb. The land will be raised and built-out to accommodate the new pumping station chambers with rock armouring employed to protect the site.

A control cabinet is also to be erected but, due to the proposed dimensions, this constitutes '*permitted development*' under Class 43A of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992.

The site is located within the settlement of Rothesay, where policies seek to focus development within. On this basis, **the proposal is considered to accord with STRAT DC 1 of the Structure Plan.**

B. Location, Nature and Design of Proposed Development (Including Impact upon Built Environment)

The proposed development is one of several new pumping stations as part of the Ardbeg and Port Bannatyne Sewerage Scheme. The majority of the pumping stations will have a coastal location in order to intercept the existing foul gravity outfalls to the sea and to convey the flows (via new underground pipework) to the existing sewerage treatment works in Rothesay. Based upon this justification, there is a clear need for the development and its coastal location.

In terms of visual impact, the site would be an extension outwards of the existing seawall and would be open to view from pedestrians utilising the adjacent footpath. The most discernable feature will be the alteration to the seawall by the re-profiling of the ground to include an embankment of rock armour. Consideration requires to be given as to how to minimise its impact - the extension of the existing seawall will require carefully grading, suitable choice of rock including size, shape, composition and source and any rock armour will play an important role in marrying the proposed development with the existing foreshore. In this regard, it is recommended that a planning condition (Condition 4) be imposed to address this matter.

In terms of the design of the development, some kiosks within the Cowal area have been stone faced in order to minimise their appearance (e.g. Kames, Tighnabruaich and Strachur). In previous applications within the Rothesay Conservation Area, a condition has been attached to require kiosks to be faced in a stone material rather than the more common olive green kiosk that has been erected elsewhere. In this case, Scottish Water have suggested having a glass reinforced plastic kiosk with a 'Rothesay Blue' colour to match the existing hand railings and bus shelter to the south of the application site. In the circumstances, it is considered reasonable to accede to this request, and Condition 3 has been formulated accordingly.

On the basis of the foregoing, it is considered that the proposal can be justified in terms of its '*neutral*' impact upon this part of the Rothesay Conservation Area and is, therefore, **in accordance with Policy STRAT DC 9 of the Structure Plan and policies LP ENV 10, LP ENV 14, LP CST 1 and LP ENV 19 of the Local Plan.**

C. Potential odour and noise LP BAD 1 'Bad Neighbour'

No letters of representation have been received at the time of writing relative to perceived odour or noise issues. However, there is a requirement for the application to be considered against LP BAD 1 of the Argyll and Bute Local Plan 2009 which seeks to resist '*bad neighbour*' uses where it is considered that they would have an adverse effect upon the amenity of residential property.

The Environmental Health Service has commented on applications in other locations that odour arising from the operation of pumping stations could give rise to nuisance to the detriment of the area. In this instance, the pumping station would be contained underground but it is essential that its operation does not give rise to offensive odours outwith the site and powers are available under the Environment Protection Act 1990 to deal with such odours causing a nuisance.

Planning conditions should not be imposed on aspects of any part of the development that benefits from "*permitted development rights*". In this instance the pumping station would be inserted within made up ground i.e. that area of the site raised in height. As such, given that this part of the development is not '*permitted development*' the Department is satisfied that the imposition of a planning condition relative to the design and management of the plant would meet the "*six tests*" of Circular 4/1996 "*The use of conditions in planning permissions*". In order to safeguard amenity, it is recognised that a suitable planning condition can and should be imposed relating to the design and management of the plant.

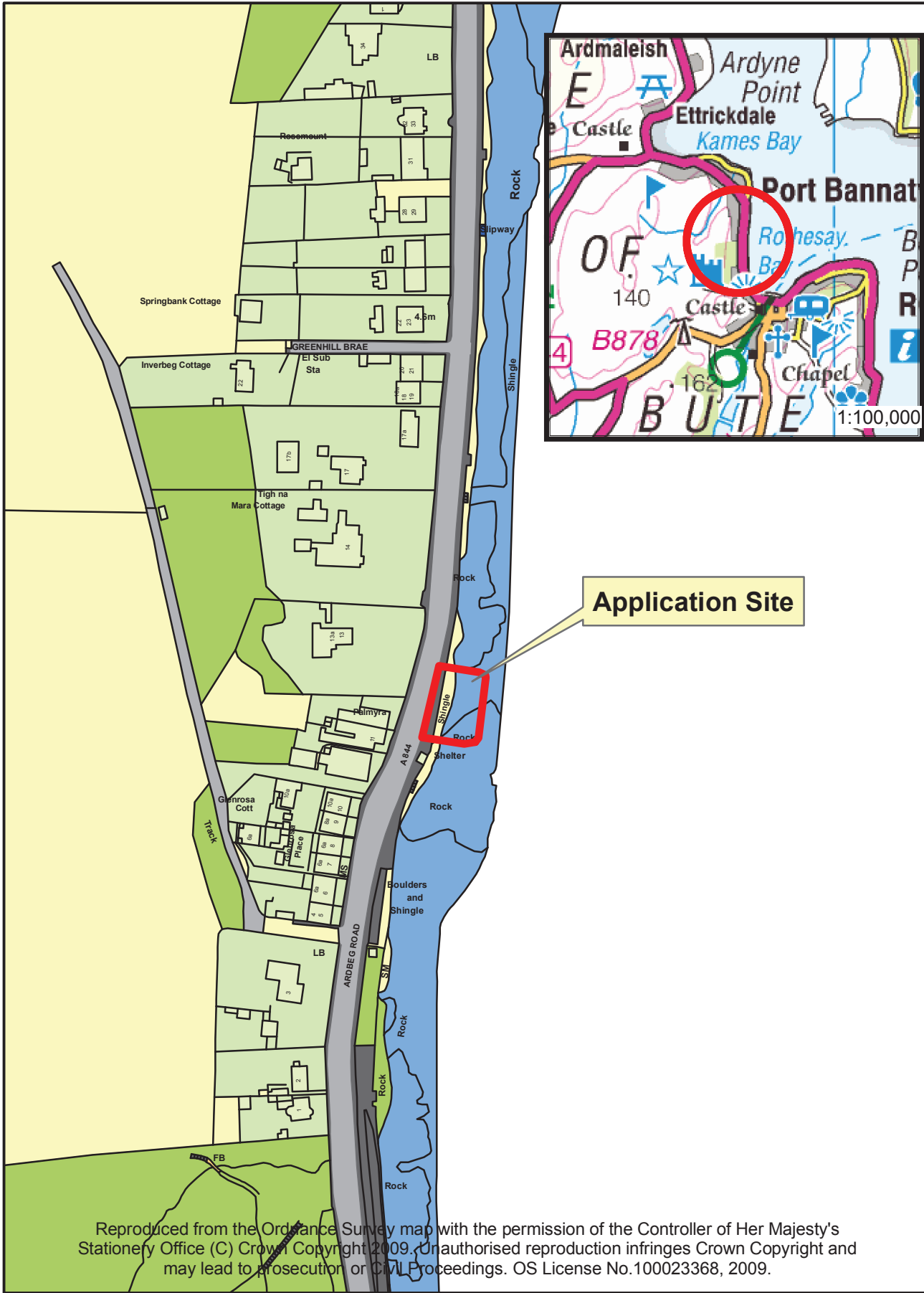
In terms of potential noise during the construction phase, it is not necessary to impose a planning condition as this would merely duplicate controls powers available to the Environmental Health Service under the Environmental Protection Act 1990 and the Control of Pollution Act 1974 should excessive noise nuisance occur. This aspect is addressed as a '*note to the applicant*' encouraging early dialogue between *Scottish Water/Contractor* and Public Protection.

The operation of the plant will introduce a new noise and the nearest residential property is the opposite side of Ardbeg Road in the region of 10 metres to the residential curtilage and around 13 metres to the front face of the nearest dwelling. Plant, equipment and vehicle movements all have the potential to give rise to noise nuisance at the nearest receptors particularly when background levels are generally low. In this case, and in order to ensure that amenity is not compromised, a suitable condition (condition 6) relative to potential noise is recommended, should permission be granted.

On the basis of the foregoing, and subject to the recommended safeguarding conditions, **the proposal is considered to accord with policy LP BAD 1 of the Local Plan.**

D. Road Safety

The formal comments of the Area Roads Manager are awaited but, in line with the previous application at this site, Condition 9 specifies the sightlines that are required.



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Location Plan relative to Application Ref: 11/00428/PP

Date: 22.03.11

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DEVELOPMENT AND INFRASTRUCTURE SERVICES**PLANNING PROTECTIVE SERVICES AND LICENSING
COMMITTEE**

20th April 2011

**FELLING OF TWO TREES WITHIN TREE PRESERVATION ORDER AT MONYDRAIN
ROAD, LOCHGILPHEAD (TPO ref. 2/95)**

1. SUMMARY

- 1.1 This paper reports for information, action taken by your officers under delegated powers. The action involved the authorisation of the felling of two trees protected by the above Tree Preservation Order within Council land on the grounds of preventing a danger to both public and workforce safety because of the health and condition of the affected trees. In authorising this felling it is necessary for the Council to replant trees to benefit the amenity of the area.
- 1.2 The two trees were growing on the borders of the Councils' County Yard also within the corridor of Monydrain Road, opposite the junction with Wilson Road, in Lochgilphead.

2. RECOMMENDATION

It is recommended, that the Committee accepts that this action was necessary and that it authorises the replanting of the ground with replacement specimens.

**DETAILS OF FELLED TREES AND TREE PRESERVATION ORDER 2/95 –
MONYDRAIN ROAD, LOCHGILPHEAD; AND REASON FOR ACTION TAKEN**

- 3.1 The Tree Preservation Order 2/95 was registered on the 21 December 1995, comprising of an Area Order of mixed broadleaf on the fringes and adjacent to the southern, eastern and western boundaries of the Council's County Yard, generally referred to as the Council's Roads depot for this part of Argyll. The southern section of the TPO has depth and is particularly beneficial to the amenity of the area, public pedestrian access able to be gained through this area of trees, by using the old bridge, built prior to the present bridged route of Bishopton Road. The eastern section where the two trees have been felled are part of a line of trees neighbouring Monydrain Road.
- 3.2 Within section (3) of the Second Schedule of the Tree Preservation Order the provision exists for the felling of any tree urgently necessary in the interest of safety, so long as notice in writing of the operations is given to the Planning Authority as soon as may be, after the necessity of the operations. Unless the Planning Authority dispenses with the following requirement it is normal in such circumstances to require another tree of appropriate size and species to that felled to be planted.

- 3.3 The two trees felled comprise a mature Elm and mature Ash.
- 3.4 The Councils' horticulturalist has now, retrospectively in accordance with the provisions written to the Planning Authority (dated 14.03.11) seeking the relevant consent. She reports that the trees have been on the site for around 40 years. The road alongside these trees (Monydrain Road) was noted by that officer as being used daily by vehicles accessing the Roads depot, and also used daily by members of the public in vehicles and as pedestrians accessing both that road and Wilson Road.
- 3.5 She reports that when inspected they were ivy covered which presented a challenge on assessing the condition of the branches trunks. Ivy indicates that regular maintenance may not be occurring with faults or problems not dealt with. In terms of stability, the trees were leaning toward the road which was becoming more pronounced during the monitoring of their health during the last few months.
- 3.6 It was recognised toward the end of the assessing period, given the progression of the lean, that in order to protect the safety of both members of the public and Council employees the trees should be removed before they came into leaf. It was acknowledged that the risk was high enough to necessitate the removal of the trees.
- 3.7 Given that these trees are on Council land and that it was officers of the Council that took the decision for felling on safety grounds, it is considered prudent to present this issue to Committee.
- 3.8 It is recommended that the Council determine to undertake appropriate replanting.

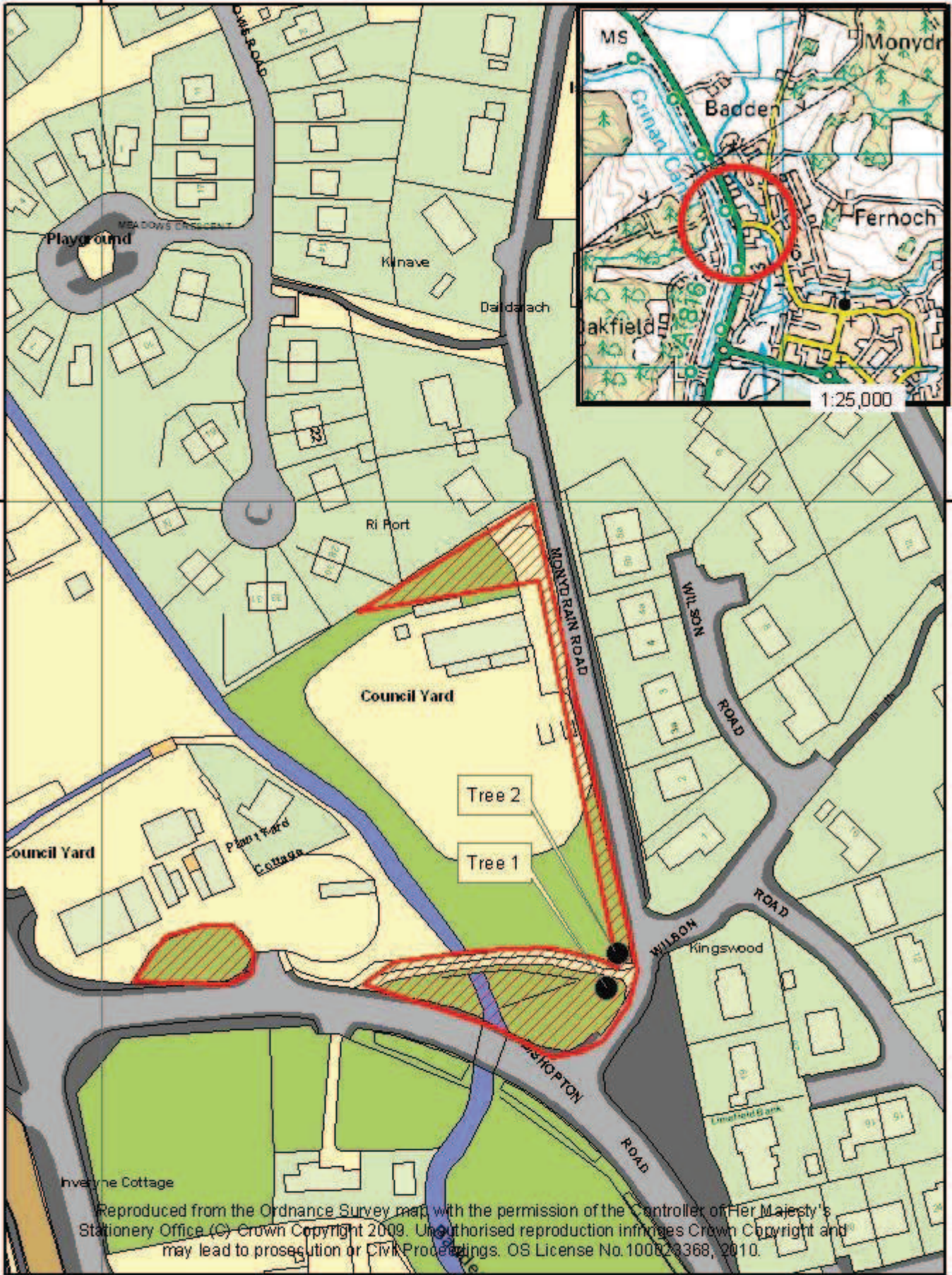
5.0 IMPLICATIONS

Policy :	The actions taken were consistent with the provisions of the TPO and the policies in the Council's development plan.
Financial :	None beyond normal budgetary provision.
Personnel :	None
Equal opportunities :	None
Legal :	None

Author: Derek Hay **Contact:** 01546 604083
Contact : Peter Bain **Contact:** 01546 604082

Angus J Gilmour
Head of Planning and Regulatory Services

185800



185800



**Committee Plan Relative to
Planning Application Ref: 11/00420/LIB**

Date: 07.09.2010

Scale: 1:1,500



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ARGYLL AND BUTE COUNCIL
CUSTOMER SERVICES

**PLANNING AND PROTECTIVE
SERVICES AND LICENSING
COMMITTEE**
20 APRIL 2011

CIVIC GOVERNMENT (SCOTLAND) ACT 1982
INSPECTION OF VEHICLES

1.0 INTRODUCTION

1.1 The Council's vehicle maintenance centres carry out vehicle inspections of all taxis and private hire cars in terms of Section 11 of the Civic Government (Scotland) Act 1982 to ascertain the fitness of the vehicles. Currently if a vehicle is not assessed as fit on safety grounds, a suspension notice is served on the operator of the vehicle. If it is not a safety issue, the operator is required to re-present the vehicle within 28 days.

2.0 RECOMMENDATIONS

2.1 That members agree to introduce a procedure for issuing warning letters to taxi/private hire car operators whose vehicle does not comply with the standard conditions and that if they fail to comply with the warning letter then a report be placed before the Committee in order that they can consider whether it is appropriate to take steps to suspend the licence.

3.0 BACKGROUND

3.1 In terms of Section 11 of the Civic Government (Scotland) Act 1982, the holders of a taxi or private hire car licence shall present the taxi or private hire car for inspection and testing by or on behalf of the licensing authority within such period and at such place as they may by notice reasonably require. Taxi and private hire operators require to submit their vehicle for inspection every year. This inspection is carried out by the Council's employees at the vehicle maintenance centres.

3.2 The purpose of inspection is to ascertain the fitness of the vehicle. If not satisfied as to the safety of a taxi or private hire car for the carriage of passengers, the authorised officer may by notice in writing –

(a) require the holder of the taxi or private hire car licence to make the taxi or private hire car, as the case may be, available for further inspections at such reasonable time and place as may be specified in the notice;

(b) suspend the licence until such time as an authorised officer of the licensing authority or a police constable is so satisfied. Provided that, if an authorised officer or constable is not so satisfied before the expiration

of a period of 28 days from the date of the suspension of the licence, the said licence shall be deemed to have been suspended.

3.3 The power to immediately suspend relates only to the safety of the vehicle or the fitness or accuracy of the taxi meter.

The inspection carried out also looks at the general standard of the vehicle to ascertain if the vehicle complies with the conditions under which it was licensed.

The relevant conditions are Condition 1 of the standard conditions , which states that “the holder of a taxi/private hire licence shall ensure that the taxi, including all bodywork, upholstery and fittings is in a good, safe and serviceable condition (that the bodywork is of a uniform colour scheme) (except where in the manufacturer’s specification ie coachlines etc) and that subject to prevailing road conditions, in a clean condition and conditions 13 and 14 which relates to advertising.

3.4 There is no power to immediately suspend a licence unless it is considered the vehicle is not safe.

It is, however, possible to consider suspension of the licence in terms of Paragraph 11 of Schedule 1 of the Act if a condition of the licence has been contravened. For this to happen, a report would require to be placed before this Committee for consideration.

3.5 In order to deal with issues such as cleanliness or paintwork, it is recommended that if non compliance with conditions other than safety issues are discovered during the inspection, a warning letter should be issued as detailed in Appendix 1. If the operator fails to comply with the condition within 28 days, a report would be placed before Planning and Protective Services and Licensing Committee requesting consideration be given to suspending the licence.

A summary of the current guidelines as to standards is attached as Appendix 2. A copy of the inspection sheet used for inspections is attached as Appendix 3.

4.0 CONCLUSION

4.1 The process for enforcing standard conditions for taxi or private hire car licences requires to be clarified.

5.0 IMPLICATIONS

5.1 Policy - none

5.2 Financial - none

5.3 Legal – in terms of Section 11, vehicle inspection is required

5.4 HR - none

5.5 Equalities - none

5.6 Risk – none

6.0 APPENDICES

6.1 Style warning letter

6.2 Summary of current guidelines

6.3 Copy of inspection sheet

Executive Director of Customer Services
15 March 2011

For further information contact: Sheila MacFadyen, Senior Solicitor
Telephone: (01546) 604265; e-mail: sheila.macfadyen@argyll-bute.gov.uk

APPENDIX 1

Our Ref:

Your Ref:

12 April 2011

Dear Sir/Madam

**CIVIC GOVERNMENT (SCOTLAND) ACT 1982
INSPECTION OF VEHICLES
TAXI/PRIVATE HIRE CAR LICENCE NO**

I refer to the inspection of the vehicle registration number today. I have been advised that the attached defects were noted during this inspection which are in contravention of standard conditions attached to your licence, which states that:-

“the holder of a taxi/private hire car licence shall ensure that the taxi, including all bodywork, upholstery and fittings is in a good, safe and serviceable condition (that the bodywork is of a uniform colour scheme)(except where in the manufacturers specifications – ie coachlines etc) and that subject to prevailing road conditions, in a clean condition”.

I would advise that if these defects as noted on the attached form are not remedied within 28 days of today's date and you do not present your vehicle toso that this can be checked, I will prepare a report for the Planning and Protective Services and Licensing Committee of the Council to ask them to consider suspension of your licence in terms of Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982 on the basis that a condition of the licence has been contravened.

Yours faithfully

If phoning please ask for:

Appendix 2

ARGYLL AND BUTE COUNCIL
CIVIC GOVERNMENT (SCOTLAND) ACT 1982

Guidelines in respect of Taxi/Private Hire Car Inspections

The following information is provided in order to assist taxi owners in regard to the standards required by the Council in respect of the ongoing taxi inspections. It is stressed that these guidelines are only guidelines and the final decision regarding a vehicle's fitness rests with the person carrying out the inspection.

General body condition/paint work

1. The paint work will be consistent with the colour of the vehicle as specified on the Registration Document.
2. No variation in colour will be permissible on any external panel of the vehicle.
3. No paint runs will be permissible on any external panel of the vehicle.
4. No visible corrosion will be acceptable on any external panel of the vehicle.
5. Paint blisters are acceptable on any external panel of the vehicle provided the paint work is not split or corroding liquid seeping from the blister.
6. Slight indentations, ripples and scratches are acceptable on external and internal panels; however where scratches exceed 100mm and are deep enough to show base metal, repairs should be undertaken to avoid failure at inspection.
7. All accident damage to vehicles must be reported immediately to the licensing authority in order that a free inspection can be undertaken to assess the suitability of the vehicle to remain in service and its safety for the carriage of passengers. In the event of non-compliance should the vehicle be found in service without licensing authority permission, the vehicle licence will be suspended without prior notice to the licensee. Further action may be taken against the licensee for non-compliance.

General Condition of Interior/Cleanliness

1. The interior of the vehicle shall have clean upholstery and head cloth. Some light staining of seat cloth is inevitable by nature of the business

involved; however where the staining is so obvious it detracts from the general internal appearance of the vehicle it will constitute a failure.

2. Torn seats and head cloth will be permitted provided they are not in excess of 100mm in length in any one area. Any seat or head cloth which has more than one tear will constitute a failure.
3. Any obnoxious odours within the vehicle will constitute a failure.
4. Floor well shall be clean and tidy with no obstructions which may cause an accident to passengers when entering or leaving from the vehicle.
5. There shall be no metal objects protruding from any seat or part thereof.
6. Tape of any description will not be permissible for the repair of any seat but can be used to repair head cloths providing it is of similar colour to the head cloth and complies with conditions stipulated in (2).

Inspection Standards General (Mechanical/Electrical)

All mechanical and electrical standards are to MOT specifications with the exception of tyres. The MOT standards for tyres are based on the absolute minimum requirement at 1.6mm over $\frac{3}{4}$ of the width and full circumference of the tyre; however in the interests of public safety the minimum requirement for taxis and private hire cars is 2mm over the full width and circumference of the tyre.

Fire Extinguishers

Fire extinguishers will be checked to ensure that they are secured within the vehicle and are operational. They should be sited in a safe location within the vehicle.

Appendix 3

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Taxi and Private Hire Car Inspection Form		Argyll & Bute Council	
Reg No:	Vehicle Make & Model:	Mileage:	
Document Check (Insurance Cert - MOT Cert - RFL)		Comments:	
Plate No:	Motor Make & Serial No:	Engine cc:	
Lighting & Ancillary Equipment		Pass <input type="checkbox"/>	Fail <input type="checkbox"/>
		Comments	
1	Front and Rear Lamps (including fog)		
2	Head Lamps		
3	Head Lamp Aim		
4	Stop Lamps		
5	Hazard warning Devices		
6	Direction Indicators		
7	Rear Reflectors		
8	Interior Lights		
9	Taxi Sign (For Hire) Light		
10	Meter Lights, Seals and Calibration		
11	Windscreen (Drivers View of the Road)		
12	Windscreen (Cracks - Scratches)		
13	Windscreen (Wipers and Washers)		
14	Horn		
Steering and Suspension			
15	Condition of Steering Wheel		
16	Steering Mechanism/System/Turning Circle		
17	Power Steering Operation and Leaks		
18	Transmission Shafts		
19	Wheel Bearings		
20	Front Suspension		
21	Rear Suspension		
22	Shock Absorbers Front/Rear		
23	Wheel Alignment		
Brakes			
24	Controls (Foot Pedal/Hand Brake)		
25	Condition of Service Brake System		
26	Condition of Hand Brake System		
27	Condition of Hand Brake Pawl/Ratchet		
28	Condition of all Brake Pipes		
Tyres			
29	Tyre Size		
30	Tyre Condition		
31	Condition of Road Wheels & Nuts		
General			
32	Vehicle structure (Chassis etc)		
33	Vehicle exhaust System		
34	General Oil Leaks (engine - G/box - R/axle)		
35	Condition of Vehicle Int Seats/Floor Mats		
36	Condition of Seat Belts and Fixings		
37	Condition of Door Locks/Mech/Ch Straps		
38	Condition of All Interior/Exterior Mirrors		
39	Condition of Registration Plates		
40	Condition of Vehicle Paintwork		
41	Condition of Clutch Operatinn		
42	VIN Details (is Plate Fitted)		
43	Fire extinguisher BS No		
44	License Holder Name and Address		
45	Is the Vehicle Displaying Scale Charges Inside		
Inspectors Signature		Date	Pass/Fail

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