

Argyll and Bute Council
Comhairle Earra Ghaidheal agus Bhoid

Customer Services
Executive Director: Douglas Hendry



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11 May 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, 18 MAY 2011** at **11:00 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 7 April 2011 at 10.45am (Pages 1 - 16)
- (b) Planning, Protective Services and Licensing Committee held on 7 April 2011 at 2.00pm (Pages 17 - 28)
- (c) Planning, Protective Services and Licensing Committee held on 8 April 2011 (Pages 29 - 42)
- (d) Planning, Protective Services and Licensing Committee held on 20 April 2011 at 9.30am (Pages 43 - 46)
- (e) Planning, Protective Services and Licensing Committee held on 20 April 2011 at 10.00am (Pages 47 - 50)
- (f) Planning, Protective Services and Licensing Committee held on 20 April 2011 at 10.30am (Pages 51 - 60)

4. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: TAXI AND PRIVATE HIRE CAR LICENSING: BEST PRACTICE FOR LICENSING AUTHORITIES: DRAFT CONSULTATION PAPER

Report by Head of Governance and Law

A copy of the draft guidance can be viewed at the following link -

<http://www.scotland.gov.uk/Publications/2011/03/22134908/0>. (Pages 61 - 64)

5. DELIVERING PLANNING REFORM - PLANNING SERVICES IMPROVEMENT PLAN 2011 - 2012

Report by Head of Planning and Regulatory Services (Pages 65 - 80)

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

Report by Head of Planning and Regulatory Services (Pages 81 - 90)

7. GANAVAN SANDS LTD: ERECTION OF RESTAURANT (CLASS 3) AND 8 FLATS (AMENDMENT TO 08/01854/DET): 2 SHORE STREET, OBAN (REF: 11/00389/PP)

Report by Head of Planning and Regulatory Services (Pages 91 - 104)

E1 8. ENFORCEMENT REPORT: 10/00012/ENOTH1, 10/00077/ENOTH2 & 10/00210/ENFOTH2

Report by Head of Planning and Regulatory Services (Pages 105 - 106)

E2 9. ENFORCEMENT REPORT: 06/00076/ENFOTH

Report by Head of Planning and Regulatory Services (Pages 107 - 110)

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 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 Rory Colville
Councillor Vivien Dance
Councillor Daniel Kelly
Councillor Neil Mackay
Councillor Bruce Marshall

Councillor Alister McAlister
Councillor Alex McNaughton
Councillor Al Reay

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 GIBSON COMMUNITY CENTRE, GARELOCHHEAD
on THURSDAY, 7 APRIL 2011**

Present: Councillor Daniel Kelly (Chair)

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| Councillor Vivien Dance | Councillor Donald MacMillan |
| Councillor Mary-Jean Devon | Councillor Alex McNaughton |
| Councillor David Kinniburgh | Councillor James McQueen |
| Councillor Alister MacAlister | Councillor Al Reay |
| Councillor Neil Mackay | |

Also Present: Charles Reppke – Head of Governance and Law
Howard Young – Area Team Leader
Stephanie Glen – Planning Officer
Nigel Connor – Head of Licensing, JD Wetherspoon PLC - Applicant
Jo Rains – Area Environmental Health Manager – Statutory Consultee
Nigel Millar – Helensburgh Community Council – Statutory Consultee
Kathleen Siddle – Helensburgh Community Council – Statutory Consultee
Gordon White – Objector
Donald Nicolson- Objector
David Smeeton – Objector
Marion Gillies- Objector
Catriona Malan – Objector
Rona MacDonald – Objector
Mark Tyson – Objector

1. APOLOGIES FOR ABSENCE

Apologies were intimated from:-

Councillor Robin Currie
Councillor Rory Colville
Councillor Roderick McCuish
Councillor Bruce Marshall

2. DECLARATIONS OF INTEREST

Councillor David Kinniburgh declared an interest in that one of the objectors was a work colleague of his. He noted that he had not entered into any discussions of the application with his colleague and that he did not socialise with him. In these respects, Councillor Kinniburgh was satisfied that he could therefore continue to participate in the meeting.

3. 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 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.

Planning Officer

Howard Young, Area Team Leader advised that he had received a late representation in the form of a letter in support of the application, from M and T Niblock. This was handed to a Committee official.

Mr Young then gave a brief outline of the application which was for the change of use of a retail unit (Class 1) to a public house. He provided a short history of the site which was an old, and now vacant retail unit selling carpets. A short slide presentation provided details of the proposed ground floor plan and views of the premises from various aspects.

Mr Young advised that the proposed development was in the town centre where there was a presumption in favour of retail and commercial development and that the key issue was that of the impact on the residential amenity of residents in the adjacent flats, particularly with the proposed beer garden. However, after consultation with the Area Environmental Health Manager and Area Roads Manager who had no objections to the proposal, he was minded to approve the application subject to the conditions and reasons contained within the original report.

Applicant

Nigel Connor, Head of Licensing, J D Wetherspoons Plc, thanked everyone for the opportunity to address any concerns that had been raised and that it was his intention to provide them with some reassurance. Mr Connor stressed that the first point he wanted to make was that he considered the development would provide investment to the town of Helensburgh. The refurbishment of the site would be at considerable expense, which the company would not wish to outlay unless they expected the venture to be successful. The frontage of the building would be improved, jobs would be provided and benefits would be had to the wider economy. Mr Connor informed that in his experience, people would be less likely to go elsewhere if a good facility was provided in their own town. Addressing the parking issue, he said that it was expected that the majority of the customers would come on foot and when visiting the town. He appreciated that the main concern to residents was the beer garden and in this respect he referred to a similar property in Greenock where there had been little or no complaints. The emphasis would be on food and not drink. No music would be played or entertainment provided. Mr Connor advised that 50% of the sales in their establishments were for food and that they sold approximately 650000 cups of tea/coffees. In other words, this was not a 'typical' pub. Mr Connor added that he had much experience in managing any potential problems and that Wetherspoons' policy was that of strict control of the amount of drink sold to customers and that staff were provided with training on these measures. There were also strict controls on the provision of alcohol to under age drinkers and that Wetherspoons participated in such schemes as 'Challenge 21'. Mr Connor

said that CCTV would be in place both internally and in the beer garden and that there would be liaison with police as a continuing exercise. Managers would also liaise weekly to address any problems and great emphasis was placed on community involvement. In the event that the application was successful, Mr Connor offered to set up meeting with the local residents to get their feedback. Regarding concerns relating to the beer garden, Mr Connor advised that there would be control measures in place such as CCTV and staff patrolling. He informed that there were some benefits in that people were easier to control if they were not out on the street and that it would be possible to place restrictions on the hours consumption in the beer garden.

The emptying of glass containers would not be carried out during anti-social hours and conditions could also be added to this.

Mr Connor said that he was familiar with the issues resulting from fumes and extraction but that conditions could also be applied here. He advised that he had been in consultation with the Environmental Health Manager and that no concerns had been raised.

In relation to number of objections received, Mr Connor advised that there had also been a number of letters in favour of the application by those who recognised that there were clearly some benefits to be had. He was aware of policy LP BAD1 but felt that matter within it was only 'potential' issues. He asked that everyone take into account the specific reassurances he had given them together with the 31 years of experience of the company and that it was his experience that any problems could be quickly addressed and overcome. He asked that suitable consideration should be given to the application and hoped that it would be recommended for approval.

Statutory Consultees

Nigel Millar – Helensburgh Community Council

Mr Millar advised that this was the largest and most important in Helensburgh for decades and that he was delighted it was being considered. He informed that the Community Council's objection was over the long term and stressed that they were not against a new pub, or Wetherspoons, in particular, and he acknowledged that they were a well respected, family friendly and well run establishment. The problem was that this particular site was the wrong location. The CC had considered what had been said by residents and that a consultation exercise had been undertaken. Four residents were in support and twenty nine were against. Mr Millar said that the nature of the application went against the housing policies which should have been taken into consideration and that those policies on page 8 of the report only painted a partial picture. There was no assessment against each of these policies and suggested that the methodology used by the Planning Officer was seriously flawed. Mr Millar then referred to several of the policies within the report and why he did not feel that they were appropriate. The site of the application was known as a 'broken tooth' site and that there had been tremendous opportunity here to provide much needed flats or tenements. Mr Millar also felt that the site would not be enhanced by the development as the building itself was not well designed.

In relation to environmental impact, Mr Millar said that the amenity of the existing

residents would be affected in that there was no provision for parking. He was concerned that in the Council's assessment, it was stated that "it was inevitable that residents already experience a certain amount of noise and disturbance" and asked if it was right that they should expect even more inconvenience. As there would inevitably be an increase in noise and traffic, there would be deterioration to the local environment.

Mr Millar stated that the Community Council would like to see the beer garden withdrawn for reasons already discussed. Although there was a similar set up at the Commodore Hotel there were no residential properties adjacent to it. He was concerned that the noise would be projected upwards thereby causing disturbance to the adjacent residents. Mr Millar then reiterated his concerns that there were other housing policies that in his opinion should have been taken into account and that there had been no holistic approach taken. He felt that an opportunity had been missed to provide much needed affordable accommodation and that the residents had made their feelings loud and clear on the proposals.

Kathleen Siddle – Helensburgh Community Council

Mrs Siddle agreed with all that had been said and acknowledged that there would be a significant loss of amenity to the adjacent residents. She was concerned in particular, for the elderly residents of Princes Court, which is a sheltered housing development. Mrs Siddle added that due to the size of the site, it would have been more advantageous to retain the site for future use of mixed retail and residential development and that she hoped that Helensburgh would not become known as 'the town with cheap beer!' should the proposals go ahead.

Jo Rains – Area Environmental Health Manager

Ms Rains, advised that whilst she was aware of the points raised, there were no issues of concern. Referring to the potential of noise and odours coming from the premises, she acknowledged that there would almost certainly be some noise in the form of laughter, voices and glasses but that these matters could be controlled by the Licensing Management Plan where there would be the potential to limit times of use etc. The design features being considered would also help to reduce noise impact, with such measures as soft surface material and banners being suggested. She also went on to say that issues arising from air conditioning and cooking odours could also be controlled by good design and that all other measures could again be controlled under the Licensing Management Plan. In these respects, Ms Rains reiterated her earlier comment that Environmental Health had no objections to the proposal.

Objectors

Gordon White – Local Resident

Mr White introduced himself stating that he and his wife were residents of Scott Court which is a block of maisonettes with 3 bedrooms on the upper part, two of these at the front of the building and 1 main bedroom to the rear. At the rear of the building, on his ground level, there is off street parking/garages and a stair leading to his balcony which runs around in an L shape past each maisonette

and his house door, giving access to the drying area. In the better weather, the residents sit out on their individual private balconies to enjoy the relative peace and quiet that currently exists. Mr White added that his property overlooked the whole of the rear of the former furniture store which was the subject of this meeting. To the west of this lie the McCarthy Stone retirement flats and the Sheep Heid flats.

Mr White explained that his living room faces to the front of James St with far views over Colquhoun Square and beyond. Opposite, going south to the water, is the URC Church and the Clydesdale Bank, the upper floors of which are the offices of Enable, for folks with special needs and then the Smith & Jones pub chain for 300/400 patrons. To the north and on West Princes Street, there is an off-license/general store, a licensed Italian restaurant, the presently closed Teak Bar, the Ashton Bar, Coopers Bar and the Logie Baird pub. Nearby, on West Clyde Street are the Imperial Hotel, Royal Bar, Granary Bar site, Riverview, Clyde Bar, Garth Inn and MacDiarmid's paper shop and off sales. The Masonic hall has a function suite and bar. Therefore, Mr White explained, they were surrounded by 12 pubs and licensed off sales, not counting those further afield past Sinclair Street.

Mr White said that this area is described as a Cumulative Impact Zone which means, an area designated as having more than enough pubs and off licenses already. Once or twice in the report by the Planning Officer it was mentioned that live in a "town centre location where some noise is to be expected". Mr White advised that the residents had been more than tolerant of what currently existed and that under the Environmental Protection Act, the Noise and Statutory Nuisance Act and the Anti Social Behaviour Scotland Act relating to noise nuisance and anti social behaviour where noise is loud and intrusive, whether persistent or intermittent, that they should expect to have a quality of life and comfort at home and in their everyday life, and not interfering with a persons health or enjoyment of their own property.

Mr White found it strange that Mr Young had been up on the private balcony area on the Tuesday previous to this meeting with plans in his hand viewing the "not overlooked back premises". Mr White said that this had not inspired confidence. Perhaps, he said, the Planning Officer had only used Google Earth to make this assumption as it was clearly not the case.

Together with the other residents, Mr White felt that this item should be considered a Bad Neighbour Development.

Referring to the forthcoming plans for the developments in the town centre under the CHORD scheme, it was hoped that a friendly, exciting, inviting and modern new retail shopping experience would attract visitors, and would be aimed at keeping residents from shopping outwith the Burgh. Mr White then questioned with this being the intention, why would any Councillor allow this development to happen.

Mr White noted that a site visit had taken place this morning to allow those not familiar with the area to familiarise themselves with it. He hoped that they had seen his washing area and posters when they had looked up, as this would have highlighted that the site was indeed overlooked and there was an impact of overlooking properties. In Mr White's opinion, this visit would have been more

appropriate at 10.30pm – 2.00am on a Friday or Saturday night and that if this had been the case, the Environmental Health Manager would certainly have found more objectionable items.

In the Design and Access Statement, which stated that JD Wetherspoons had acquired this existing property, it was noted that this was only pending the application going ahead, as the actual owner Mr Lafferty, had been quoted as saying that he would think about a retail development should this application “bite the dust”. He added that there had been an incorrect reference to a 2004 Census.

Further to comments about the Clyde Submarine base bringing much income to the town, Mr White said that it was only once in a while during international exercises that there was any significant increase in this and that on these occasions there had been a marked increase in police presence.

Mr White acknowledged that a reuse of this building would be a benefit to the community but that a pub chain with the potential of 477 patrons was unacceptable. A retail outlet in this broken tooth development would possibly be more needed together with the potential for housing. More charity shops, hairdressers and pubs would likely send shoppers to alternative areas such as Braehead where there would be a wide variety of shops. Again, Mr White stated that this was a Bad Neighbour Development.

Mr White made reference to the kitchen flue which he had noted was only 2m from the living room at the Sheep’s Heid easterly flat. In relation to the beer garden, Mr White asked how it could be realistic to expect the signs asking for patrons’ consideration to be adhered to and that there would still be shouting, swearing and slamming of car doors. These signs had been relatively ignored at the Logie Baird across the road, which had incidentally just had its 2.00am license restored.

In an email from the Licensing Standards Officer to Mr Winthrop at Environmental Health and Planning, Mr White said that it was acknowledged that the beer garden would be the cause of noise nuisance and would generate complaints from neighbours to the police and Argyll and Bute Council alike. Although Mr Dearie through his own admission, had not even seen the plans, he had asked if there was anything he could do to lessen the noise and benefit the neighbours. He had also offered to assist in any Premises License Application in the event that the application was granted.

Mr White said that all of the neighbours at Scott Court could verify that as a result of the walls being built up at the rear of the property on three sides, an echo chamber effect was the result. This had been evident during the occupation of the building as the carpet warehouse with the delivery vans.

Mr White referred to a conversation he had recently held with a local police officer who had indicated that the town needed another large pub like a ‘hole in the head’. The same thoughts had also come from the Domestic Abuse Unit.

There was some confusion as to why Wetherspoons had walked away from the opportunity to take over the old La Scala cinema, now the Logie Baird, when the chance had arisen.

The reference in the original report that the only properties opposite were a church, a pub and a bank. However, Mr White advised that the church had a litter patrol in place to clear away bottles, cans and glasses on a daily basis. The bank has an ATM at which there were sometimes queues of up to 20 people and taxis would sit outside the pub with their engines running and horns sounding. On the pavement outside the Logie Baird, people gathered to smoke and chat. Many fights had been witnessed, even such as that witnessed by Councillor Mulvaney during the previous afternoon. There did not appear to be much notice of these events by the stewards on the door as it was outside and therefore not their problem. Mr White felt that in summary, it is not acceptable to expect this kind of behaviour due to the town centre location.

Mr White described what he felt was a 'tsunami of pubs' in the vicinity but a 'famine' of large quality shopping units in Helensburgh and that to give this huge site away to a pub chain would be a big mistake for the town centre area CHORD re-generation project.

He felt qualified to speak on this issue as he was a real 'Helensburghdonian' of 61plus years and that his family, who had always done their bit for the town, had been residents of the area since 1812. It was for the community and future of the town that Mr White felt compelled to be heard today. He asked everyone to remember that the absence of evidence is not evidence of absence and that he hoped the Councillors present would support him against the application.

Mr Donald Nicolson – Local Resident

Mr Nicolson was concerned that a drinking culture should not be encouraged in Helensburgh when other areas were trying to curb such activity. He also questioned what this particular development would offer that others did not.

David Smeeton – Local Resident

Mr Smeeton said that he agreed strongly with all the comments made by Helensburgh Community Council and all the other objectors. His particular concerns were with the beer garden and the noise that would result from it. Mr Smeeton said that it was well known that alcohol makes people louder and that this would be difficult to manage. He agreed with Mr White's comments that just because there is an existing expectation of noise, that this should increase. Due to the location of his home in relation to the proposed development, Mr Smeeton said that it would be impossible for him to get away from the noise and that even if the beer garden closed at a particular time, smokers would merely go outside the front of the building. He would therefore be expected to 'run the gauntlet' of smokers every time he went up this street to access his property as they would now be on both sides of the road. Mr Smeeton acknowledged that Wetherspoons themselves were a good company but that it was the customers who would cause the problems and that this could not be avoided.

Mrs Catriona Malan – Local Resident

Mrs Malan informed that she would like to make two points and explain the reasons for these. The first point being that the proposed public house should not be in this location for the following reasons:-

- These were there were approximately seven pubs already within the block bounded by James St, Princes St, Clyde St and John St. In addition, there were also five licensed restaurants, three licensed retailers and one licensed club.
- There were a considerable number of residents in this area, particularly in the flats. Mrs Malan explained that she had endured many years of disruption due to the proximity of pubs and that she could state from experience that there had been an increase in noise, litter and the incidence of people entering private property and vomiting and urinating therein. She had witnessed fights and attacks, some of which had required police intervention. The residents of his block were now about to go to the expense of erecting a fence and gate in order to deter these intrusions which, she stated, increased with the better weather. The noise of clients leaving was considerable and this application mentioned 477 people which would be added to by the other two pubs already in the street. Mrs Malan said that taxis frequently ignored the ruling about using their horns at night.

Mrs Malan explained that in addition to the above, the enforcement of the new smoking laws meant that the clients of the pubs now used the pavements and that for six or eight people to be here was not unusual, sometimes even being provided with chairs for the purpose. This could go on in relays for most of the evening until closing time and caused considerable noise. Mrs Malan wondered if this was ever taken into consideration.

Mrs Malan went on to say that she assumed that the proposed beer garden would be used by smokers, and that although walls may be planned, they would not block out the noise. Quoting from a 1966 report she had read, Mrs Malan said that noise from "a neighbour's voice is more irritating than sounds such as traffic, and that night noise interferes with sleep patterns which can subsequently have an adverse impact on health". Mrs Malan had experienced this due to regular noise in her street until late at night, which caused her to get into the habit of going to bed late. She expressed concern that the residents should have a right to peace and quiet in their own homes and asked if this question had been weighted against the criteria of the European Commission for Human Rights.

Mrs Malan then went on to explain her second point which was that there was no need for another drinking establishment in this town. The reasons for this, she said, were:-

- Apart from the proliferation of pubs in this surrounding area, the consumption of alcohol is now a problem in the country as a whole. Indeed, she stated that the Lord Advocate, Elish Angiolini, recently stated on television that Scotland must get to grips with the acceleration of the consumption of alcohol and that alcohol is present in most violent crimes.

Mrs Malan said that she believed the figures stated were that one million crimes annually resulted in a cost to the tax payer of £7 billion and that it had also been stated that £5 worth of alcohol was sufficient to kill a fifteen year old. The treatment of alcohol related injuries, illnesses etc cost the NHS some £2 billion annually.

Mrs Malan suggested that such problems locally must put a strain on the small police force due to the resulting anti-social behaviour and that it must also affect our limited local NHS facilities.

Mrs Malan then went on to refer to several comments within the report regarding mitigating measures of issued such as noise and advised that such measure had already been imposed on the other pubs without success. She also referred to the expectation of noise within a town centre and raised doubt as to whether this particular area could really be referred to as such.

Mrs Malan explained that she had chosen to live here with her small child as it was quiet and safe. It had never been busy or noisy either during the day or at night time, even as a commercial area.

It therefore seemed to be grossly unfair to state that residents should expect noise, especially if this meant shouting and swearing often until well after 1.00am.

Mrs Malan went on to point out that it had only become noisy and busy because three pubs had been sanctioned in the vicinity, this to its detriment and that all the reassurances given had been heard before. The noise may well not be within the applicant's control, but it together with the other problems was within the consideration of those with the power to agree to this proposal.

Mrs Malan asked who she could turn to when faced with genuine concerns if such matters were not considered material in the planning application. She said that it would mean that adverse developments could go ahead and that the householder must constantly trouble the police and Area Environmental Health officer and she repeated her concern about what rights they had, indeed if any.

Members' Questions

Councillor McKay asked the applicant following Mr White's comments, how many hours the beer garden would only be serving drinks. Mr Connor replied that residents' comments would be taken on board and that although it was difficult to give exact times at his moment, a curfew could be imposed if necessary.

The meeting was then adjourned at 12.25pm for a break and reconvened at 12.30pm.

Councillor McKay asked Mr Young about the comments that had been received from Helensburgh Community Council regarding the format of the papers and if this was unusual. Mr Young responded that this was the format used in the majority of committee reports though the actual assessments could vary depending on complexity.

Councillor McKay asked Mr Young why housing policies were mainly absent from the report. Mr Young replied by advising that reports can be simple or complex due to the key issues and that in this case, the key issue was the impact of the proposed development on the adjoining properties

Councillor McKay asked if the Planning Officer would agree that LPBAD1 was

the main policy. Mr Young said that before the proposal had come in, he had thought that noise and environmental impact were the key issues. Now, he said, the key point is that this pub will have an impact and that the issue for members today is that it is sufficiently detrimental to go against his recommendation. Mr Young suggested that the comments from Helensburgh Community Council regarding the noise were untrue and he agreed that although town centres are more active, it does not mean that residents should have to put up with unacceptable disturbance.

Councillor Chalmers asked the applicant to confirm that there would be no music, to which Mr Connor confirmed that there would not. He said that although there may be plasma screens showing some sport, it would not be Sky Sport and there would be no sound. Mr Connor said that the pub was not marketed by sport.

Councillor Chalmers asked Mr Connor about whether the ratio of food/alcohol was true over the entire operation. Mr Connor responded by saying that the seven or eight new pubs opened this year had indicated this and that Wetherspoons were becoming an increasingly more popular venue for its food. The key emphasis was food and not alcohol.

Councillor Kinniburgh asked the Environmental Health Manager to comment on the flues which had been quoted as being only 2m from Sheep's Heid.

Ms Rains stated that she had only seen the outline plans but that she had been to see the proposed cooking and kitchen areas. Cllr Kinniburgh asked Mr Young to comment on the same question.

Mr Young answered that the 2m distance from the boundary was in his view acceptable.

Cllr Kinniburgh asked Mr Connor about the potential 477 customers, to which Mr Connor responded that this was the maximum capacity and was quoted for building control matters and that it was highly unlikely that there would ever be such a number in the establishment at the one time.

In reference to the previous examples of liaising with the local communities, Councillor Dance asked Mr Connor what form this had taken. She asked him if he had already met with, or would intend to meet with the locals if permission were to be granted in this instance. She also asked him if he could define what would be a typical patron of this type of establishment.

Mr Connor acknowledged that he had not met with local residents at this point and that this had been unfortunate on his part. He referred to the recently opened branch in Kirkintilloch in which he had been involved with the residents of the adjoining properties, and that these residents had been provided with contact details for himself, the area manager and the regional manager in order that any problems they had could be addressed at all levels. As there had been no contact by either party, Mr Connor saw this as significant evidence of a lack of problems.

Mr Connor gave his assurance that should this application be successful, he would undertake to meet with locals prior to and after opening in order to check

progress. Further to Councillor Dance's question of typical customer, Mr Connor said that it could range from 18 to 80 and that families, pensioners and community groups would all be welcomed.

Councillor Dance referred to LPBAD1 and highlighted that many of the main issues raised today were not of a material nature but that they would still require to be dealt with. She asked Mr Young if anything could be done regarding this policy.

Mr Young said that potentially it could but that there would be difficulties. There could be conditions imposed but that these would be better placed at the licensing stage.

Councillor Dance asked again whether issues such as market forces, housing, property values, asbos etc could be considered material, to which Mr Young responded that they would not.

Councillor Dance asked Mr White about the response from the Police, to which Mr White answered that he had been advised that many of the issues would come up during the licensing process.

Councillor Dance noted that no one from Princes Court had spoken at today's hearing and asked if any of the objections had been from any of the local businesses.

Nigel Millar, HCC replied that two had been in support and two opposed. The two objectors were owners of other pubs in the vicinity.

Councillor Dance asked Mr Young to confirm that none of the local business owners had objected, and Mr Young confirmed that they had not.

Councillor Reay asked Mr Connor about the size of the seating area in the beer garden. Mr Connor was unsure of the exact number as it would only be speculative at this point. He confirmed however, that no vertical drinking would take place in this area. Councillor Reay asked whether the beer garden would be covered, to which Mr Connor replied that it would not. There would however, be 'Jumberellas' in place which would assist with the noise control.

Councillor Reay asked Ms Rains if noise emanating from the beer garden could be considered subjective. Ms Rains replied that although she had no experience of this, it would be subjective.

Councillor McKay asked Ms Rains if the cooking extraction system would be the same as that in a restaurant. Ms Rains said that it would be specific to the type of cooking range in place. Air conditioning and refrigeration venting would be separate. Mr Connor also agreed to liaise with the Environmental Health Manager with a view to the implementation of acoustic absorbing measures in the beer garden.

Councillor McKay referred to the family aspect of this establishment and asked if there would be a children's menu. Mr Connor said that this would be a crucial element as families were paramount to the success of the business. Councillor McKay asked him about the current issues relating to the consumption of alcohol

and the effect that this would have on an establishment such as this. He asked how the issue of cheap beer was linked with the family aspect. Mr Connor insisted that the beer was not cheap but competitive. He informed that there was a wide variety of beers and ales on sale offering variety. Mr Connor insisted that they had a legal and moral obligation to manage customers and ensure that alcohol consumption was kept to a tolerable level.

Councillor McAllister asked about the potential for employment. Mr Connor replied that he would anticipate that 30 to 35 people would be employed here, approximately 12 of which would be full time and 4 at management level.

The Chair then asked that the summing up process would now begin and ascertained that no new information could be introduced at this point.

Planning Officer

Mr Young reiterated his earlier comments in that he must concentrate on the key issues and that this site had been established as being of a town centre nature but that he could not ignore the issue of residential amenity and acknowledged that noise was certainly an issue. However, Mr Young said that he must consider the advice he had received from his colleagues in Environmental Health and Roads who had no objections to the proposals. He therefore considered that the application was acceptable and recommended approval of same.

Applicant

Mr Connor highlighted that this was not a standard pub and that there would be a heavy emphasis on food, teas and coffees. The behaviour of customers would be regulated with a variety of monitoring measures. Mr Connor referred to the 30 years of experience that his chain had and how it aimed to create a comfortable and safe environment. It was not, he said, in competition with other establishments and would provide a welcome to visitors to the town. He had noted the plans for the town under the CHORD scheme and wished to be a part of that process and that he hoped there would be a willingness of residents to develop the town as a retail centre which was not contradictory but complementary to the image of Helensburgh. The fact that the proposed cost of this establishment would be in excess of one million pounds indicated that Wetherspoons were not taking things lightly and could not afford to get this wrong. He stressed that there would be liaison set up for community links with residents and offered to set this up personally.

Whilst he appreciated concerns regarding the beer garden, Mr Connor said that there would be many measures in place to ensure the close monitoring of it and that the ventilation issues would be controlled by conditions. Mr Connor insisted that all areas of concern could be managed and that this development should not be judged on others in the area where problems had been experienced. He thanked everyone present for the opportunity to speak today and repeated that this development would enhance the amenity of the surrounding area. He hoped therefore, that the application would be granted in accordance with the Planning Officer's recommendations.

Statutory Consultees

Helensburgh Community Council (HCC)

Nigel Millar referred to the two responses that the Community Council had received from local businesses and advised that one of these was from the Logie Baird and the other from a shop opposite. One had been positive and the other not. He respected what had been said by all the residents here today, saying that they were well expressed and based on reason, observation and fact, and not emotion. Regarding the beer garden, Mr Millar said that the HCC shared the concerns of residents in that it would be a sound trap. It was also inevitable that this area would be used for smoking. As had already been mentioned, it would be impossible to make an assessment of the planning application against the listed policies. HCC had a good relationship with the planners so these complaints were not personal but that it should be acknowledged that understanding them would be difficult for those not familiar with planning applications.

Mr Millar asked that future statements could state how the applications met with the policies as it would result in a more objective exercise regarding which policies were relevant and which were not.

In Helensburgh, £6.6 billion was being invested to attract visitors and in this respect, a more holistic approach should have been considered and that it was a failure of the system that this had not happened. Helensburgh Community Council would therefore propose to oppose the application.

Area Environmental Health Manager

Jo Rains stated that Environmental Health had no issues or put forward any safeguarding measures. She considered that all relevant issues would be covered by the Management Policy through licensing.

Objectors

Mr White reiterated all that he had already said and that the committee should support the residents, and in reference to the number of residents present at today's hearing he said, that absence is not evidence of support.

Mr Nicolson did not have any more to add to what had been said other than referring to the environmental issue.

Mr Smeeton said that even a well run establishment would still be a bad neighbour as stated in policy LPBAD1. In his particular case, there would be no respite from noise at both the front and back of his property. He said that even limiting the hours of use in the beer garden, smokers would gather at the front. Mr Smeeton advised that even at the back of seven o'clock, there was occasionally much shouting and swearing from outside the Logie Baird and that he would now have to walk through pub goers on both sides of the street in order to reach his own door. In these respects, Mr Smeeton objected to the application.

Mrs Malan acknowledged that many of the issues raised were not material but reminded everyone that assurances were initially given by the Logie Baird and that most of the points raised today had occurred after opening. It would be, she

said, a case of the horse bolting after the stable doors were opened.

Mrs Gillies agreed with all that had been said by the residents of James Street and that members should pay attention to those who live here. It was an unsuitable place to enhance the new Argyll and Bute plans for the town centre development.

Mrs MacDonald agreed with everything that had been said by the other objectors.

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

Debate

Councillor Kinniburgh stated that he felt that policy LPBAD1 was the most pertinent and that there was a fine line to be considered in this application. However, he added that he must accept the advice of the Planning Officer and support the recommendation. Councillor Kinniburgh was concerned by what he had heard today regarding what was going on in the area but felt that many of the issues could be addressed during the licensing process.

Councillor McKay had similar concerns regarding the negative impact of some of the other licensed premises in the area. He referred to what Mrs Gillies had said regarding the deterioration of Helensburgh and hope that the licensing board would look closely at these issues. Councillor McKay felt that it should be possible to eliminate some of the residents' concerns and that a careful approach to this should be taken. He disagreed that the planning system had failed but acknowledged that it may be somewhat difficult for the lay person to comprehend. However, as he himself had received training in dealing with such matters, he felt confident in making his decision which was to support the Planning Officer's recommendation.

Councillor Devon stated that she still had some major concerns about another licensed premises in Helensburgh but that she would still support the Planning Officer's recommendations.

Councillor Reay felt that this had been a difficult hearing and whilst he acknowledged the good reputation of Wetherspoons themselves, he felt that the licensing aspect could not be overlooked and that it came down to the bad neighbour issue. He referred to earlier comments regarding the Planning Officer and felt that these should be withdrawn. Regarding the beer garden, it was his opinion that there would be an impact on the neighbourhood when combined with the other licensed premises nearby. Councillor Reay considered alcohol to be less expensive now and that this was reflected in this country's health problems. In relation to policy LP BAD1, Councillor Reay proposed to move an amendment for refusal of the application.

Councillor Dance stressed that she was being asked to deal with the issues in front of her and that she had no control over these as they were non material. The matters of concern were not for planning to deal with. She had some concerns over whether the land use in this case was appropriate but was confident that the other matters could be dealt with through licensing and felt

reassured by the comments from the Area Environmental Health Manager and Planning Officer. . Councillor Dance stressed the importance of close liaison with local residents and hoped that they too had been given some reassurances by the applicant and that in her view, the development could succeed in this location.

Councillor McNaughton said he had listened carefully to all sides and was reassured that the concerns could be addressed. He hoped that in this respect, the residents had also felt reassured. He indicated his support for the Planning Officer's recommendation.

Councillor McAllister agreed to support the Planning Officer's recommendation.

Councillor McMillan appreciated all the concerns but felt that Wetherspoons would add value to the street as it was a respected company and they had indicated their intention to work with the local community. In these respects, he indicated his support for the recommendations.

Councillor McQueen indicated support for the Planning Officer's recommendation.

Councillor Chalmers said that he had listened very carefully but that he still had one or two reservations. He acknowledged that Wetherspoons had a good reputation through their good practise and management and had outlined what could be expected. Councillor Chalmers accepted their assurance that the establishment would be more of a restaurant than a pub and would therefore have no hesitation in supporting the recommendation but with the added caveat on what should happen to the premises in the event that Wetherspoons were no longer there.

Councillor Kelly said that after all that had been heard, he felt that this was a good application and that it should be approved. He acknowledged the concerns of the residents and in his role as Chair of the Licensing Board, he was upset by some of what he had heard. He gave assurances that he would take steps to address these concerns in a different forum.

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 15 March 2011

Moved by: Councillor Daniel Kelly

Seconded by: Councillor James McQueen

Amendment

That the application be refused on the basis that the proposed development would have an adverse impact on the amenity of residents in the vicinity of the premises and that noise and other nuisance could arise from the opening of the premises and that this application was therefore contrary to policy LPBAD1.

Moved by: Councillor Al Reay

Seconded by: Councillor Gordon Chalmers

Decision

The motion was carried by 9 votes to 2 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. The development shall be implemented in accordance with the details specified on the application form dated 01/12/2010 and the approved drawing reference numbers AK01, AK02, AS01, AS02, AL01 revA, AL02 revB and AM01 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.

(Ref Report by Head of Planning and Regulatory Services dated 15 March 2011)

MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the GIBSON COMMUNITY CENTRE, GARELOCHHEAD
on THURSDAY, 7 APRIL 2011

Present:

Councillor Daniel Kelly (Chair)

Councillor Vivien Dance

Councillor Donald MacMillan

Councillor Mary-Jean Devon

Councillor Alex McNaughton

Councillor David Kinniburgh

Councillor James McQueen

Councillor Alister MacAlister

Councillor Al Reay

Councillor Neil Mackay

Also Present:

Charles Reppke – Head of Governance and Law

Belinda Hamilton – Area Governance Assistant

Howard Young – Area Team Leader

Stephanie Glen – Planning Officer

Campbell Divertie – Roads Technician – Statutory Consultee

Martin Croft – Garelochhead Community Council – Statutory Consultee

Colin Taylor – Garelochhead Community Council – Statutory Consultee

Gregor Cameron – Dunbritton Housing - Applicant

Ian Alexander – J M Architects –Agent for Applicant

Gavin McNab – J M Architects –Agent for Applicant

Mary Gray – Objector

Jill Palmer – Objector

1. APOLOGIES FOR ABSENCE

Apologies were intimated from:-

Councillor Robin Currie

Councillor Rory Colville

Councillor Roderick McCuish

Councillor Bruce Marshall

2. DECLARATIONS OF INTEREST

There were no Declarations of Interest.

3. 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 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.

Councillor Dance brought to the Committee's notice a point of order in that

Garelochhead Community Council as a Statutory Consultee, did not appear in the list of objectors on page 12 of the report by the Head of Planning. The reasons for this were explained by the Chair of the Garelochhead Community Council.

Planning Officer

Howard Young, Area Team Leader, gave a brief outline of the application, showing slides from various elevations and aspects of the site. He indicated the block plan and potential footprint of the development and explained the various elevation measurements and roof pitches. Mr Young advised that this was not the first application by Dunbritton and that the previous concerns had been regarding the design and that this had now been amended.

As this site was within the settlement boundary, the presumption was in favour of the development. Mr Young addressed the concerns regarding the surface water run off and advised that Ian Gilfillan, Flood Alleviation Manager, had considered that this could be covered by conditions and that after discussion with Mr Gilfillan it was recommended that a Drainage Impact Assessment be carried out and that an additional caveat could be added should the application be approved.

Applicants

Dunbritton Housing

Gregor Cameron, Development Officer – Dunbritton Housing, explained that following the acquisition of funding in 2008, and following an initial study to identify a site for affordable housing, outline planning had been sought at this site for 12 units of housing. Additionally secured funding had enabled the demolition of the existing building and general tidying up of the site. At the same time, Dunbritton had committed to this site with the support of the Council. The issue today was that of funding. Mr Cameron explained that we were now in an environment of trying to deliver a similar project but with budget constraints and that rather than walking away from the project, Dunbritton had elected to stay with it. At the acquisition stage, the preferred option would have been to rent the properties but that now we were looking at low cost housing for home ownership

Mr Cameron informed that as a need for 137 people to be housed had been identified, Dunbritton had secured a grant to develop the site. Various aspects of how to go about this had been looked at and it was acknowledged that they had wanted to deliver something they would be proud of. As a need for affordable housing in the area had been identified, it was agreed that two bedroomed flat accommodation would be most suitable.

The site itself, Mr Cameron explained, was challenging due to its topographical difficulties such as drainage. The new design would take up a smaller footprint, giving extra space for parking etc. This was a contemporary development to a high design specification which fitted in well with the parameters of the site.

Mr Cameron advised that he had attended two Community Council meetings and had listened to the residents. He acknowledged their concerns regarding the design of the development and had tried to address many of the issues raised.

In summary, Mr Cameron emphasised that Dunbritton were committed to the delivering of high quality affordable housing to the Garelochhead area.

J M Architects

Ian Alexander agreed that it had been useful to attend the Community Council meetings and that this had triggered a further meeting with the Planners. Mr Alexander then demonstrated a 3D design presentation of the proposals. He felt that there had been a reaction to the site due to its location as it was outwith what would be the historic area of the village. The residential proposal now here consisted of houses whose position was dictated by the topography of the site and that good plans were about good decisions.

Addressing some of the concerns, Mr Alexander explained that the car parking would not be seen from the road and that landscaping would be a feature. Only 80% of the site would be of a building nature. He gave reassurances that, should the development go ahead, a full service would be given. Orientation and good views had been incorporated into the design, together with good ventilation. The flats would be well serviced and that there would be visitor car parking in addition. Various options had been considered during the design stage and that good design features such as variety of fenestration, different facing materials would be incorporated. The colour of the building would be similar to that of the Hill House in Helensburgh and he demonstrated the position of the development within the Upland Road area on a computer 'drop down'.

Statutory Consultee

Roads and Amenity Services

Mr Divertie, Technical Officer, informed that the Roads Department had worked hard with Dunbritton Housing Association to come up with a scheme that would be in accordance with Council policy regarding issues such as drainage.

Garelochhead Community Council

Martin Croft had concerns that as the village comprised mainly of two storey developments, this would be the only four storey building and would therefore be out of place and that the original building would probably not now be allowed. Mr Croft referred to the presentation and highlighted his concerns that the design was box-like and would stand out when viewed from across the loch. He felt that there had not been much change from the original design and that as there was nothing else like it in the vicinity, it would dominate the village. The consultation had shown no support for the development and whilst there was little objection to social housing, that this design was unacceptable. Referring to the roads issue, he explained that even when coming up the hill today for the site visit, it had been busy and that there was now the potential for twice the amount of traffic coming up the hill. He emphasised again that there was no opposition for social housing but that the changes in the design in front of the committee today had done nothing to overcome the concerns of the local community.

Colin Taylor agreed with Mr Croft's comments and explained that in respect of the proposed planning application for the erection of a four storey residential building comprising twelve two bedroom flats at Scrumbles, Upland Road,

Garelochhead

Garelochhead Community Council was opposed to this development on the following grounds:

Their belief was that this building will be visually overbearing. It was an inappropriate design for the village and was totally incongruous with the neighbouring properties. Significantly the building's height and mass was such that it would be detrimentally imposing for those in the immediate vicinity and by the very nature of its design and prominence it would impair the visual amenity of the surrounding countryside and thus would not meet the requirement of sympathetic integration into the proposed context.

Garelochhead Community Council is of the opinion this development does not accord with:

Policy LP ENV 1 - Development Impact on the General Environment (C) & (D)

Policy LP ENV 19 - Development Setting, Layout and Design

STRAT DC 8 - LANDSCAPE AND DEVELOPMENT CONTROL

The Sustainable Design Guidance Topic 2

JM Architects in response to the letters of representation to the initial planning application 10/00385/PP under Policy LP ENV 19 - Development Setting, Layout and Design said on Development Design

"We propose a building which will raise the standards and expectations of the design of social housing. Dunbritton Housing Association has a proven track record in the quality of its new build house stock and that JM architects have won numerous awards for the quality of social housing that they have designed".

In respect of this statement it would be presumed the earlier scheme submitted under application 10/00385/PP would be considered appropriate in design but this was not the case and as described by Planning Officer Howard Young as a 4 storey, largely flat roofed building - which read from every elevation as a square block with an irregular mix of fenestration.

The present planning application has had some of these issues addressed but it was felt that the proposed developments height and mass in relation to its context and the surrounding country side was still the major stumbling issue

The Sustainable Design Guidance Topic 3 Working with Argyll and Bute's built Heritage advice on how to approach Suburban infill had been used to support this application by the Planning Officer who outlined the three possible solutions sited and the preferred choice selected being that of 'contemporary urban infill' as there is no prevailing architectural character in the surroundings of the site.

Mr Taylor outlines the examples utilised within the Sustainable Design Guidance Topic 3 of good examples of urban infill which were as follows:

- The development uses the local pattern of plot development
- New infill continues street pattern and has a similar scale and fenestration

to its neighbours

- New flats occupy the corner of a landscaped public square and are a contemporary re interpretation of the traditional buildings
- Roof lines follow through from adjacent traditional buildings

None of those outlined along with accompanying photographic support would appear to have endorsed the determinations of the planning officer in relation to this present planning application

- The Sustainable Design Guidance Topics 1 and 2 does at a very early stage set out its key aims
- Maintaining Local Character
- Relating to the local landscape and character

It states that new development must be carefully considered in the context of its setting

- The natural landscape of Argyll and Bute will often be the most dominant visual feature.
- New housing has to be well integrated into the landscape
- Consider the prominence of a proposed development
- Minimise impact

Within the Sustainable Design Guidance Topic's 2

Good siting on Page 19 shows a photographic example of insensitive development the two photographs used actually portray the surrounding countryside of Garelochhead

It highlights the prominence and unsympathetic development in relation to its surroundings

The community council feels that this proposed planning application demonstrates this very issue as did the photographic representation of the proposed development as supplied by the Client

The Community Council feels this demonstrates this application does not comply with this guidance

The original plans for the Scrumbles development was for two storey housing of a standard modern design and within keeping in dimensions of the neighbouring properties, a design which was very much favoured by the local residents but unfortunately due the issue of contamination that presented itself at a later stage the Architect and Client had to consider an alternative design solution to make good on the land acquisition and to make it financially viable

The outcome of this was to minimise the development's footprint and designing a multi storey building , we felt the interpretation of planning policy and guidance has had to be considered in a much broader context in order for the Architect ,Client and Planning Officer to demonstrate they have met with these policies and guidance and in doing so now risk unfairly burdening the neighbouring residents and local community as a whole with a building which would be considered disproportionate in size and mass for the neighbouring properties

with its height and mass being further accentuated against a back drop of natural undeveloped country side and this building would serve as a point of focus for those viewing the landscape

The neighbouring housing to the proposed development were built in response to meeting a housing need for employees for HMNB Clyde Naval Base and in keeping with those times in respect of planning and planning policy and the financial resources available from the government It could be argued that their design was not as sympathetic to their surroundings as they could have been and this should be borne in mind as there is a general view of the residents there that they are being considered less favourably to those from what would be considered a more affluent or influential area and this proposed development reflects that. This community council and community as a whole welcome new modern and stylish housing as it enhances our environment but they do not welcome this proposal

With regards to policy and guidance, in taking consideration of the design of neighbouring properties, Mr Taylor asked would this planning application therefore not endorse the granting of further similar developments should land within the vicinity become available

The Community Council had taken cognisance of the fact that there was a need for Social housing as outlined in the Local Development Plan and was not opposed to the village accommodating this need. There had been two housing developments providing social housing completed just very recently and planning permission granted for a third. They felt therefore that in consideration to village size and population they were meeting these needs quite well. This proposed development appeared to be strongly favoured in meeting with the demand for social housing but we strongly felt the issue here was in relation to its proposed design. We felt therefore that this planning application should be rejected or in consideration to the expense of redesign a solution would be to utilise the present design but reduce its impact by lowering the height which would in effect be to remove two storeys

Mr Taylor said that the panel may be aware that he had attended a Planning Protective Services and Licensing (PPSL) committee held at Kilmory Lochgilphead

It was a new experience for him and he had gone in support of Garelochhead community council re this planning application.

As was the usual format, photographs and illustrations were used to convey to the board the site and the proposed development. Mr Taylor was quite astonished and very disappointed to hear the comment of Councillor Vivien Dance who said when referring to their letter of representation under subject heading Tourism 'who would want to visit there?' Mr Taylor felt that this was made in a disparaging way which he had thought wholly inappropriate

Referring to the letter of representation, Mr Taylor said that the location of Garelochhead had been afforded a wealth of surrounding natural beauty through its landscape, panoramic views and its sea loch all of which has given much pleasure to its residents for many years and for local business an opportunity to embrace tourism with the aspirations to further enhance these opportunities in line with policy and assistance from Argyll and Bute Council with

its promotion of our local area as an area of natural beauty.

Garelochhead presently features in local tourist publications and forms part of the **Argyll and Bute Structure Plan 2002** – Tourism Infrastructure 'Water related Tourist Development Opportunities/Proposed Feasibility Study' as it lies on the tourist inland coastal route.

Presently underway around Garelochhead's immediate and surrounding countryside is the development of Argyll and Bute Councils 'Core Path Plan' for the Three Lochs Way which is seeking to promote under policy agenda the promotion of Health, Tourism, Transport and Economic Development. Enabling local residents and tourists to benefit further from our local surrounding countryside and its very close proximity to a national park which is expected to have a positive economic impact on local business and opportunity.

Objectors

Mrs Mary Gray

Mrs Gray endorsed what had been said about the caveat being added. She asked that if the issue of the drainage could be addressed now, why had it not been dealt with before.

Mr and Mrs Palmer, local residents indicated that they would wish to speak, and despite advice from the Head of Governance and Law to disallow this, the Chair ruled, and the committee agreed to allow them the opportunity to share their views.

Mrs Jill Palmer

Mrs Palmer said that in her opinion, the development was not in keeping with the surrounding area and that it would detract from the local amenity. She did not feel that the village would benefit from the development and that the car park would continue to provide an ice rink in the winter as it had always done.

Members Questions

Councillor Reay asked the Applicant for a point of clarity as to when the horseshoe development design was put forward to which Mr McNab replied that it was prior to their involvement. Mr McNab explained that when Dunbritton had originally looked at the site, the terraced design had been preferred but that once the site had been acquired, this had become financially unviable.

Councillor asked if a reduction in the size would be viable, to which Mr McNab said that it would not.

Councillor Reay asked if there was provision in the design for the collection of bins and waste. Mr McNab said that the existing access would be used for this purpose. Mr Young acknowledged that a turning area had been accommodated for bin lorries.

Councillor Reay asked if there were not difficulties with this. Mr Croft agreed that there were and referred to difficulties in access for fire engines. Mr Taylor, a

local fireman confirmed that this was the case and he had personal experience of these difficulties.

Campbell Divertie said that this matter had been looked into and was not considered an issue. It was the existing parking on the street by local residents which exacerbated the problem.

Councillor Kelly asked if it would still be viable if the number of units were reduced to which Mr McNab said that it would not. Mr McNab stated that the best solution was for this block design.

Councillor Chalmers referred to the need that had been identified by the 126 suitable households and asked if this was over the whole Dunbritton Area. He was advised that this was only in the Garelochhead area.

Councillor Chalmers asked how big the geographic spread this area covered. Mr Cameron advised that it covered from Faslane to Arrochar.

Councillor Dance asked Mr Croft why local residents had objected in February and yet Garelochhead Community Council had not lodged its objection until March, after the PPSL meeting. She said that a clear steer had been given on this issue.

Mr Croft explained that it was an oversight. The objection had been initially raised some 18 months prior and that the letter sent by him was the same as that sent in February. In effect, the objections remained the same in that this was the wrong place and wrong location for such a development. Mr Croft also had concerns that the 126 families would not be from the Garelochhead area.

Councillor Dance asked Mr Croft about the vote at the Community Council and what was the result of this vote. Mr Croft responded that it had been unanimously against the building.

Councillor Dance asked Mr Young about the Tourism Policy LPTOUR 1 and 2 as being relevant planning issues as they were not listed here.

Mr Young responded to this and explained what he had said earlier in that a judgement must be made as to what were the key issues. In this case, it had been felt that the key issue was design.

Councillor Kinniburgh asked the Applicant about the 80% building area occupation of the site and if it would be possible to widen the floor space to make the initial terraced blocks into three storey units.

Mr McNab said that this would impact on the ability for parking provision to be made. He referred to the underground water attenuation system indicating that it had not been shown.

Councillor Kinniburgh asked about the highest point of the buildings in Hepburn Road and how high this would be in relation to the proposed flats, to which Mr McNab responded that it would be approximately 2metres higher.

Councillor Devon asked the Planning Officer if a Development Impact

Assessment should be asked for to address the contamination issue.

Mr Young responded that this had only come to light when the applicants conducted an investigation and that it was a separate issue. In relation to the surface water run off, the site was previously a nightclub and had hard surfacing such as car parking areas etc. It was proposed to soften the area with landscaping and a SuDs condition would be added.

Councillor McKay asked the Architect what their interpretation of the view of the community. Mr McNab replied that he considered that the application had been well received. There had been varied comments and that it had not been universally disliked.

Councillor McKay asked the applicant for an indication of the national housing allocation grant to which Mr Cameron responded that it had been £90k per unit in 2008 and at 31 March this year was £70k. This had now been further reduced and it had been fortunate that Dunbritton had secured prior to the 31st March date.

Councillor McKay asked about the design principle on environmental impact and asked if the building, although slightly different from adjacent buildings, integrated with the landscape.

Mr Young felt that when viewed from the immediate area, it did although he accepted that those viewing it from further afield may have some issues. He added that in relation to Appendix A, it was a brownfield site. It had previously been used as a nightclub and that the original standalone design would have been out of keeping. Mr Young said that whilst he had not like the original box like design, he was happy with this one and that it would be of interest.

Councillor McKay asked Mr Divertie about whether the car parking at the rear of the property would accommodate all the vehicles connected with the residents. Mr Divertie said that the car parking numbers had been calculated on the criteria of the Council's policy.

Councillor Reay asked the Applicant what proportion of the 126 interested parties was from the Garelochhead area.

Mr Cameron explained that applicants would have highlighted Garelochhead as their preference although they may not be from this area but that applicants from Garelochhead would be favoured.

Councillor Dance said that she felt that allocation to local people should be encouraged and asked if it were possible to add a condition of recommendation to allocate support to local people.

Mr Cameron said that as the funding came from Scottish Government, this would not be possible and that there would be questions asked if weighting were given to these applicants and that the system of other RSLs working in tandem did not apply to Dunbritton.

Councillor Dance asked whether they would be open to discussion around this issue, to which Mr Cameron responded that it would be up to the Management

Committee.

Mr Young said that it would be beyond his planning remit to impose a condition of this type.

Summing Up

The Chair then asked that the summing up process would now begin and ascertained that no new information could be introduced at this point.

Planning Officer

Mr Young said that both the Roads Department and Environmental Health had no objections to the proposal and that the key issue was that of design and that he was happy with this. He would therefore recommend approval of the application.

Applicants

Gregor Cameron said that a need had been recognised for affordable housing and that this was the best design possible within the existing funding parameters. He had listened to what has been said by the Community Council, architects and planners and looked forward to working with the local community.

Statutory Consultees

Campbell Divertie had nothing further to add.

Martin Croft said that the village had been run down and that a lot of good work was currently going on but that this would be a predominant feature which would stand out. He said that most people did not support the development and he had major concerns that the potential residents would be from outwith the area. He was also concerned that there would be substantial costs regarding the decontamination of the site and that there would be problems with roads, and access to the site.

Colin Taylor said that he still had concerns regarding the earlier comments made by Councillor Dance.

Mrs Mary Gray said that she had found the presentation interesting and wondered why none of the photographs had shown the areas of concern.

Mrs Palmer had no further comments to add.

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

Debate

Councillor Kinniburgh said that it was always difficult to reach a judgement and that in this case it was particularly difficult as there was no particular type of building style in the village. Councillor Kinniburgh felt that he must accept the

recommendation by the Planning Officer who had worked together with the applicant to come up with an acceptable design and that there was no issue with privacy in this design.

Councillor McKay had taken on board all the comments made by the Community Council about the difficulties in the way reports were set out. He explained that the PPSL committee comprised of members from all areas of Argyll and Bute in order that their local knowledge could be provided to those members unfamiliar with a particular area and encouraged members of the community to speak to their local councillors to address any concerns. In reference to the description of the development as being the wrong building in the wrong place, Councillor McKay felt that it was a different building in a difficult place. He asked that any concerns were addressed and indicated his support for the Planning Officer's recommendations.

Councillor Devon was concerned that conditions should be added to address the drainage problems and had been reassured by the Planning Officer's intention to add the relevant conditions. She indicated her support for the Planning Officer's recommendations

Councillor Al Reay informed that he had a dilemma regarding the matter of massing and design. However, he noted that the surrounding properties were of no significant architectural merit. He too was concerned that the matter of drainage was addressed. He stressed that it was essential that the funding was utilised and indicated his support for the application.

Councillor Dance said that it was important to see the context of the objections and that we must go on the evidence. There had been 19 objectors, a quarter of which had come from around the actual site. In this context, she was unsure that it was a true representation of the views of the whole village. Councillor Dance acknowledged that the drainage issues would require to be addressed and that this situation would improve with a SuDs condition. If further roads issues emerged, dialogue should be entered into. She said that one of the Council's planning policies stated that it was not necessary to perpetuate what is already there and that new mixed development should be introduced. It was on that basis alone, that this was predominantly residential, she would go with the Planning Officer's recommendation. She did not agree that the funding element was relevant.

Councillor McMillan had found this a difficult case but that he recognised the need for social housing. He did acknowledge the apprehension highlighted by the Community Council over the design. He indicated his support for the Planning Officer's recommendation.

Councillor McAlister said he would support the Planning Officer's recommendation.

Councillor McNaughton agreed to support the Planning Officer's recommendations

Councillor McQueen said that he would be supporting the application but that the issue of drainage should be addressed.

Councillor Chalmers said that he had to look at the financial situation and that an all or nothing situation had now arisen due to the H.A.G funding levels. If refused, other potential projects such as this would not go ahead and Councillor Chalmers felt that there was a growing need for the smaller, simpler products, although he was not certain that a local need had been identified in this particular instance. However, he was minded to approve the Planning Officer's recommendation.

Decision

It was unanimously agreed that this application be approved subject to:-

- i. The conditions and reasons as set out in the supplementary report by the Head of Planning and Regulatory Services dated 30th March 2011.
- ii. The addition of condition 12 - that prior to commencement of works a drainage impact assessment and drainage layout shall be submitted for the prior written approval of the planning authority. The assessment should be in accordance with the SEPA guideline "Drainage Assessment- A Guide for Scotland" and shall identify mitigation measures in accordance with the SUDS Manual CIRIA C697 which will ensure that there is nil impact in terms of surface water run-off on the adjacent watercourse and surface water drainage systems from the development site with surface water attenuation being provided for the difference between the 1 in 2 year pre-development run off and the 1 in 200 year critical event including climate change. Any mitigation measures required as may be detailed in the drainage assessment/layout shall be fully implemented prior to the occupation of the first dwelling unit. During construction works temporary SUDS for surface water attenuation and silt removal shall be used in accordance with SEPA guidelines.

Reason: To ensure that there is an acceptable drainage system in place for the development and in the interests of health and amenity.

(Ref: Report by Head of Planning and Regulatory Services dated 30 March 2011, submitted)

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the QUEEN'S HALL, DUNOON
on FRIDAY, 8 APRIL 2011**

Present: Councillor Daniel Kelly (Chair)

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| Councillor Rory Colville | Councillor Neil Mackay |
| Councillor Robin Currie | Councillor Donald MacMillan |
| Councillor Mary-Jean Devon | Councillor Roderick McCuish |
| Councillor David Kinniburgh | Councillor James McQueen |
| Councillor Alister MacAlister | |

Attending: Kenneth Macdonald, Area Manager, Customer Services
David Eaglesham, Area Team Leader, Development Management
Mark Lodge, Statutory Planning Officer
Paul Farrell, Roads Engineer
Mr Bruce Weir, CWP, Applicant
Mr Alex Mitchell, James Barr, for Applicant
Mrs Anne Gabriel, Dunoon Community Council, Consultee
Mr Barr, Dunoon Community Council, Consultee
Mr Bell, Hunter's Quay Community Council, Consultee
Mr Paul Walker, Supporter
Mr George Johnston, Supporter
Mr Kenneth Adams, Supporter
Mr Francisco Gonzales, Supporter
Mrs Dawn Miller, Supporter
Ms Alcott, Supporter
Mr David Mair, Objector
Mr Charles Black, Objector
Ms Jennifer Harrison, Objector
Ms Dinah McDonald, Objector
Mr Fraser Littlejohn, Objector
Mr Graham Laing, Objector
Councillor Bruce Marshall, Objector
Mr Alistair Murray, Objector
Mr Norman Wright, Objector
Mr Alan Livingstone, Objector

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Chalmers, Dance, Marshall, McNaughton and Reay.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

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

The Area Manager, Customer Services advised the Chair seven further letters of support and one letter of objection had been submitted since the agenda for this meeting had been issued. These were set out in supplementary report no.3 dated 7th April 2011. Having noted that these further letters of representation raised no new issues it was agreed to circulate the aforesaid report.

The Area Manager, Customer Services outlined the procedure that would be followed during the meeting and invited those who wished to address the Committee to identify themselves.

Planning Authority

The Area Team Leader, Development Management advised that the application before the Committee was for the erection of Class 1 food store with associated development to include car parking, access road, road bridge, petrol filling station and engineering works on the existing Walkers Garden Centre and land at the rear. The application is for Planning Permission in Principle which used to be outline planning permission. Major development should explain proposals and take the views of the public, this has been done. The application has been supported by pre-application consultation report and consultation report stage II, design and access statement, planning and retail statement, transport assessment, flood risk assessment and site flooding/sustainable drainage overview study and an ecology report. There are no objections from Consultees which can't be addressed by planning conditions. There has been 915 letters of objection and 1091 letters of support of which many are standard letters. The application site lies within the Main Town settlement zone of Dunoon, as defined in the Argyll and Bute Local Plan. The application site included the eastern half of Potential Development Area 2/5 'Dunloskin' that is identified in the Local Plan for medium density housing with 25% affordability. The Area Team Leader spoke on the Retail Statement advising that the available expenditure in Dunoon catchment is £74million, the convenience expenditure is £32million and $\frac{1}{3}$ of the locally derived expenditure is 'leaked' out with the catchment. The proposed store will have a turnover of £17.8m comprising £12.9m convenience and £4.8m comparison goods. The trade diversion to the town centre is £3.1m and if you base this on the larger store it will reduce the convenience leakage from £11m to £4m therefore if you build a bigger store it will stop people from leaving Dunoon to shop. A smaller foodstore may meet policy criteria and be sequentially preferable, the overall impact of 9.1% is considered significant and he recommends that planning permission be refused for the reasons set out in the report.

Applicant

Mr Bruce Weir said CWP are a Scottish based development company

specialising in food stores for rural areas. He said they had obtained planning permission for stores in Kelso and Kirriemuir. Mr Weir advised that his company works with the 5 major supermarkets (ASDA, Morrison's, CWS, Sainsbury's and Tesco) and that 3 of these operators are under scope for a 40,000sq.ft. store with good car parking and a filling station. Mr Weir said that Dunoon has a large population, very many of whom spend their money outwith the area and it was realised that the demand and money was going to Inverclyde and beyond. Mr Weir spoke on site selection advising that they having analysed the town and the catchment area and the optimum store size had been determined to be 40-45,000sq.ft. with car park and filling station. He advised that the Walker family store will be relocated into Dunoon and that the proposed development would not adversely affect the housing development at Dunloskin Farm. He said the foodstore would be a catalyst for the housing in terms of the provision of a bridge over the Milton Burn. Mr Weir spoke on the new planning legislation advising that he had undertaken public consultation, commencing in January 2010, three months prior to the planning application being submitted, and continued until today. He had an online petition and a Facebook page along with job creations with Jobcentre plus and has over 2000 names of support. Mr Weir said he was confused over the amount of objections because at the PPSL meeting there had only been 30 objections, 95% of which object to the non-food goods that are currently sold in the high street. Mr Weir asserted that there is capacity for further non-food retail in Dunoon.

Mr Alex Mitchell said he was a planning adviser for James Barr. He advised that the Planning Service's approach to the Campbeltown supermarket development gave him some comfort, but that the same approach has not been used in respect of the Dunoon proposal. Mr Mitchell said that the key factors of the planning permission in Campbeltown are the same as Dunoon. He referred to the reasons for refusal set out in the report, saying that significant weight is given to the National Grid site, but the fact that this area exists is not enough, it has to be available. He asserted that the National Grid site is neither better nor suitable. The Retail Impact Assessment must be able to show the alternative site is able to do the same as that proposed. The National Grid site has a major flooding issue, it would only fit a 20,000sqft store and doesn't have a petrol station. Mr Mitchell said the size of the store is key, Cowal has significant leakage of £11m per annum and this size of store will arrest this leakage by clawing back £7m. Mr Mitchell said the applicant has agreed a contribution towards the CHORD project. He referred to the loss of affordable housing, advising that the applicant is happy to address the shortfall by way of commuted payment. Mr Mitchell said that all of the issues raised in the reasons for refusal could be addressed by conditions.

Mr Weir said that the main contactor for the building of the store will sub-contract to firms in the local area. He said at the moment people drive passed two supermarkets to shop over the water. Mr Weir spoke on competitive pricing advising if there was some competition the prices will fall. Mr Weir spoke on location saying there currently is a bus stop outside Walkers and the development is planning for a stop outside the store. He said the size of the store was important with 40,000sq.ft. and good car parking and filling station, and that this would not fit on the smaller National Grid site. He spoke on the issues SEPA have with the flooding at the National Grid site. Mr Weir spoke on the public consultation advising the development has significant support, saying that the traders in Kelso were 100% behind them because they felt the store

would keep people in town and he feels that the foodstore will help Dunoon town centre. Mr Weir reiterated that the leakage expenditure is significant. The housing development at Dunlosking Farm will benefit from the bridge and road infrastructure being put in place. He said that CWP are excited about delivering growth to the area and asked for the application to be approved.

Consultees

The Roads Engineer advised that his Service had submitted a report to the planners setting out required design standards for this proposed development. He had nothing further to add to this report.

Mrs Gabriel, Dunoon Community Council advised that CWP had met with them at a public meeting where voting slips were circulated. The result was that the majority of those present were against the development and that Dunoon Community Council had objected to the proposal on the grounds of traffic congestion, Milton Burn flooding and light pollution.

Mr Barr, Dunoon Community Council questioned the figures quoted by the developer. He stated that an ASDA store had been opened in Girvan, ½ a mile away from the town centre and there has now been a noticeable drop in trade there. He asserted that the internet and superstores are killing the local area and that this development would not improve the town centre but destroy it.

Mr Bell, Hunter's Quay Community Council, said that his Community Council supported the development, especially since it would create jobs in Dunoon.

Supporters

Mr Paul Walker gave background information into his business advising they moved to the current location in 1992 and since then they have added a café and storage facility. He advised that he did not consider his business out of town and if the application by CWP was approved his business would relocate and grow, this would safeguard 22 jobs and would also create new ones. Mr Walker said that he had provided lists of names who support the development, saying it was vital to support the economy and job creation. Mr Walker felt that the local population would support their local stores because relationships are built with their customers. Dunoon loses millions of pounds every year to shoppers going across the water. Dunoon needs to cater for the younger generation and asked for the Members to approve the application.

Mr George Johnston said he was representing his family advising that in 2005 lots of fields on his farm were classed as a Potential Development Area (PDA). Kier Homes made an application, this application is still under consideration but due to the down turn in the housing market and the expensive linkage to create these houses it would affect how much they would cost. The Developer is proposing to provide an alternative access for Kier Homes and this would provide the houses with more certainty with access to the foodstore and residential development which will ensure PDA land can assist housing in Dunoon & Cowal area. Mr Johnston said the Scottish Government are relaxing planning restraints in this economic climate to help housing development and CWP's development will assist housing development. Mr Johnston further advised that CWP have agreed to make a financial contribution towards the loss

of the affordable housing. Mr Johnston said the foodstore would be a valuable addition to Dunoon as the gateway to the Highlands. The development will create a speedy delivery of the housing on the site. Mr Johnston urged the Committee to approve the planning application.

Mr Kenneth Adams stated that Dunoon is a holiday town, advising it has changed since 1822 when Castle House was built and people came down the water to stay. The town welcomes tourists and visitors and it has changed from inviting families to older people. He said development is needed and CWP have agreed a payment towards the CHORD project. Mr Adams explained that visitors don't come to the area to visit a supermarket they come for the sea views. It is advantageous to keep people in Dunoon.

Mr Gonzales advised that he had been a resident in Dunoon since 2002 and he is seeking employment. He explained that there are 780 people on job seekers allowance in Dunoon and that if the supermarket were to employ some of these people they, in turn would be contributing to the local economy.

Mrs Dawn Miller advised the Committee that she is a local business woman and she speaking on behalf of many of her customers. She stated that she wants to encourage people to come to Dunoon and to stop people from shopping over on the other side. Mrs Miller explained that there are items that you can't get in Dunoon eg school clothes. She said that she visits ASDA on a regular basis because of variety and price. Mrs Miller explained that a lot of her customers were from out of town and at the moment they go to Inverclyde or Clydebank for their shopping. When asked if they would come into Dunoon if their was a bigger supermarket they agreed they would. Mrs Miller referred to the assertion that the site is 'out of town', and stated that if this is the case, the Fire Station, Hospital, local High School and one of the largest housing areas must also be classed as out of town. Mrs Miller said the supermarket would bring people into town and asked Members to approve the application.

Ms Alcott said the town needed a bigger supermarket because the existing ones don't cater for everybody's needs. She said it is time that Dunoon moved forward.

Objectors

Mr David Mair advised he owned a Pharmacy in Dunoon. He spoke in the non-food products in the proposed supermarket, and the potential impact on town centre traders in this sector, around three quarters of the retail shops in the town centre sell products other than food. Their continuing viability is closely related to that of the town centre as a whole. The recommendation of the Head of Planning is to refuse the application for the proposed supermarket. Mr Mair said the protection of the town centre should outweigh the need to precisely meet the requirements of a particular retailer's business model. It is recognised that the major supermarket operators are continuing to expand their non-food range, knowing that the opportunities for volume growth in the food sector are limited. The Institute of Grocery Distribution has estimated that non-food sales in supermarkets grew by 61% between 2004 and 2009. This expansion, in conjunction with their brand strength, competitive pricing and the convenience of one-stop shopping, puts pressure on traditional town centres, especially those at the smaller end of the size range, Dunoon town centre falls into this category.

The area of the proposed supermarket devoted to non-food retailing would be of sufficient scale to encourage one-stop shopping trips. The applicant's assumptions about non-food trade in the proposed supermarket focus largely on the loss of trade from town centre shops, and a considerable clawback of spending across the water. In a more urban area it is likely that trade losses would be spread over a larger number of shops without any one shop experiencing a large proportion of the loss of trade. In Dunoon's case, the loss of trade assumptions are largely focussed on the town centre and reduction of spending across the water. There is no certainty about the applicant's assumption that a reduction in spending across the water will considerably outweigh the loss of trade to the supermarket from non-food shops in the town centre. Loss of trade from the town centre could well be greater than assumed because of the new opportunity that the proposed supermarket gives to make one-stop shopping trips as well as the likelihood that the proposed supermarket will be selling similar non-food items to those sold in many of the town centre shops. Having stressed the importance of non-food retailing to the town centre, and if it is deemed appropriate to have an additional supermarket, which as the Head of Planning suggests could be accommodated at the gas works site, it is considered that only a minimal amount, around 10%, of the net floorspace should be for non-food sales. The application indicates that the proposed supermarket will have a food sales area of 1,448sqm. This is considerably less than the larger supermarkets. Maximising the food sales area would allow the offer of a fuller range of food resulting in a supermarket that would be more competitive with the larger supermarkets elsewhere. Although the principal function of the proposed supermarket is the sale of food, it is suggested that the Committee should bear in mind the importance of the non-food retailers in the town centre to the continuing viability of the town centre.

Mr Charles Black advised the submission has not been put forward by a supermarket seeking planning consent, it is being put forward by property developers who see an opportunity to profit from developing a site on behalf of unnamed potential buyers. The applicants endeavour to convince us that a benefit of another larger foodstore would be the clawback of shoppers who go across the water for their weekly food shopping, a one day survey suggested that 30% of people do their weekly shop in this manner. The Planning Department don't accept this figure, they say that it would be wrong to assume that the majority of Cowal residents make shopping trips out with the peninsula for convenience proposes only. The Head of Planning states "the protection of the town centre and it's established retailing outlets as a retailing and tourist centre far outweigh any clawback of perceived leakage to areas out with the catchment", they also state, "the proposed large foodstore would not be readily accessible by shoppers on foot and is not within easy walking distance from the existing town centre" He also recognises "the more fragile nature of Dunoon's High Street shops" and "the potential impact on existing comparison retailers has not been sufficiently demonstrated". If the purpose is to provide Dunoon and Cowal with a wider choice of food shopping this could be achieved nearer the town centre on the gasworks site. The development will not purely provide a wider choice of food shopping, it will have considerable floorspace for non-food items on the one stop shop basis, and this will be most serious for those who are already suffering from the current economic situation. Mr Black spoke on the figures used to justify the proposed development. He said the applicants claim that 280 jobs will be created, this was challenged in a report by the National Retail Planning Forum in 1998 which found that after a period of time the net

effect on jobs was a reduction not an increase. He said that the developer claim that there will be local construction jobs, this will be temporary and it is known that supermarkets prefer national contractors. Mr Black spoke on the Retail Impact Assessment, saying that Planners have to take into account the effect that a development may have on other shops selling a similar range of products, the goods sold in an edge of town supermarket can be found in our local main street. The disadvantage to town centre outlets, is that due to massive buying power of the supermarket they can drive down prices to a level that town centre shops cannot compete with and still remain viable. This leads to a downward spiral of staff cuts, lack of investment and ultimately closure, three more shops have already closed in Argyll Street bringing the total number of empty shops to twelve. Mr Black spoke on the Scottish Federation of Small Businesses report commissioned in 2006 to assess the impact of large edge of town supermarkets and spoke on its findings. He spoke on figures from that report and explained that these figures are irrefutable. Mr Black said the success of a town is directly proportionate to the vitality and viability of its town centre and asked Members to refuse the application.

Ms Jennifer Harrison said she runs one of the 7 cafés in the town, advising she services the community and the older people of the town. She said a café in the supermarket will put considerable pressure on the tearooms already in the town.

Ms Dinah McDonald said she has lived in Cowal for 40 years working in the tourist industry. She said she has heard about leakage and feels that people will probably go over the water anyway. Dunoon is a destination and a lot of people come for the day and the town centre is what Dunoon has to offer. Cowal Marketing Group said the proposed development was unfair to the wider trade in shops. The town centre orders something to visitors and they won't want to see boarded up shops. Ms McDonald said that there are numerous examples where new supermarkets affect the town centre and asked Members to turn down this application and don't jeopardise the fragile town centre.

Mr Fraser Littlejohn said he was speaking on behalf of Montagu Evans who represent the National Grid site. The National Grid site is preferable in relative terms. In terms of the sequential approach it is as close as possible to the town and is part of the Local Plan. The National Grid will be submitting a pre-planning application in mid August and National Grid have taken the decision to promote the site. He advised that although the site can flood, appropriate mitigation measures will be put in place. The residual risk is low and would not compromise the development of the site. He reiterated that the National Grid site is available for redevelopment and is preferable to the Walkers site.

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

Mr Graham Laing spoke on behalf of GL Hearn who represent the Co-operative Group. He asked Members to support the planning officers and refuse the application. His clients have existing business throughout Dunoon with the Co-op Pharmacy and the Co-op foodstore. Mr Laing advised that the health of Argyll Street would be impacted upon adversely by the new supermarket. He said the Co-op is committed, with strong connections to the towns providing price comparison and competition. He said a store of the size proposed would not be complementary to the existing retail provision in Argyll Street, it would be a one stop shop and swallow up Argyll Street. He said the proposed store would

trade 25% below the average level because of its size and location. Published average data shows medium size stores in rural areas has a lower average impact on retailers and the Planners share this view. He agreed that employment is an attractive proposition but that the proposal would also result in job losses in Dunoon town centre. The development is contrary to Local Plan Policy. He asked that Members refuse the application.

Councillor Marshall said the public were apposed to the development, this was reinforced at the meeting in July where 2 out of 3 attendees didn't want a large supermarket at the outskirts of town. He said as Chair of the Area Committee it was his job to uphold the viability of the town centre. The Forward Dunoon & Cowal Group promote the area and receive Town Centre Regeneration money to regenerate the town, this funding was mainly spent in Argyll Street. The CHORD funding will be spent around the waterfront and Queen's Hall. The consultation by the Land Use Consultants, undertaken in partnership with HIE and the National Park, found that the local retail sector is fragile due to Inverclyde. That had been in 2006, and he posed the question that if it was fragile then, what must it be like now. Councillor Marshall said he has some sympathy for the supporters but having a large shop selling lots of non-food items would lead to the collapse of Argyll Street.

Mr Alistair Murray said he owned the Cot House services. The provision of jobs in the new supermarket would be mostly part time – 16 hours a week - this is not sustainable. The clawback of the leakage to out of town supermarkets will not put money back into the town, it will go to the owners of the new supermarket. Referring to supermarket petrol prices he advised that petrol in Dunoon will always be more expensive than the central belt due to the time and distance for delivery. If a local supermarket was to reduce petrol prices the other local petrol stations would close.

Mr Norman Wright said he has been an independent retailer for the past 20/30 years. He said that the town needed to move forward because staying still was dangerous but Dunoon needed to move forward as a community and not as a clone town. He said the town centre is different with the variety of shops. He said the British Shops and Store federation said large supermarkets were the slow death of the high street. He said he represented the stores and asked that Members protect the unique High Street.

Mr Alan Livingstone said that the problem with a one-stop shop is people assume you can't get the items elsewhere. He queried whether a new large supermarket would draw people into Dunoon for shopping, and whether the clawback from the leakage be kept in the town. The main beneficiary will be the supermarket. He said the jobs created in the supermarket would be displacement from job losses in the High Street. He said Dunoon Ceramics has closed, and others are struggling. The local businesses rely on tourism and visitors want a range of shops to wander around on wet days. The town is trying to grow through the BIDS scheme and they don't need a large predatory supermarket. There could be a smaller one located on the gas works site. He asked the Committee to refuse the application.

Question Time

Councillor McCuish asked Mrs Gabriel if the concerns raised by Dunoon

Community Council in relation to traffic, noise and flooding were satisfied by the comments provided by the Roads Department, Public Protection and SEPA respectively as set out in the report by the Head of Planning. Mrs Gabriel advised that Dunoon Community Council retained its concerns as the proposed development is at the Fire Station, Hospital and the main route to the Grammar School, and this would aggravate an already busy area, it would also cause noise pollution for the Hospital which was across the road. On being asked if she disagreed with the Roads Department, Public Protection and SEPA she advised that she did.

Councillor McCuish further asked Mrs Gabriel how many people had attended the public meeting to which she had referred earlier. She replied that approximately 300 people had attended. Councillor McCuish then asked Mrs Gabriel to confirm his understanding of the population of Dunoon as approximately 9000, which she did.

Councillor Devon asked Mr Farrell if he had any concerns about the National Grid site, in terms of whether there might be problems with cars exiting onto Argyll Street from there and from the Co-op further down the road. Mr Farrell advised that he would have to look at the plans in detail but that the draft plan provided shows the access as being onto Hamilton Street, which has its own problems with the proximity to the junction in Argyll Street. If the traffic was exiting onto Argyll Street he would have to look at the proximity to Queen Street, McArthur Street and the Library and would probably ask for a roundabout to be installed.

Councillor Devon asked if Kier Homes are still committed to the housing Development and the Area Team Leader advised that there is planning permission for the whole site, but he has received further information that Kier Homes are content to work with the applicants.

Councillor Devon asked the objectors whether they would be content with a proposal to develop a supermarket on the National Grid site. Mr Black said no, but that it would be preferable.

Councillor Currie asked for clarification on the 'out of town' criteria and the Area Team Leader advised that the Argyll and Bute Local Plan has a sequential approach and this location is classed as "out of town" because it is within countryside, or more out of town than the other available site.

Councillor Currie asked the Area Team Leader whether the plans for the housing are being hindered due to this proposal. Mr Eaglesham advised that the housing development has planning permission but there has since been an economic downturn. Furthermore the Planning Department have been asking for missing information from the housing developers. There is therefore no guarantee that the development would have gone ahead earlier. If the bridge was constructed as part of the supermarket development this would reduce the current constraints on Kier Homes in terms of site development.

Councillor Currie further asked the Area Team Leader is he accepted that 1 in 3 people do their shopping out with the area. The Area Team Leader advised that the extent of the leakage is based on surveys from a small sample of the population and they are not robust. The level of clawback is open to contention.

Councillor Colville asked for clarification in regard to the level of representation as on 16th March there had been 29 letters of objections and 20 supporters but these figures had now increased dramatically. The Area Team Leader advised that very few representatives have composed letters, the vast majority being standard letters/petitions.

Councillor Colville asked for clarification on the locational impact - on page 30 of the report there is reference to an impact but on page 39 it is stated there is none. The Area Team Leader explained that there is no contradiction as each of the assessments referred to is looking at a different strand of the proposed development.

Councillor Colville asked for clarification in regard to the indication from the applicants that they would look at commuted payments to offset the loss of affordable housing. The Area Team Leader advised that if Members were minded to approve the application, this would be the subject of further discussion with the applicants.

Councillor Colville asked about the settlement strategy, insofar as he felt that as a lay person Dunoon started at Sandbank. The Area Team Leader advised that the Local Plan differentiates between the two.

Councillor Colville asked if it was up to the Committee what weight they gave to the Retail Impact Assessment and the sequential test and asked how members were to make a decision today when there was no planning application for the gas works site. The Area Team Leader advised that the Members cannot prejudice any application on that site.

Councillor Mackay referred to the size of the development and asked what the difference would be, in terms of jobs created, between a 30,000sq.ft. store and one of 40,000sq.ft. Mr Weir advised that a 40,000sq.ft. store would equate to 280 part and full time jobs and this would be reduced in direct proportion to any reduction in square footage. He accepted that a supermarket could be put on the National Grid site but the maximum size of a store on that site would be 20,000 sq.ft.

Councillor Mackay referred to the applicant's reference to the Campbeltown store, saying that the Campbeltown store may be outside the area but there is also a Section 75 agreement which is different to this case. Mr Mitchell said that he referred to the Campbeltown store because it had similarity with settlement, i.e. a major development located in town.

Councillor Mackay asked whether an application for development of the National Grid site would have been subjected to the sequential test. The Area Team Leader confirmed that this would have been the case.

Councillor Mackay further asked if the National Grid site would have passed the sequential test and the Area Team Leader said it would depend on the application received.

Councillor Kinniburgh asked for clarification from Mr Black in regard to his assertion that the town centre extended from Ferry Brae to the Burgh Hall,

although he had later said that Morrison's was within the town. Mr Black advised he was talking about distances from the town centre to the new development and in that case Morrison's was not classed as in the centre of town.

Councillor Kinniburgh asked if Hunters Quay Community Council supported the development and if they had a public consultation. Mr Bell said that the Community Council had not undertaken any formal consultation but all of those asked supported the development.

Councillor Kinniburgh referred to the statement by the applicant that they consult with 5 different supermarkets, including Morrison's and the Co-op. He asked if the development was to go ahead would one of the existing shops be closing. Mr Weir said that they had spoken to both Morrison's and the Co-op, who are happy with their current provision in Dunoon. Interest in the proposed site has been expressed by Tesco, Sainsbury and Asda.

Councillor McCuish asked the Community Councils if they felt the area would benefit from a new supermarket and Mr Bell, for Hunters Quay Community Council, said it would, whereas Mrs Gabriel, for Dunoon Community Council, said it is debatable.

Councillor McCuish further asked the Community Councils if they felt that it would increase employment. Mr Bell (Hunter's Quay Community Council) felt it would increase employment, whereas Mrs Gabriel (Dunoon Community Council) felt it would reduce employment.

Councillor Colville asked if the National Grid site did not exist would this site pass the sequential test. The Statutory Planning Officer advised that if the National Grid site was not there then this site would be the next sequential site but it would still be adverse to the town centre and be recommended for refusal. Councillor Colville further asked if this was up to the decision makers to determine what weight to place upon the Retail Impact Assessment. The Statutory Planning Officer said it would depend on the level of impact and whether the impact assessment was robust.

Councillor Devon asked Mr Walker if he felt his shop was disadvantaged because it was out of town and he replied no.

Summing Up

Planning Authority

The Area Team Leader, Development Management reiterated that the Retail Impact Assessment is based on assumptions about leakage from the town and the needs of the town can be met by a smaller store. This application is not acceptable and he asked Members to refuse the application for the reasons set out in the report.

Applicant

Mr Weir summed up by saying the National Grid Site is not up for debate and that it falls short of the operator's requirements. He said the town would benefit from competition and choice and CMP have offered a contribution towards the CHORD project and a sum for the loss of affordable housing. He said he knows what operators are looking for and the National Grid site could not deliver the size, amount of car parking or a filling station. He also said the supermarket would not take over the town, it would provide investment and jobs and asked Members to approve the application.

Consultees

Mr Barr, Dunoon Community Council said he stood by their objections and that the applicants were the only people who would gain from this development. He felt that some of the information the applicants had provided was incorrect and the proposal should be rejected.

Supporters

On being asked to sum up the supporters had nothing further to add.

Objectors

Mr Littlejohn reiterated that Montague Evans had tested the size of the food store and layout for the National Grid site and had hired a team of consultants to take this forward.

Councillor Marshall reiterated that he was concerned that people would use the 238 free parking spaces at the supermarket and the town centre would be neglected, he questioned the distance from the town centre and asked if Members were mindful to grant the planning permission then to make sure the promises made by CWP are kept.

Mr Livingstone said if Members were in any doubt about the figures quoted then they should refuse the application, their decision was critical for Dunoon. He said there was a compromise of a smaller store on the National Grid site, this store would not take over the non food retail and therefore not take over the town.

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

Debate

Councillor Kelly advised that he had listened to the cases put forward in regard to housing, job losses and creation and the affect the supermarket would have on the town centre and supported refusal of the application.

Councillor Kinniburgh advised that he had a difficulty with the sequential test and felt the supermarket was too far away from the centre for the shops to derive any benefit. He advised that he supported the recommendation by the Head of Planning that the application be refused.

Councillor Mackay advised that Dunoon needed more competition and was disadvantaged by not having choice but felt that the developer could not demonstrate the sequential test and for this reason had to agree with the Head of Planning and refuse the application.

Councillor McCuish advised that this development would benefit the majority of people and wished to approve the application.

Councillor Devon felt she, also, wished to approve the application.

Councillor MacMillan advised that he had witnessed what happens to the community when a supermarket was built and supported the recommendation by the Head of Planning to refuse the application.

Councillor MacAlister advised that Dunoon needed the employment and needed to move forward, he wished to approve the application.

Councillor McQueen advised that the employment was needed in the area and wished to approve the application.

Councillor Colville advised that Members needed to decide on what information was in front of them and had concerns about finding a competent motion and thought the application should be continued to discuss planning conditions and planning gain.

Councillor Currie advised he felt the leakage was the most important issue and felt that the four reasons the planners had set out for refusing the application had been addressed. He therefore wished to approve the application.

It was agreed to adjourn the meeting for ten minutes to allow Members to prepare a valid motion for approval of the application.

Upon the meeting reconvening:

Motion

To refuse the application for the reasons set out in the report by the Head of

Planning..

Proposed: Councillor D Kelly

Seconded: Councillor D Kinniburgh

Amendment

To continue the determination of the application to a future meeting to allow Members to explore the formulation of a valid motion to approve the application.

Proposed: Councillor MJ Devon

Seconded: Councillor R McCuish

On being put to the vote 4 voted for the Motion and 6 voted for the Amendment.

Decision

The Committee agreed to continue the determination of the application to a future meeting to allow Members to explore the formulation of a valid motion to approve the application.

(Reference: Reports by Head of Planning and Regulators Services dated 4th March 2011, Supplementary Report 1 dated 15th March 2011, Supplementary Report 2 dated 30th March 2011 and Supplementary Report 3 dated 7th April 2011.

MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 20 APRIL 2011

Present:

Councillor Daniel Kelly (Chair)

Councillor Gordon Chalmers
 Councillor Rory Colville
 Councillor Robin Currie
 Councillor Neil Mackay

Councillor Donald MacMillan
 Councillor Roderick McCuish
 Councillor Alex McNaughton
 Councillor James McQueen

Attending:

Charles Reppke, Head of Governance and Law
 Sheila MacFadyen, Governance and Law
 Margaret MacLean, Governance and Law
 Inspector MacLeish, Strathclyde Police
 Mr William Reid, Applicant
 Mr George Reid, Applicant's Agent

Apologies:

Councillor Vivien Dance
 Councillor Mary-Jean Devon

Councillor David Kinniburgh
 Councillor Al Reay

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Dance, Devon, Kinniburgh and Reay.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR A GRANT OF ITINERANT METAL DEALER'S LICENCE: MR WILLIAM REID

The Chair invited all those present to introduce themselves and he then outlined the procedure that would be followed during the meeting.

Mr Reppke advised that a late objection had been submitted by Strathclyde Police and asked the Committee to consider whether they wanted to accept the late objection. Inspector MacLeish advised that this had been because of the need to consult with other Police areas, who had not responded in time. The Committee agreed to accept and hear the objection.

Applicant

Mr George Reid, on behalf of Mr William Reid, apologised for the fact that Mr William Reid had not had a licence and explained that this was because he did not realise there was a need for one. He explained that he had been informed of this by Strathclyde Police after they had stopped him and that he had gone straight to the Council Offices to apply for one as soon as he knew this. Mr George Reid explained that the applicant had been unable to operate for the

previous two months and that this had been and was his only source of income. He apologised again on the applicants behalf for not submitting the application.

Inspector MacLeish advised that she had no questions for the applicant.

Objector

Inspector MacLeish advised that the applicant had been found operating without a metal dealers licence and that there was a pending case to be brought to court. She advised that a licence could not be granted until the court case was concluded.

Mr George Reid advised that the applicant had received a letter from the Procurator Fiscal advising that there would be no further proceedings and asked the Police why they were objecting if there was no case.

The Committee adjourned to allow Inspector MacLeish to confirm with the Procurator Fiscal that there were no further court proceedings against the applicant.

After telephoning the Procurator Fiscal's office, Inspector MacLeish confirmed that there were no further court proceedings and withdrew the objection.

Questions

Councillor McCuish asked the Applicant to confirm his address and to confirm that should the licence be granted that there would be no scrap metal stored outside the property and that it would be removed at the end of each day. Mr George Reid confirmed that everything was stored in the van and that nothing would be stored outside the property.

Sum Up

Mr George Reid advised that he had no further comment.

Inspector MacLeish advised that she had no further comment.

The Chair asked both parties to confirm that they had received a fair hearing. They confirmed that this had been the case.

Debate

Councillor Currie noted that it had been unfortunate that this had been before the Committee only to result in the objection being withdrawn.

Mr Reppke advised Councillor Currie that this had been beyond the control of the Council and that the information had not been available at the time the Committee was called.

Decision

The Committee agreed to grant the Licence subject to conditions remitted to the Head of Governance and Law in consultation with the Chair and Vice Chair of

the Committee.

Mr Reid was advised that he would receive formal written notification that the Licence would be granted within 7 days from the Head of Governance and Law.

(Reference: Report by Head of Governance and Law dated April 2011, submitted. Letter of Objection from Strathclyde Police dated 22 March 2011, tabled)

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 20 APRIL 2011**

Present: Councillor Daniel Kelly (Chair)

| | |
|----------------------------|-----------------------------|
| Councillor Gordon Chalmers | Councillor Donald MacMillan |
| Councillor Rory Colville | Councillor Roderick McCuish |
| Councillor Robin Currie | Councillor Alex McNaughton |
| Councillor Neil Mackay | Councillor James McQueen |

Attending: Charles Reppke, Head of Governance and Law
Sheila MacFadyen, Governance and Law
Margaret MacLean, Governance and Law
Sue Stefek, Planning and Regulatory Services
Angela Scott, Applicant

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Dance, Devon, Kinniburgh and Reay.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR THE GRANT OF A MARKET OPERATOR'S LICENCE: ANGELA SCOTT

The Chair invited those present at the meeting to introduce themselves and outlined the procedure that would be followed during the meeting.

Applicant

Ms Scott advised that there had been an objection made to her application by another market operator. They had objected on 2 points; that she had no experience and that the stalls were substandard. With regard to the allegations that Ms Scott had no experience she advised that the application was for a licence to set up a company operating markets through out the whole of Scotland. She advised that it was her own money that she was investing and that she was determined to make it work because of this. She commented that although she did not have much experience it was not a reason for refusal of the application and that she had been through all the proper procedures. Ms Scott advised that she had aimed to provide a facility for a Christmas market but this had fallen through due to the bad weather. She added that in her opinion the objector was frightened by competition but that her company was the first of its kind in Scotland and that it was a good opportunity for her. With regard to the standard of stalls within the market Ms Scott advised that the objection was false. She advised that she had looked at the way the English markets were run and that a lot of diesel was used travelling from town to town and into Scotland.

She advised that if she was able to set up her proposal a lot of time would be saved in travelling. Ms Scott circulated pictures she had taken showing the standard of stalls within the market and highlighted that any previous markets had been well run, safety run and had left no mess. Ms Scott advised that Oban was a nice town and a nice place to visit and that she wished to bring something fresh to the town. She informed the Committee that she would be there to ensure the market was run well and safely and that adequate insurance was in place. She advised that she had traders that were committed to travel with her. To finish Ms Scott advised that she had travelled 4 hours to come to the hearing to prove how keen she was to start the business and that she hoped she would be given the opportunity.

An update from John Heron, Roads, was circulated amongst Members.

Question Time

Councillor McKay acknowledged Ms Scott's journey to attend the hearing. He asked why she was applying to hold the market in the town centre as opposed to the site at Rutfield School. Ms Scott advised that the town centre was a better location as that is where the people are, that it would attract more traders. She advised that a market being held that weekend in the centre of Dunfermline was attracting traders due to its location and that traders choose what markets to attend depending on which will earn them the most money. Councillor McKay asked Ms Scott if she considered the shops in the towns that they visited. Ms Scott advised that she took into consideration the shops in the towns that they visited and that stalls were selected so that there was no competition with shops.

Councillor Currie asked Ms Scott if she had any involvement in the markets that had been held in Braehead and Inverness. Ms Scott advised that she had not had any involvement in these ones but had been to markets in Aberdeen which were of a similar nature.

Councillor Colville commented that community markets had been very successful in Benderloch and Ardfern and asked if it would be possible to make contact with Fergus Younger to discuss the possibility of combining the two. Ms Scott confirmed that that would not be a problem.

Councillor McCuish asked Ms Scott for reassurance that the market would not be in direct competition with shops. Ms Scott confirmed that she was aware what shops were in the town centre and that the market would not be in direct competition with them. She advised that many of the stalls would be selling continental goods which are not available elsewhere. Councillor McCuish asked Ms Scott what security measures would be put in place as the stalls would be left overnight in a very busy area. Ms Scott confirmed that there would be adequate security measures put in place.

Councillor Chalmers asked what insurance Ms Scott had in place. Ms Scott advised that she had adequate market traders and operators insurance in place and that traders would also have their own insurance in place or they would not be allowed to trade within the market.

Sum Up

Ms Scott summed up by saying that she would like the opportunity to operate such a market and that she would bring business and extra trade to Oban not only through the people that come to visit the market but through the use of the hotels and shops by the market traders.

The Chair asked Ms Scott if she had received a fair hearing to which she confirmed this was the case.

Debate

Councillor McCuish advised that he supported the application after receiving reassurance that appropriate security measures would be put in place and that the market would not be in direct competition with the shops in Oban.

Councillor McKay advised that he had concerns over the close proximity of the market to the existing shops and open food area but confirmed nevertheless that he was happy with the arrangements that been put in place and acknowledged the professional application that had been submitted.

Councillor Currie advised that the market would add value to the town, that he was in favour of it and that he was not aware of any others in Oban.

Councillor MacNaughton advised that he agreed with Councillor Currie and that he was in support of the application.

Councillor Colville advised that he was in support of the application as the market would only be in the town for a short period of time.

Councillor MacMillan advised that he agreed and that he was in support of the application.

Councillor Chalmers advised that although he noted the concerns Councillor McKay had made, he was in support of the application.

Councillor McQueen advised he was in support of the application.

Councillor McCuish further advised that he had given consideration to Councillor McKays concerns but supported the application as the market would only be in the town for a short period of time.

Councillor McKay advised that although he had concerns he would not go against the application.

Decision

1. Agreed to grant the application subject to a condition requiring that all food stalls/vehicle holders return a completed food/health and safety checklist outlining the most pertinent food/ health and safety requirements with which they must comply.
2. Agreed that proof of the insurance policies that are in place be provided to the Licensing Section prior to issue of the licence.

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

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 20 APRIL 2011**

Present: Councillor Daniel Kelly (Chair)

| | |
|-------------------------------|-----------------------------|
| Councillor Rory Colville | Councillor Donald MacMillan |
| Councillor Robin Currie | Councillor Roderick McCuish |
| Councillor Bruce Marshall | Councillor Alex McNaughton |
| Councillor Alister MacAlister | Councillor James McQueen |
| Councillor Neil Mackay | |

Attending: Charles Reppke, Head of Governance and Law (to 1.10pm)
Angus Gilmour, Head of Planning and Regulatory Services
Ross McLaughlin, Development Manager
Sandra Davies, Planning Officer
Alan Morrison, Regulatory Services Manager
Sheila MacFadyen, Senior Solicitor
Iain Jackson, Governance Manager (from 1.45pm)

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Dance, Devon, Kinniburgh and Reay.

2. DECLARATIONS OF INTEREST

Councillor McAlister declared a financial interest in items 14 and 20 of the agenda.

Councillors Currie, McCuish, McKay and Colville declared a financial interest in item 14 of the agenda.

3. MINUTES

- (a) Planning, Protective Services and Licensing Committee held on 25 February 2011 at 10.00am

The Minutes of the Planning, Protective Services and Licensing Committee held on 25 February 2011 at 10am were approved as a correct record.

- (b) Planning, Protective Services and Licensing Committee held on 25 February 2011 at 2.00pm

The Minutes of the Planning, Protective Services and Licensing Committee held on 25 February 2011 at 2.00pm were approved as a correct record.

- (c) Planning, Protective Services and Licensing Committee held on 11 March 2011

The Minutes of the Planning, Protective Services and Licensing Committee held on 11 March 2011 were approved as a correct record subject to a request by Councillor Chalmers to change wording in paragraph 4 of the debate. It was agreed that this wording would be amended in consultation with Committee Services at the end of the meeting.

- (d) Planning, Protective Services and Licensing Committee held on 16 March 2011 at 10.00am

The Minutes of the Planning, Protective Services and Licensing Committee held on 16 March 2011 at 10am were approved as a correct record.

- (e) Planning, Protective Services and Licensing Committee held on 16 March 2011 at 10.30am

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

- (f) Planning, Protective Services and Licensing Committee held on 17 March 2011 at 10.30am

The Minutes of the Planning, Protective Services and Licensing Committee held on 17 March 2011 at 10.30am were approved as a correct record subject to a request by Councillor Chalmers to change wording in paragraph 1 of the debate. It was agreed that this wording would be amended in consultation with Committee Services at the end of the meeting.

- (g) Planning, Protective Services and Licensing Committee held on 17 March 2011 at 2.00pm

The Minutes of the Planning, Protective Services and Licensing Committee held 17 March 2011 at 2pm were approved as a correct record.

- (h) Planning, Protective Services and Licensing Committee held on 22 March 2011

The Minutes of the Planning, Protective Services and Licensing Committee held on 22 March 2011 were approved as a correct record.

- (i) Planning, Protective Services and Licensing Committee held on 24 March 2011

The Minutes of the Planning, Protective Services and Licensing Committee

held on 24 March 2011 were approved as a correct record.

4. STATUTORY APPOINTMENTS FOR REGULATORY SERVICES

The Regulatory Services Manager spoke to a report outlining a number of formal statutory appointments within Animal Health and Welfare; Environmental Health and Trading Standards which required to be formally approved by the Committee.

Decision

The Committee approved the statutory appointments.

(Reference: Report by Regulatory Services Manager dated 6 March 2011, submitted)

5. FOOD LAW ENFORCEMENT PLAN 2011 - 2012

The Regulatory Services Manager spoke to a report presenting the Food Safety Law Enforcement Plan 2011/12 which required formal approval from the Committee.

Decision

The Committee –

1. Recognised 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. Approved -
 - a) The Food Safety Law Enforcement Workplan 2011/2012
 - b) Revisions to the Food Law Enforcement Policy
 - c) Formal appointments of the Council's Public Analyst, Agricultural Analyst and Food Examiners
 - d) The authorisation status of all Officers in respect of food safety

(Reference: Report by Regulatory Services Manager dated 5 March 2011, submitted and Food Safety Law Enforcement Plan 2011/12, submitted)

6. WORKPLACE HEALTH AND SAFETY ENFORCEMENT PLAN 2011 - 2012

The Regulatory Services Manager spoke to a report presenting the Workplace Health and Safety Law Enforcement Plan 2011/12 and the Enforcement Policy which required formal approval by the Committee.

Decision

The Committee –

1. Approved the Workplace Health and Safety Law Enforcement Plan 2011/12 and the Enforcement Policy relating to Workplace Health and Safety Law Enforcement which details the service priorities for 2011-12.
2. Noted the drive to revitalise health and safety enforcement in Argyll and Bute Council.

(Reference: Report by Regulatory Services Manager dated April 2011, Workplace Health and Safety Law Enforcement Plan 2011/12 and Workplace Health and Safety Law Enforcement Policy, submitted)

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

The Committee considered an application to rescind a Section 75 Agreement to allow the separate sale of the dwellinghouse from that of the associated bareland croft at Silvercraigs, Lochgilphead.

Decision

Agreed that the Section 75 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.

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

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

The Committee considered an application to extend Pennyfuir Burial Ground, Oban.

Decision

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

(Reference: Head of Planning and Regulatory Services dated 28 March 2011, submitted)

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

The Committee considered an application for the demolition of the category (c) listed building currently known as the Argyll Hotel, Corran Esplanade, Oban. The Head of Planning and Regulatory Services presented his report and gave

details of two further representations that had been made after the closing date.

Decision

Agreed that listed building consent be granted subject to the conditions as detailed within the report by the Head of Planning and Regulatory Services.

(Councillor McCuish having moved an amendment that failed to find a seconder, requested that his dissent be recorded to the foregoing decision)

(Reference: Report by Head of Planning and Regulatory Services dated 1 April 2011, submitted)

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)

The Committee considered an application for the erection of a 63 bedroom hotel on the site of the current Argyll Hotel, Corran Esplanade, Oban after demolition.

Decision

The Committee agreed that Planning Permission be granted subject to:

- 1) The conditions and reasons set out in the report by the Head of Planning and Regulatory Services;
- 2) 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.

(Reference: Report by Head of Planning and Regulatory Services dated 5 April 2011, submitted)

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)

The Committee considered an application for the erection of a 15m high (hub height) 6kw wind turbine on land southeast of Easdale Museum, Easdale.

Decision

The Committee agreed to refuse planning permission for the reasons as detailed in the report by the Head of Planning and Regulatory Services.

(Reference: Report by Head of Planning and Regulatory Services dated 5 April 2011, submitted)

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

The Committee considered an application for the installation of 14 Solar PV Panels and Air Source Heat Pump at Easdale Island Community Hall, Easdale Island.

Decision

The Committee agreed that planning permission be granted subject to the conditions and reasons as detailed within the report by the Head of Planning and Regulatory Services.

(Reference: Report by Head of Planning and Regulatory Services dated April 2011, submitted and Supplementary Report 1 dated 15 April 2011, tabled)

13. EILEAN EISDEAL: INSTALLATION OF 14 SOLAR PANELS AND AIR SOURCE HEAT PUMP: EASDALE ISLAND COMMUNITY HALL, EASDALE ISLAND, OBAN (REF: 10/02013/LIB)

The Committee considered an application for listed building consent for the installation of 14 Solar PV Panels and air source heat pump at Easdale Island Community Hall, Easdale Island.

Decision

The Committee agreed that listed building consent be granted subject to the conditions and reasons as detailed within the report by the Head of Planning and Regulatory Services.

(Reference: Report by Head of Planning and Regulatory Services dated 30 March 2011, submitted and Supplementary Report 1 dated 15 April 2011, tabled)

The Committee adjourned for lunch at 1.10pm and reconvened at 1.45pm.

Councillors McAlister, Currie, McCuish, McKay and Colville having previously declared an interest in the following item of business left the room and took no part in the discussion.

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)

The Committee considered an application for the erection of 30 residential units with associated access road, parking and communal garden areas at McCallum Street, Longrow and Kinloch Road, Campbeltown.

Decision

The Committee agreed that planning permission be granted subject to a section 69 agreement under the Local Government (Scotland) Act 1973 and to the conditions and reasons as detailed within the report by the Head of Planning and Regulatory Services.

(Reference: Report by Head of Planning and Regulatory Services dated 5 April 2011, submitted)

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

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)

The Committee considered an application by the Royal Lifeboat Institution for the erection of new crew facilities and souvenir shop on Port Askaig Pier, Isle of Islay.

Decision

The Committee agreed that planning permission be granted subject to the conditions and reasons as detailed in the report by the Head of Planning and Regulatory Services.

(Reference: Report by Head of Planning and Regulatory Services dated 29 March 2011, submitted)

16. MR AND MRS S MCKINLAY: ERECTION OF CAR PORT WITH DECK OVER (RETROSPECTIVE): COUL-NA-MARA, PENINVER, CAMPBELTOWN (REF: 11/00037//PP)

The Committee considered a retrospective application for the erection of a car port with decking area above at Coul-Na-Mara, Peninver, Campbeltown.

Decision

The Committee agreed to refuse planning permission for the reasons as detailed within the report by Planning and Regulatory Services.

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

The Committee adjourned at 2.15pm to allow for the Local Review Body to convene and adjourn until the conclusion of the Committee.

17. TSL CONTRACTORS LTD: RETENTION OF EXISTING CONCRETE BATCHING PLANT FOR TEMPORARY PERIOD OF 18 MONTHS: ROBERTSONS YARD, SANDBANK, DUNOON (REF: 11/00158//PP)

The Committee considered an application for the retention of a concrete batching plant for a temporary period of 18 months at Robertson's Yard, Sandbank, Dunoon.

Decision

The Committee agreed that planning permission be refused for the reasons as detailed within the report by the Head of Planning and Regulatory Services.

(Reference: Report by Head of Planning and Regulatory Services dated 4 April 2011, submitted)

- 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)**

The Committee considered an application for re-profiling of ground and realignment of handrail to accommodate buried pumping station chambers and CSO chamber; installation of rock armouring and retaining wall; and drop kerbs for vehicular access at land opposite 11 and 12 Ardbeg Road, Rothesay.

Decision

It was agreed that planning permission be granted subject to the conditions, reasons and informative notes within the report by Planning and Regulatory Services.

(Reference: Report by Planning and Regulatory Services dated 30 March 2011, submitted and Supplementary Report 1 dated 15 April 2011, tabled)

- 19. ARGYLL AND BUTE COUNCIL: FELLING OF TWO TREES - FRAXIMUN EXCELSIOR AND ULMUS GLABRA (RETROSPECTIVE):MONEYDRAIN ROAD, LOCHGILPHEAD (REF: 11/00420/TPO)**

The Committee considered a report informing Members of the felling of two trees at Moneydrain Road, Lochgilphead which were protected by tree preservation order ref: 2/95. The felling had been authorised under delegated powers on the grounds of preventing danger to both public and workforce safety due to the health and condition of the trees. The report also sought approval for the replanting of the trees to benefit the amenity of the area.

Decision

The Committee accepted that the action was necessary and authorised the replanting of the ground with replacement specimens.

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

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

20. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: INSPECTION OF VEHICLES

The Head of Governance and Law submitted a report seeking agreement from Members to introduce a procedure for issuing warning letters to taxi/private hire car operators whose vehicle does not comply with standard conditions in terms of Section 11 of the Civic Government (Scotland) Act 1982; 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.

Decision

The Committee agreed to introduce the new procedure as detailed within the report by the Head of Governance and Law.

(Reference: Report by Head of Governance and Law dated 15 March 2011, submitted)

Councillor McAlister rejoined the meeting.

21. ENFORCEMENT REPORT: 10/00394/ENFHSB

The Committee considered enforcement report reference 10/00394/ENFHSB.

Decision

That enforcement action be taken as detailed within the report by Planning and Regulatory Services and that the timescale for compliance be 8 months from the date upon which the enforcement notice takes effect.

(Reference: Report by Head of Planning and Regulatory Services dated 22 March 2011, submitted)

22. ENFORCEMENT REPORT: 10/00377/ENTH2

The Committee considered enforcement report 10/00377/ENTH2.

Decision

The Committee agreed the recommendation within the report by Planning and Regulatory Services.

(Reference: Report by Head of Planning and Regulatory Services dated 29 March 2011, submitted)

23. ENFORCEMENT UPDATE REPORT: 10/00012/ENOTH1; 10/00077/ENOTH2; 10/00210/ENFOTH2

The Committee considered an update report with regard to enforcement cases 10/00012/ENOTH1; 10/00077/ENOTH2; and 10/00210/ENFOTH2.

Decision

The Committee –

1. Noted the report.
2. Noted that a further update report would be provided to the next meeting of the Committee.

(Reference: Report by Head of Planning and Regulatory Services dated 6 April 2011, submitted)

ARGYLL AND BUTE COUNCIL
CUSTOMER SERVICES

PLANNING AND PROTECTIVE
SERVICES AND LICENSING
COMMITTEE
18 MAY 2011

**CIVIC GOVERNMENT (SCOTLAND) ACT 1982
TAXI & PRIVATE HIRE CAR LICENSING
BEST PRACTICE FOR LICENSING AUTHORITIES
DRAFT CONSULTATION PAPER**

1.0 SUMMARY

1.1 Transport Scotland has issued draft revised best practice guidance for licensing authorities for taxi and private hire car licensing and seeks comments on the draft guidance. The draft guidance can be accessed at <http://www.scotland.gov.uk/Publications/2011/03/22134908/0> . The comments are to be submitted by 17 June 2011.

The Scottish Government first issued best practice guidance in December 2007. The revised draft guidance updates the earlier advice and reflects legislative changes that have taken place since 2007.

2.0 RECOMMENDATIONS

2.1 Members are asked to note the terms of the draft guidance and agree:

- (a) That no comments are required in respect of the consultation;:
- (b) That a further report be placed before the Committee in relation to accessibility issues and security issues;
- (c) That applicants from countries other than the UK be required to produce a certificate of good conduct authenticated by the relevant embassy;
- (d) That applicants requiring insulin treatment for diabetes provide evidence of satisfying C1 medical standards
- (e) That a complaints procedure be published on the Council's web site.

3.0 BACKGROUND

3.1 The Scottish Government issued best practice guidance in 2007 with the aim of providing best practice for local authorities on a range of licensing issues in relation to taxi and private hire car licensing. The updated guidance has been produced following consultation with local authorities, the Scottish Taxi Federation and other stake holders.

3.2 The guidance deals with the following issues –

3.2.1 **Accessibility** - It refers to the powers local authorities have to maintain a list of designated wheelchair accessible taxis and private hire cars in their areas and for drivers of vehicles so designated to apply for exemption from these duties. Argyll and Bute Council do not currently maintain such a list. It is recommended that this be considered at the time for preparation for renewal of taxi and private hire car licences in 2012.

3.2.2 **Vehicles** – The guidance gives advice on the specification of types of vehicles that may be licensed. Currently Argyll and Bute licensing conditions state that the following vehicles can be approved:-

- (a) FX4, Metro cabs or similar vehicles purpose built for use as taxis
- (b) 4 door saloon, 5 door hatchback or estate cars of a size acceptable to the Council. Without prejudice to the foregoing generality any such vehicle shall have a rear seat of at least 51 inches in width
- (c) People carriers or multi purpose vehicles(MPV) which are after inspection considered suitable for their intended purpose
- (d) Such other vehicles as may be approved by the licensing authority from time to time

Where a hatchback or estate car is used the rear parcel shelf shall be kept in place or a satisfactory secure device shall be fitted to prevent luggage travelling from the luggage compartment into the passenger compartment in the event of a sudden stop or accident

It is recommended that this remain the case as it gives the Licensing Authority the opportunity to consider approval of a vehicle type not on the list which gives greater flexibility as suggested in the guidance.

3.2.3 **Vehicle Testing/Security and identification** – The guidance gives advice on vehicle testing. At the meeting of PPSL on 20 April 2011, members agreed the procedure for vehicle testing. The guidance states that annual testing is best practice. This is in accordance with the policy followed by this Council.

It is recommending licensing authorities to actively encourage security measures to protect drivers. It is recommended that operators be advised of this at the time of renewal in 2012.

The legislation states that it is important that members of the public can clearly distinguish between private hire cars and taxis. The conditions on licences issued by this licensing authority relating to advertising should address this.

3.2.4 **Environmental Considerations** – The draft guidance states that local authorities should consider how far their vehicle licensing policy can and should support any local environmental policies that may have been adopted. It is suggested that authorities may wish to consider the inclusion of eco friendly vehicles in their approved vehicle list. A further report will be placed before the Committee in due course on this issue.

3.2.5 **Licensing of Stretch Limousines and Other Special Events Vehicles, Airport Transfers etc** – The guidance states that licensing authorities should consider applications on their individual merits and to adopt in liaison with police a pro-active approach to the question of specification of vehicles on which a licence is required under the 1982 Act. It is recommended that this advice be noted.

3.2.6 **Quantity Restrictions of Taxi Licences** – The draft guidance gives advice on quantity restrictions for taxis as set out in Section 10(3) of the 1982 Act. This committee currently considers all applications for taxi licences and it is recommended that this continue.

3.2.7 **Taxi Fares** – The guidance gives advice on how to carry out taxi fare reviews.

3.2.8 **Licensing of Booking Offices** – The guidance details the steps local authorities are required to follow when issuing licences for booking offices.

3.2.9 **Duration of Drivers Licences** – The guidance states three years is the legal maximum period for drivers licences and is in general the best approach. It does, however, go on to say that it can be good practice to offer the choice of an annual licence or a 3 year licence. Argyll and Bute Council issue taxi driver licences for 3 years and it is recommended this continue. There has not been any demand made known to be licensing authority for an annual licence.

3.2.10 **Criminal Record Checks** – The guidance details the position in relation to consideration of criminal records. It is suggested ideally local authorities will want to have a clear policy for consideration of criminal records. It is recommended that this Council continue to consider each case on its merits.

It also suggests that local authorities will want to consider a policy on applications from elsewhere in the EU and other overseas countries. It is recommended that this licensing authority require a certificate of good conduct authenticated by the relevant embassy.

3.2.11 **Age Policy and Medical Fitness** – The guidance states it does not seem necessary to have a maximum age limit. Argyll and Bute Council do not have a maximum age.

The guidance notes that it is common, as this Council does, for Scottish local authorities to apply Group 2 medical standards – applied by DVLA to the licensing of lorry and bus drivers – to applications for taxi and private hire car drivers. It recommends to apply the C1 standards to taxi/private hire drivers with insulin treated diabetes.

The guidance also refers to driver's experience, driving proficiency and training. This authority does not require drivers to do further tests.

4.0 ENFORCEMENT

The guidance deals with enforcement issues. Strathclyde Police carry out the enforcement in Argyll and Bute.

5.0 FLEXIBLE TRANSPORT SERVICES

Information is given on taxi buses.

6.0 COMPLAINTS PROCEDURE

It is suggested that it is good practice to publish, on the web site, details of the local authority's procedure for dealing with complaints from members of the public. It is recommended that this information be included in the licensing section of the web site.

7.0 CONCLUSION

The Committee be asked to note the terms of this report and agree the recommendations.

8.0 IMPLICATIONS

Policy: Nil

Financial: Nil

Personnel: Nil

Charles Reppke
Head of Governance and Law
10 May 2011

For further information contact: Sheila MacFadyen, Senior Solicitor
Telephone: (01546) 604265; e-mail: sheila.macfadyen@argyll-bute.gov.uk

ARGYLL AND BUTE COUNCIL
DEVELOPMENT SERVICES

**PLANNING, PROTECTIVE SERVICES
& LICENSING COMMITTEE**

18 May 2011

**“DELIVERING PLANNING REFORM – PLANNING SERVICES IMPROVEMENT
PLAN (2011 – 2012)”**

REPORT BY HEAD OF PLANNING AND REGULATORY SERVICES

1.0 SUMMARY

- 1.1 The Scottish Government's programme of Delivering Planning Reform includes the commitment that planning authorities will produce a Service Improvement Plan (SIP) on an annual basis. Planning authorities are required to identify areas for service improvement and how best they be tackled. This is Argyll and Bute's 3rd SIP and will reflect on our performance against our goals over the past 12 months as well as looking forward to 2011 -2012.
- 1.2 This Report presents Argyll and Bute Council's Improvement Plan for 2011-2012 (see attached appendix) for Members comments prior to submission to the Scottish Government. It should be noted that the Improvement Plan has been the subject of internal consultation with staff and has been informed by stakeholder consultation through our customer satisfaction surveys and user forums.

2.0 RECOMMENDATION

- 2.1 It is recommended that Members approve the Planning Services Improvement Plan for 2011-2012 and agree to its formal submission to the Scottish Government as part of the delivering planning reform agenda.

3.0 BACKGROUND

- 3.1 In October 2008, the Scottish Government announced at a Planning Summit a wide-ranging package of improvements (in a document called Delivering Planning Reform) to make Scotland's planning system leaner and fitter. The reforms are designed to build on work to improve efficiency and ensure planning is geared towards supporting increased sustainable growth – particularly important in the current economic climate. The reforms have been developed in partnership with the Convention of Scottish Local Authorities (COSLA), Agencies (e.g. SNH, SEPA, Scottish Water etc) and the

development industry (e.g. the Scottish Property Federation, Homes for Scotland)

- 3.2 As part of the reform agenda Council's are now required to produce an annual improvement plan which should be reflective of views of stakeholders, elected Members and staff. The document before Members for approval sets out this Council's commitment to continuous improvement in service delivery (particularly in areas such as developing skills, improving performance and outcomes on the ground, effective and efficient business processes, better and more effective public engagement and proportionate and practical planning policies and advice) and our determination to speed up reform of the planning system.

4.0 CONCLUSION

- 4.1 To unlock planning's potential, positive changes to processes and behaviours will be required of all organisations and individuals that operate and interact with the system.
- 4.2 The foundations of a new planning system were laid in The Planning (Scotland) Act 2006. To support this, a major programme of secondary legislation was enacted in 2009. But legislation alone will not deliver reform and as such this plan for service improvement is seen as a key part of the reform agenda, particularly in the area of more effective and efficient planning processes.

5.0 IMPLICATIONS

- 5.1 Policy: None
- 5.2. Financial: None, already covered by existing service plan/budget appeals.
- 5.3 Personnel: Implemented by existing service plan/budget approvals
- 5.4 Equal Opportunity: None
- 5.5. Community: None

For further information contact: Angus Gilmour
Telephone: 4288
Date of Report: 4 May 2011

List of Background Papers.

1. Scottish Government – Delivering Planning Reform



APPENDIX A – OUTCOMES FROM LAST YEARS SERVICE IMPROVEMENT PLAN

| IMPROVEMENT ACTION | TIMESCALE | RESPONSIBLE | WAS IT ACHIEVED | CARRIED FORWARD |
|--|----------------------|---|-----------------|-----------------|
| IMPROVEMENT AREA 1 – DEVELOPING SKILLS | | | | |
| 1. Annual performance development review (PDR) for all staff aligned to continuous professional development training programmes to ensure planning officers have relevant skills for job | May 2010 | Angus Gilmour, Head of Service | ✓ | |
| 2. Undertake officer training on customer care to ensure that service is customer centric and responsive to customer needs | November 2010 | Angus Gilmour, Head of Service | ✓ | |
| 3. Implement “Grow Our Own” policy to enable administrative and technical staff to gain relevant qualifications to participate in career grade progression which is part of our succession planning strategy | Ongoing – Continuous | Angus Gilmour, Head of Service) | ✓ | |
| 4. Reinforce/reinvigorate Community Council/Elected Member training on working/implications of new planning regulations, Local Review Bodies, Council governance arrangements and scheme of delegation. | Ongoing – July 2010 | Ross McLaughlin, Development Manager | ✓ | |
| 5. Undertake Development Policy Officer training on on-line development plan with links to GIS software | ongoing – continuous | Fergus Murray, Development Policy Manager | ✓ | |
| 6. Publication of a regular newsletter informing | ongoing – | ongoing – | ✓ | |

| IMPROVEMENT ACTION | TIMESCALE | RESPONSIBLE | WAS IT ACHIEVED | CARRIED FORWARD |
|--|----------------|---|-----------------|-----------------|
| stakeholders of the Local Development Plan Process | continuous | continuous | | |
| IMPROVEMENT AREA 2 – IMPROVING PERFORMANCE AND OUTCOMES ON THE GROUND | | | | |
| 7. Implement joint working agreement with aquaculture industry to improve efficiency of processing aquaculture applications and to realise sustainable development opportunities | September 2010 | Ross McLaughlin, Development Manager | ✓ | |
| 8. Implement Historic Scotland Joint Working Agreement | September 2010 | Ross McLaughlin, Development Manager | ✓ | |
| IMPROVEMENT AREA 3 – EFFECTIVE AND EFFICIENT BUSINESS PROCESSES | | | | |
| 9. Undertake a full Service Improvement Project for Development Management in partnership with Performance and Business Improvement Manager | March 2010 | Ross McLaughlin, Development Manager, Lesley Sweetman, Performance and Business Improvement Manager | ✓ | |
| 10. Develop a pro-forma and registration system for dealing with pre-application enquiries | May 2010 | Ross McLaughlin, Development Manager, | | ✓ |
| 11. Update and standardise model planning conditions and Section 75 legal agreements | August 2010 | Ross McLaughlin, | | ✓ |

| IMPROVEMENT ACTION | TIMESCALE | RESPONSIBLE | WAS IT ACHIEVED | CARRIED FORWARD |
|---|---------------|---|-----------------|-----------------|
| 12. Update and standardise planning forms and guidance notes aligning with Scottish Government Forms | August 2010 | Development Manager Ross McLaughlin, Development Manager | ✓ | ✓ |
| 13. Implement e-planning consultation and on-line interactive local plans | August 2010 | Ross McLaughlin, Development Manager, Fergus Murray, Development Policy Manager | ✓ | |
| IMPROVEMENT AREA 4 – BETTER AND MORE EFFECTIVE PUBLIC ENGAGEMENT | | | | |
| 14. Hold strategic and local level workshops with stakeholders on Local Development Plan | May 2010 | Fergus Murray, Development Policy Manager | ✓ | |
| 15. Promotion of Development Management User Forums – encourage better quality planning submissions, better communication of issues between planning authority and stakeholders | Ongoing | Ross McLaughlin, Development Manager | ✓ | |
| 16. Publication of newsletters, website development, review guidance notes to have better informed stakeholders | Ongoing | Fergus Murray, Development Policy Manager | | ✓ |
| IMPROVEMENT AREA 5 – PROPORTIONATE AND PRACTICAL PLANNING POLICIES AND ADVICE | | | | |
| 17. Review and update Charter Statements | November 2010 | Ross McLaughlin, Development | | ✓ |

| IMPROVEMENT ACTION | TIMESCALE | RESPONSIBLE | WAS IT ACHIEVED | CARRIED FORWARD |
|--|---------------|---|-----------------|-----------------|
| 18. Update Service Handbook in context of Council's modernisation programme | December 2010 | Manager Angus Gilmour, Head of Service | | ✓ |
| 19. Production of Local Development Plan Main Issues Report | December 2010 | Fergus Murray, Development Policy Manager | | ✓ |
| 20. Production of sash and case window construction advice leaflet for ABC in association with Historic Scotland | August 2010 | Fergus Murray, Development Policy Manager | | ✓ |



SHEIRBHEISEAN PLANAIDH IS RIAGHLAIDH

PLANA LEASACHAIDH



PLANNING SERVICES IMPROVEMENT PLAN

April 2011

1. Introduction

The Scottish Government's programme of Delivering Planning Reform includes the commitment that planning authorities will produce a Service Improvement Plan (SIP) on an annual basis. Planning authorities are required to identify areas for service improvement and how best they be tackled. This is Argyll and Bute's 3rd SIP and will reflect on our performance against our goals over the past 12 months as well as looking forward to 2011 -2012.

2. Delivering Priorities

The Planning System is pivotal in delivering sustainable development for Argyll and Bute's communities, visitors, natural and built environment as well as assisting our businesses in these economically challenging times.

This SIP is delivered by the Development Management and Development Policy services of the Council.

Development Management – facilitating the delivery of the place shaping vision for the community, environment and economy as set out in the Development Plan through the processing of planning applications and related submissions.

Development Policy – preparation, monitoring, review and implementation of the Argyll and Bute Local Development Plan together with all associated strategies including the Local Biodiversity Action Plan; Woodland and Forestry Strategy; Integrated Coastal Zone

Management Plans and the access function under the Land Reform Act.

The core principles of our Planning Service are engrained within a hierarchy of plans and strategies that give focus and direction to delivery. The Council's aim of "**Realising Our Potential Together**" is a key value for us along with the priorities of:-

| LEVEL | DOCUMENT / STRATEGY |
|----------------------|---|
| International | EU Directives & Law |
| | Climate Change Agenda |
| National | UK / Scottish Directives & Law |
| | Scottish National Planning Framework |
| Local | ABC Corporate Plan |
| | ABC Single Outcome Agreement |
| | ABC Economic Development Action Plan |
| | ABC Renewable Energy Action Plan |
| | Local Area Partnerships |
| | ABC Local Plan |
| | Planning & Regulatory Services – Service Plan |

3. Planning Resources

| STAFF | 2009/10 | 2010/11 | 2011/12 |
|-------------------------------|---------|---------|---------|
| DEVELOPMENT MANAGEMENT | 22 | 22 | 23 |
| POLICY | 7 | 7 | 7 |
| BUDGET | 2009 | 2010 | 2011 |
| DEVELOPMENT MANAGEMENT | 550,808 | 606,806 | 637,739 |
| POLICY | 372,187 | 374,143 | 372,633 |

| | | | |
|--------------|----------------|----------------|------------------|
| TOTAL | 922,995 | 980,949 | 1,010,372 |
|--------------|----------------|----------------|------------------|

4. Continuous Improvement

The Planning Service is committed to continuous improvement and in addition to this SIP we also publish / monitor performance on a quarterly basis and are assessed against

the Public Service Improvement Framework (PSIF).

The Public Service Improvement Framework (PSIF)

is an evidence-

based self-assessment tool designed to drive continuous improvement in local authorities and other public sector organisations. The self-assessment is an honest and critical evaluation undertaken by employees, drawing on their knowledge and expertise of working within the service. The results of the self-assessment enable services to identify strengths and areas for improvement and plan how to tackle these.



Planning Services were one of the first departments in Argyll and Bute Council to pilot PSIF and one of pioneering Planning Authorities in Scotland to use the model. Recommendations from PSIF shall be reinforced through this SIP and its implementation. PSIF for Planning and Regulatory Services shall be delivered in November 2011.

5. Outcomes from SIP 2010 /2011

The 2010/2011 SIP identified 5 areas for improvement with definable tasks and timescales attributed to each. These were:-

1. Developing Skills
2. Improving Performance and Outcomes on the Ground

3. Effective and Efficient Business Processes
4. Better and More Effective Public Engagement
5. Proportionate and Practical Planning Policies and Advice.

The majority of these Areas for Improvement have been achieved in the course of the past 12 months as highlighted in **Appendix A**.

Notable achievements have included:-

- Pilot of Community Settlement Plan for Craignish Peninsula
- Customer Care Training delivered to Development Management and Policy Staff
- Joint Working Arrangements arranged with Historic Scotland and Authorities who deal with Aquaculture Applications
- Refinement of governance arrangements following 12month review of new planning act
- Publication of Development Policy Newsletter
- Member endorsement of Main Issues Report
- Implementation of e-consultation and e-correspondence in Development Management
- Commencement of Online Local Plan

6.Headline Performance & Targets

| <u>INDICATOR</u> | <u>2009/10</u> | <u>CURRENT</u> | <u>Target 2011/12</u> |
|---|----------------|----------------|-----------------------|
| ALL APPLICATIONS DETERMINED WITHIN TIMESCALE | 59% | 72% | 68% |
| HOUSEHOLDER APPLICATION DETERMINED IN 2MONTHS | 78% | 90% | 90% |
| APPROVAL RATE | 95% | 97% | 97% |
| SUBMISSION OF APPLICATIONS ONLINE | <1% | 31% | 35% |
| CUSTOMER SATISFACTION | 67% | 75% | 90% |

| | | | |
|---|-------------|-------------|-------------|
| % OF POPULATION COVERED BY UP TO DATE LOCAL PLAN | 100% | 100% | 100% |
|---|-------------|-------------|-------------|

Performance has significantly improved in the past year with the Council now recording some of the strongest statistics for Development Management within their rural peer group. This is complemented by increased customer satisfaction and increasing use of e-planning.



7. Customer Engagement & Feedback

Planning is a ‘frontline service’ that engages with a variety of customers and stakeholders including members of the public, businesses, elected Members, key agencies, other Council departments and Government bodies.

Development Management held 13 User Forums, Focus Groups and Community Council Training Evenings throughout Argyll and Bute in 2010/11 to engage with customers and obtain feedback on key aspects of service delivery. In addition, an Elected Member Seminar took place in August 2010 to gauge opinions on all aspects of the new planning system. Structured discussions and minutes were taken at all these events along with distribution of response questionnaires.

Every decision notice is also accompanied by a ‘Service Questionnaire’ which shows 75% of respondents were ‘satisfied’ or better.

Internal engagement is delivered through weekly team meeting, quarterly management meetings and through electronic news bulletins across Council called ‘Cascade’.

The policy service continues to engage with its customers through stakeholder meetings, newsletters, use of the web and through advisory groups that inform the development of strategic documents from the outset.

8. Aims & Future Challenges for 2011/12

The Aims of the Planning Service for 2011/12 are as follows:-

- To increase speed and certainty of decision making
- Improve efficiency of processing applications and pre-applications
- Facilitate greater and easier access to information about planning applications and how decisions are reached
- Complete a formal Service Review and deliver at least 20% efficiency savings in the context of a new business service delivery model
- Improve the quality and consistency of decision making particularly focussing on better design to ensure a vibrant built and natural environment
- Be more proactive and positive in our relationship with developers and businesses
- Introduce a comprehensive document management system for the policy service
- Improve commercial awareness
- Publish Proposed Local Development Plan

To achieve these aims we have identified a number of actions for this SIP grouped into

the 5 Improvement Areas and themes from last year of:-

1. Developing Skills
2. Improving Performance and Outcomes on the Ground
3. Effective and Efficient Business Processes
4. Better and More Effective Public Engagement
5. Proportionate and Practical Planning Policies and Advice.

These themes and actions must be viewed in context with new 2011/12 challenges such as a minimum 20% budget reduction (as part of Council Service Review process), reduced planning fee income, reduced funding for delivering affordable homes and greater aspirations for better quality of design and the need to adapt and mitigate against the impacts of climate change. There is also a greater expectation for increasing public and community involvement in the planning and pre-application process.

The following table highlights our Improvement Actions which shall be monitored.

SERVICE IMPROVEMENT PLAN 2011/12

| IMPROVEMENT ACTION | TIMESCALE | RESPONSIBLE |
|--|----------------------|--|
| IMPROVEMENT AREA 1 – DEVELOPING SKILLS | | |
| 1. Annual performance development review (PDR) for all staff aligned to continuous professional development training programmes to ensure planning officers have relevant skills for job | May 2011 | Angus Gilmour, Head of Service |
| 2. Implement “Grow Our Own” policy to enable administrative and technical staff to gain relevant qualifications to participate in career grade progression which is part of our succession planning strategy | Ongoing – Continuous | Angus Gilmour, Head of Service) |
| 3. Reinforce/reinvigorate Community Council + Elected Member training on working/implications of new planning regulations, Planning Policy Issues (PDAs, Design and Landscape Capacity) Local Review Bodies, Council governance arrangements and scheme of delegation. Training to include both PPSL and Non PPSL elected Members. | October – Nov 2011 | Ross McLaughlin, Development Manager |
| 4. Develop a robust scheme of job satisfaction monitoring and staff feedback / engagement | March 2012 | Fergus Murray, Development Policy Manager and Ross McLaughlin, Development Manager |
| 5. Deliver staff training workshops in partnership with Historic Scotland and Built Heritage Officer for DM and Policy Staff. Also use forum to emphasise customer care, design quality and assisting development process in economically difficult times. | Summer 2011 | Fergus Murray, Ross McLaughlin, Development Manager |
| 6. Use / Continue Staff Engagement Group (developed for Service Review) to liaise with staff and obtain feedback and utilise as a | March 2012 | Fergus Murray, Development Policy |

| IMPROVEMENT ACTION | TIMESCALE | RESPONSIBLE |
|--|------------------|--|
| focus group for ongoing service improvement / feedback. | | Manager and Ross McLaughlin, Development Manager |
| IMPROVEMENT AREA 2 – IMPROVING PERFORMANCE AND OUTCOMES ON THE GROUND | | |
| 7. Implement new enforcement reporting mechanism and charter | August 2011 | Ross McLaughlin, Development Manager |
| 8. Work with Historic Scotland and new Built Heritage Officer to increase delegation of listed building applications | September 2011 | Ross McLaughlin, Development Manager |
| 9. Develop new monitoring and performance regime which records ‘added value’ and quality not simply speed of determination of applications. Also seeks more meaningful customer satisfaction returns | March 2012 | Ross McLaughlin, Development Manager |
| 10. Hold the Argyll and Bute sustainable design awards to help recognise the use of good design; Launch new guidance on credit crunch design. | October 2011 | Fergus Murray, Development Policy Manager |
| 11. Set up Tree Protection Order Group with focus on training, awareness and staff specialism in dealing with TPO’s and partners such as Forestry Commission, Council Horticulture and Biodiversity Officer. | October 2011 | Ross McLaughlin, Development Manager |
| IMPROVEMENT AREA 3 – EFFECTIVE AND EFFICIENT BUSINESS PROCESSES | | |
| 12. Undertake a full Service Review and identify optimum service delivery model taking cognisance of all ‘future challenges’ and requirement to make at least 20% efficiency savings. | September 2011 | Angus Gilmour, Head of Service); Fergus Murray (Project Manager) |
| 13. Develop a pro-forma and registration system for dealing with pre-application enquiries | May 2011 | Ross McLaughlin, Development Manager, |
| 14. Update and standardise model planning conditions and Section 75 legal agreements | June – July 2011 | Ross McLaughlin, Development Manager |
| 15. Update and standardise planning forms and guidance notes aligning with Scottish Government Forms | June – July 2011 | Ross McLaughlin, Development Manager |

| IMPROVEMENT ACTION | TIMESCALE | RESPONSIBLE |
|---|--------------------|--|
| 16. Revise Consultation requirements for internal and external consultees | October – Nov 2011 | Ross McLaughlin, Development Manager |
| 17. Establish a Development Management Focus Group to examine Validation Requirement | August 2011 | Ross McLaughlin, Development Manager |
| 18. Implement quarterly reporting for all Local Review Boards, Appeals and enforcement for Councillors | August 2011 | Ross McLaughlin, Development Manager |
| 19. Update Departmental Business Contingency Plans | July 2011 | Fergus Murray, Development Policy Manager and Ross McLaughlin, Development Manager |
| 20. Development Management to work with and Building Standards and Environmental Health to establish 'Customer Care / Issues – Protocol'. ie Issues from each department that need to be clarified at early stage | October 2011 | Ross McLaughlin, Development Manager |
| 21. Update and standardise Report of Handling to dovetail with Uniform back office system | October 2011 | Ross McLaughlin, Development Manager |
| IMPROVEMENT AREA 4 – BETTER AND MORE EFFECTIVE PUBLIC ENGAGEMENT | | |
| 22. Further develop Planning Web pages and Online Local Development Plan to increase / improve customer experience. Examine potential for web links to Pyramid – performance management tool | October 2011 | Fergus Murray, Development Policy Manager and Ross McLaughlin, Development Manager |
| 23. Promotion of Development Management User Forums – encourage better quality planning submissions, better communication of issues between planning authority and stakeholders | April 2011 | Ross McLaughlin, Development Manager |
| 24. Publication of newsletters, website development, review guidance notes to have better informed stakeholders | Ongoing | Fergus Murray, Development Policy |

| IMPROVEMENT ACTION | TIMESCALE | RESPONSIBLE |
|--|---------------|--|
| | | Manager |
| 25. Examine potential use of blog / twitter / facebook / Online TV for providing information about Major applications and applications of public interest | August 2011 | Ross McLaughlin, Development Manager |
| IMPROVEMENT AREA 5 – PROPORTIONATE AND PRACTICAL PLANNING POLICIES AND ADVICE | | |
| 26. Review and update Charter Statements | March 2012 | Fergus Murray, Development Policy Manager and Ross McLaughlin, Development Manager |
| 27. Update Service Handbook in context of new Planning and Regulatory Services dept post Service Review | April 2012 | Angus Gilmour, Head of Service |
| 28. Production of Local Development Plan Main Issues Report | May 2011 | Fergus Murray, Development Policy Manager |
| 29. Production of proposed Local Development Plan (LDP) | March 2012 | Fergus Murray, Development Policy Manager |
| 30. Complete landscape capacity study for on shore wind developments and produce effective design guidance on smaller scale wind turbines | October 2011 | Fergus Murray, Development Policy Manager |
| 31. Complete Coastal Development Strategy to help prioritise investment on Argyll and Bute's extensive coastline | November 2011 | Fergus Murray, Development Policy Manager |
| 32. Publish a booklet of advice and training for Members on Planning, Protective Services and Licensing (PPSL) Committee | October 2011 | Ross McLaughlin, Development Manager |

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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: 10/00222/PPP

Planning Hierarchy: Major

Applicant: CWP Property Development and Investment

Proposal: Erection of Class 1 foodstore with associated development to include car parking, access road, road bridge, petrol filling station and engineering works.

Site Address: 361 Argyll Street, Dunoon.

SUPPLEMENTARY REPORT 4

1.0 SUMMARY

This application was considered by the PPSL Committee at a Hearing in the Queen's Hall Dunoon on 8 April 2011. Members resolved to continue consideration of the application. The purpose of this supplementary report is to confirm the receipt of further letters of representation and information.

Most notably it confirms that an application for a supermarket on the National Grid site has been submitted and provides clarification that National Grid do not wish to assemble land with adjoining landowners to provide a larger store. Further information has also been provided by the applicant of this application in response to the recent submissions by National Grid and he has also confirmed details of planning gain available to offset impacts on affordable housing and town centre as verbally discussed at the Hearing.

For the avoidance of doubt, only the 10 Members who were present at the Queens Hall Hearing are able to debate / vote on this item due to substantive evidence and information that has already been provided to them.

To clarify at the outset and to obtain perspective this application is for the construction of a 40,000 sq ft store, the National Grid application proposes to erect a 32,000 sq ft (up to 34,000 sq ft if mezzanine included) store and to aid comparison the existing Morrisons store is roughly 21,000 sq ft.

2.0 FURTHER REPRESENTATIONS

Eleven further letters of objection in a standard format similar to many previously received have been submitted since Supplementary Report 3. These are from:

- Richard McFadden 8 Nelson Street Dunoon Argyll And Bute PA23 7EL
- Sheina McFadden 8 Nelson Street Dunoon Argyll And Bute PA23 7EL
- Dr Pryne Strachurmore Farm Strachur PA27 8DW
- Rhona Galbraith 4 Gordon Street Dunoon PA23 7EJ
- Renee Bischoft 4 Gordon Street Dunoon Argyll And Bute PA23 7EJ
- Liz Dow 7 Letters Way Mid Letters Strachur PA27 8DP
- Dorothy Bryden 141 Victoria Road Dunoon Argyll And Bute
- Decie McConnochie Broom Lodge 19 Wyndham Road Innellan Dunoon PA23 7
- Linda Andrews 20 Ros-Mhor Gardens Sandbank Dunoon PA23 8
- G Thomson 108 Dixon Avenue Kirn Dunoon PA23 8
- Alex Ferguson, K4 Hafton, Hunters Quay, Dunoon

One e-mail of support has been received from Audrey Forrest, 131 Argyll Road, Dunoon.

The further letters of representation raise no new issues.

3.0 FURTHER CLARIFICATION REGARDING GAS WORKS SITE & APPLICATION

A planning application for the construction of a new 32,000 sq ft supermarket was submitted on 6th May (ref 11/00689/PPP). At time of writing a full validation check of the application had not been completed but on initial sight it appeared to have sufficient information to be registered. A verbal update on the progress of this application shall be provided to Members at the Committee.

This is obviously a significant material consideration demonstrating National Grid's intent and belief that their site is deliverable and is of an adequate size to accommodate a commercially viable supermarket.

The recent submission of an application supplements a letter dated 21 April 2011 from Montagu Evans on behalf of National Grid Property which confirms that:-

- The former gas works site could easily accommodate a standard retail food store format extending to in the region of 32,000 sq ft gross (not including any additional land outside their ownership)
- Feasibility work presupposes a net convenience retail element of the size proposed by CWP in their application. Assuming a 60/40 gross to net floorspace split, and in the region of a 80/20 convenience/comparison ratio on a store of 32,000 sq ft
- Therefore, CWP's assertions in relation to the retention of leakage apply equally to a foodstore proposal (convenience floorspace) of this scale on the NGP site
- Agents acting on behalf of NGP have been in discussions with supermarket operators who have indicated that their requirement for Dunoon would be more in line with that proposed at the NGP site
- National Grid have recently taken a strategic decision that sites such as the former gas works site can be marketed for development. National Grid are

committed to the development of the former gas works site and has promoted it for development through the process to prepare the Argyll and Bute Local Development Plan.

- National Grid have remediated the site and recent ground investigation confirms that there are no abnormal ground conditions which would prevent or restrict development or require the use of non-standard methods of ground works and construction
- Consultants acting on behalf of National Grid have discussed the principle of access to the site from Hamilton Street with the Council. The Council were content at that time that adequate junction sightlines could be achieved. *(This was confirmed to National Grid's consultants at a meeting on 5th Oct 2010, subject to a Traffic Impact Assessment and detailed design.)*
- Extensive work has now been undertaken by consultants concluding that the residual risk of flooding at the site is low and that the presence of the Milton Burn within the vicinity of the site will not significantly preclude or indeed compromise redevelopment of the site.
- The NGP site is sequentially preferable in retail terms to that of the CWP proposal. Indeed the NGP site is acknowledged within the retail statement (revised) submitted in support of the CWP proposals as a sequentially preferable site by virtue of its consideration in section 5.0 of the assessment. On the basis of the above it is entirely competent to consider the NGP site as being a comparable proposal in the context of the application of the sequential approach. Failure to fully afford appropriate weight to the availability of such a sequentially preferable, suitable and deliverable alternative could result in there being grounds for a legal challenge.

An email on 5th May also confirmed:-

- A store of 40,000 sqft gross could be accommodated on a wider site, which would include the NG site, together with additional land to the west of Milton Burn. However, there would be issues in the development of a suitable store format, given the nature of its shape and resultant technical issues including traversing the burn. For these reasons, NG do not intend to build a store of 40,000 sqft gross, but rather will apply for planning permission to develop a store of some 34,000 sq ft gross (inclusive of a mezzanine floor which does not require planning consent)

While this proposal may be broadly comparable to the current application by CWP in terms of convenience floorspace, it would deliver substantially less comparison floorspace than of the CWP proposal. Furthermore, it does not include a petrol filling station. Consequently, it may be argued that it would fail to deliver the clawback of retail expenditure spent outwith Dunoon upon which CWP seeks to justify its proposal. Nevertheless, the submission on behalf of NGP does indicate that the potential of the gasworks site to address the retail needs of Dunoon as a sequentially preferable option has not been adequately addressed in the current application.

In response to the further information from National Grid the applicant in a letter dated 4th May 2011 has provided:-

There (National Grid) feasibility work suggests that the car parking numbers for this size of store would be 123 spaces. This is a complete contradiction in terms as the operators would never even contemplate taking a foodstore of this size with that number of car parking spaces. This is why we have always maintained that a store of 20,000 sq ft with 120 car parking spaces would be the maximum size that could be accommodated on this site as the operators

will not compromise the car parking ratio due to the direct affect it has on their ability to trade successfully. They must have a clear balance between the store size and the number of spaces required.

I am at a loss as to why Montagu Evans continue to maintain that the operators would consider a store of this size in Dunoon with that number of car parking spaces. I can only suggest that it is a continued attempt to try and derail our proposals and given that they have not submitted a planning application this assertion is further compounded.

I would like to reiterate that our planning application, which is for 40,000 sq ft with 240 car parking spaces and a petrol filling station reflects the operators requirements and fits within the definition of a "standard retail foodstore format".

Montagu Evans make a number of other assertions about the sites availability, access and flood risk but again there is no hard evidence that these issues can be resolved

Whilst the the above is explicit in terms of the applicant's position and recent appeal decisions also highlight that a degree of cognisance should be afforded to operator requirements, Members must note that this does not prejudice their ability to consider any site below 40,000sq ft as a viable alternative. The viability of any store smaller than the 40,000sq ft threshold will be dependent on market forces including range of goods (comparison and convenience), location and demographics.

What is clear from the recent information is that a store of a size comparable to the current proposal cannot be accommodated on the sequentially preferable National Grid site either in isolation or in partnership with adjacent landowners. Notwithstanding this, the Planning Department still retains the original recommendation for refusal viewing the National Grid as a effective site closer to the town centre, albeit on a smaller scale than the current proposal.

Members should refresh themselves with the original officers report section C(ii) which provides a retail impact assessment for both the proposed store and a representative smaller (27,000 sq ft) store and concludes:-

.....as a store of 2500 sqm (27,000 sq ft) gross which would equate to about 1600 sqm net, with a 75% convenience and 25% comparison goods split, would more than accommodate the available expenditure. As such, it is considered that the applicants have not met the requirements of the sequential test, in discounting the former gas works site which is located in a sequentially preferable edge of town centre location.

4.0 FURTHER INFORMATION FROM APPLICANT ON PLANNING GAIN

Members also continued the determination of the application for clarification on planning gain matters which were verbally offered by the applicant during the hearing. Elements of planning gain were explored in response to impacts on the town centre and in relation to the partial loss of Potential Development Area (PDA 2/5) amounting to around 34 residential units inclusive of 9 affordable units.

As such, the developer has written confirming that they would provide planning gain should Members be minded to approve the application in order to assist and mitigate the loss of the affordable units and address impacts on the vibrancy of town centre. The magnitude of these contributions amount to:-

- £80,000 for town centre environmental improvements; and

- £67,000 (£7,500 per unit) for loss of affordable housing to be invested in Strategic Housing Fund

The affordable housing contribution has been calculated by a residential estate agent on behalf of the developer who considers the plot value for each unit in this location and nature to be £7,500

In the Planning Departments opinion this is a disproportionately low contribution toward realistically delivering affordable housing. In our view, the calculation of a commuted sum, instead of onsite provision, should be based upon the value of serviced land for the provision of housing, acquired on the open market. We need more evidence to demonstrate that it is possible to acquire serviced land for general housebuilding at these levels. It would be normal practise to get the District Valuer to provide these figures, with the applicant expected to pay his fees.

Any contributions for town centre improvements are most likely to be delivered through CHORD which currently proposes £2m worth of environmental improvement in Dunoon. The developer seeks to calculate their contribution taking note of the recently Member approved Tesco Campbeltown store as a benchmark. Given that the Tesco store was 60,000 sq ft with a planning gain of £147,000 to mitigate negative impacts on the town centre the applicant has afforded a pro rata calculation to this smaller 40,000 sq ft store resulting in a proposed payment of £80,000.

In assessing this £80,000 figure against the benchmark of Tesco Campbeltown (£147,000) it is imperative to note some key differentials. Firstly, in Campbeltown the proposal was for the closure of the existing out of town store and replacement within a sequentially preferable location closer to the town centre. Secondly, the application was linked to and enabled the relocation of the Campbeltown Creamery to a new modern facility which had already been approved thereby retaining / facilitating employment and economic activity of a major employer in the area which required a new facility. Whilst the applicant for the current proposal has intimated there is an aspiration and legal agreement on the sale of the site to relocate the current Walkers store within Dunoon there is currently no certainty over the current provision nor any planning control over this matter. This aspect could however be controlled via Section 75 if Members are minded to approve requiring the construction or opening of a new store similar to the one which is being displaced prior to commencement of works at the existing site.

Finally and most importantly, the economic and retail impact upon both of the respective town centers varies significantly. In Campbeltown whilst the store was larger it was assessed to only have an 5.5% impact on convenience goods and no impact on comparison goods in relation to the town centre again taking cognizance of it being a replacement store closer to the town. However in Dunoon, this smaller store in an out of town location shows an anticipated impact on convenience shops within the town centre of 14.7% and 3.7% impact on comparison goods – overall 8%. This overall level of impact is considered to be significant. The retail impact assessment (shown in full at section C of the original report) does not justify a third large foodstore within Dunoon to directly compete with Morrisons and the Co-op that have Main Town Centre and Edge of Centre locations respectively, in addition to the impact on other convenience/comparison outlets in the Town Centre and surrounding areas. Furthermore it must be noted that the assumption that significant leakage can be arrested by proposing a superstore that is more than twice the size of Morrisons does not square with the discrepancies in terms of trips made outwith the peninsula to undertake main food shopping which may be ancillary to trips outside of Cowal for employment or leisure. To this extent it is considered that the impact on Dunoon's

town centre is significantly greater and more challenging to mitigate than the impact identified in Campbeltown and therefore should have a bearing on level of contribution required to offset the deflection from the existing businesses in the town centre and assist with town centre improvements.

In conclusion it is considered that the proposed £67,000 for affordable housing and £80,000 for town centre improvements is insufficient to adequately mitigate the significant adverse impacts predicted to bring it within a threshold that could be viewed as consistent with the Local Plan or even as a minor departure

5.0 Conclusion

The additional information and submission of an application has clarified National Grid's position that whilst they can only deliver a store with a maximum gross floor space of around 32,000 sq ft (34,000 sq ft inc mezzanine) but maintain this is of a sufficient size to address leakage in Dunoon without significantly affecting the town centre. It has also confirmed that they do not wish to proceed with land assembly in conjunction with adjacent landowners to increase the physical size of a potential store on their site and they are confident about delivering a store that shall be of interest to operators and have submitted a planning application to this extent although invalid at this stage.

From the developers perspective they have rebutted the claims by National Grid that their site can deliver anything around 30,000 sq ft and maintain their position that the 40,000 sq ft is most commercially viable, operator efficient / attractive and will address the leakage in Dunoon by providing a wider range of goods especially comparison and petrol station whilst unlocking the wider residential site. They have also offered £147,000 in planning gain to mitigate the loss of 9 affordable units and negative impact on the town centre.

Whilst the new information has clarified certain issues as requested by Members the Officers recommendation remains as per the original report as one for refusal and listed 4 reasons for refusal as per section 'R'.

In direct response to the new information the retail impact assessment in the original report assessed a retail unit of approximately 27,000 sq ft as a sequentially preferable alternative and noted that this medium sized store would adequately accommodate leaked expenditure in the area and is in a sequentially preferable location.

Nevertheless, there is still rebuttal and doubt expressed by the applicant that the National Grid site can be progressed due to constraints afforded by flooding, parking, access and configuration to actually to deliver a commercially viable supermarket that adequately addresses retail leakage. **Given an application has now been submitted for the National Grid land it may be prudent to consider this new application and assess the site's effectiveness / deliverability before the current application is determined.** The period of time to assess the new application (11/00689/PPP) is likely to be in the region of 2 months.

Notwithstanding this, the current level of planning gain, as proposed by CWP for the Walkers site, is not considered to be of a level that will meaningfully offset the loss of 9 affordable units or contribute towards town centre improvements of a scale relative to the potential significant impact.

It is therefore recommended that planning permission be refused as per the original report.

If Members are minded to approve giving merit to current level of planning gain offered and disregard of sequentially preferable site then we would recommend the application to be a significant departure from the Local Plan thereby requiring Full Council endorsement.

Author: Ross McLaughlin

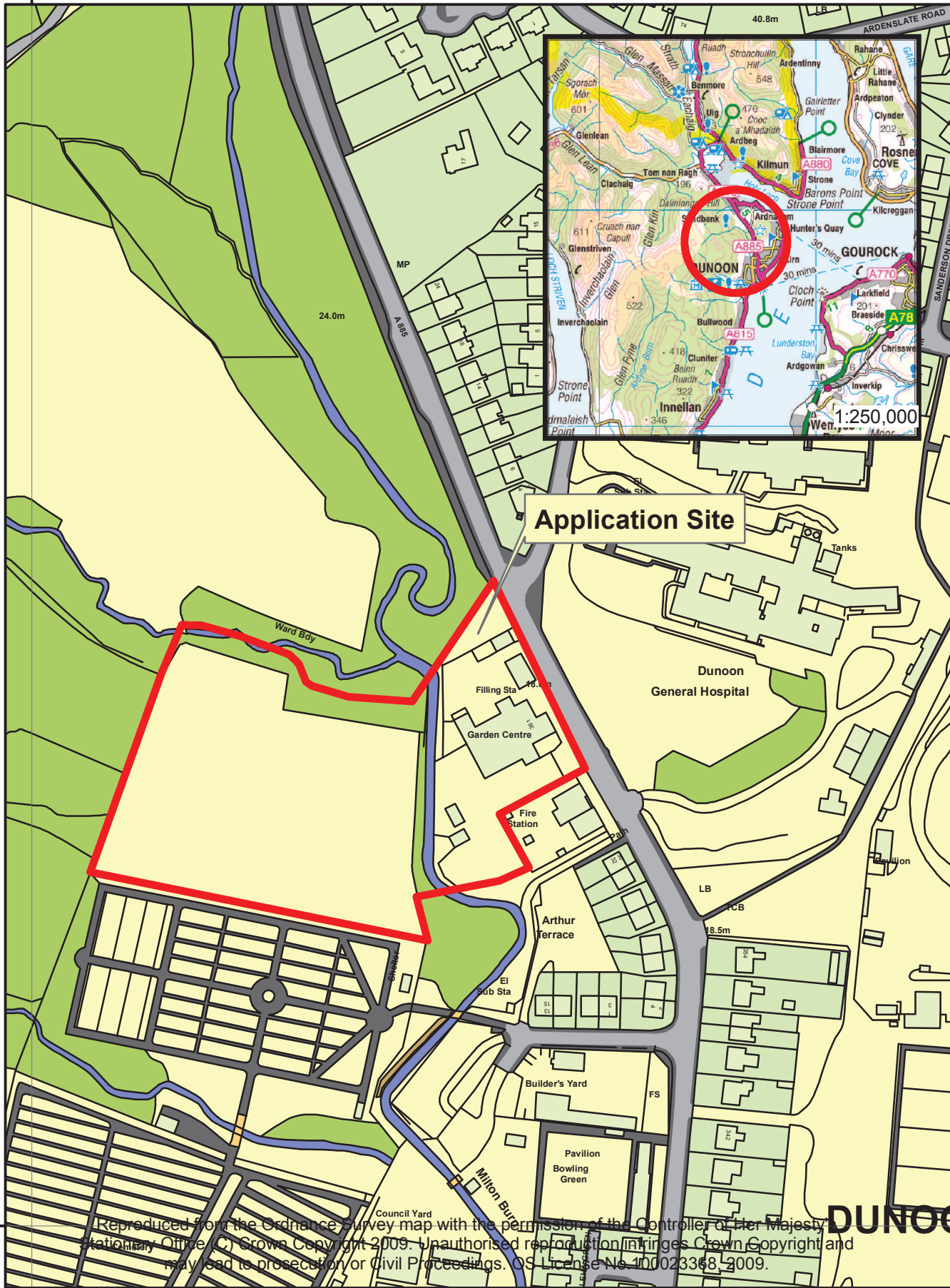
Contact Point: David Eaglesham 01369 708608

**Angus J Gilmour
Head of Planning & Regulatory Services**

9th May 2011

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Location Plan relative to Application Ref: 10/00222/PPP



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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: 11/00389/PP

Planning Hierarchy: Local Development

Applicant: Ganavan Sands Ltd

Proposal: Erection of Restaurant (Class 3) and 8 Flats (Amendment to 08/01854/DET)

Site Address: 2 Shore Street, Oban

DECISION ROUTE**Local Government Scotland Act 1973**

(A) THE APPLICATION**(i) Development Requiring Express Planning Permission**

- Erection of Restaurant (Class 3) and 8 Flats
 - Connection to public water system
 - Connection to public drainage system
-

(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission be granted as a minor departure to Policy LP HOU 2 of the adopted Argyll and Bute Local Plan 2009 and subject to the conditions and reasons appended to this report.

(C) HISTORY:

08/01854/DET

Demolition of existing single storey 'Stove Centre' shop and workshop and erection of 4 storey, 6 flat and restaurant development – Granted: 06/02/09

(D) CONSULTATIONS:

Area Roads Manager

Report dated 29/03/11 advising no objection. Sufficient car parking provision exists at Albany Street and Campbell Street car parks to accommodate the development.

Scottish Water

Letter dated 24/03/11 advising no objection but advising that a Development Impact Assessment will require to be undertaken prior to connections being granted by Scottish Water.

(E) PUBLICITY:

The proposal has been advertised in terms of Regulation 20 procedures, closing date 14/04/11.

(F) REPRESENTATIONS:

Three representations have been received regarding the proposed development.

Joyce Ansell, Flat 3/3, Lismore House, Station Road, Oban, PA34 4NU
Andy & Marjie Thornton, Flat 1/1 Lismore House, Station Road, Oban, PA34 4NU
Jacqueline Skeldon, 1/5 Lismore House, Station Road, Oban, PA34 4NU (2 e-mails)

(i) Summary of issues raised

- Road and pedestrian safety issues

Comment: The Area Roads Manager was consulted on the proposed development and raised no concerns on road safety grounds.

- No details of the proposed restaurant have been submitted and this has the potential to introduce noise and activity at unsociable hours.

Comment: The Council's Public Protection Unit will monitor noise and activity of the restaurant through separate legislation. The ground floor restaurant is already part of an extant planning permission at the site.

- No details of the layout of the restaurant have been shown and any proposal should show toilet facilities which are a statutory requirement.

Comment: This is a matter which will be fully dealt with by Building Standards at Building Warrant stage.

- The design of the buildings is not in keeping with the surrounding buildings and it is in a very prominent position within the town centre.

Comment: There is no common theme to the architecture within this area of Oban and the design solution proposed is considered appropriate in this context, representing a good example of contemporary architecture which will fit well within the existing streetscene. A modern design already forms part of an extant consent for a four storey development at the site.

- No details of parking provision to serve the proposed development is shown in the application.

Comment: The Area Roads Manager was consulted on the proposed development and raised no objections. Adequate parking provision exists at Albany Street and Campbell Street car parks adjacent to the site to accommodate the additional two units being proposed (6 flats and a restaurant already having been granted planning permission at the site).

- The existing car park between Albany Street and Shore Street should be restricted to local residents, council employees and Royal Mail vehicles.

Comment: This is not a material consideration in the determination of this planning application but is a general matter for the Roads Authority.

- The proposed building will overshadow the property at Lismore House.

Comment: The proposed building is not significantly different in size to that previously approved and it is not considered the increase in size will result in any unacceptable overshadowing issues.

- The proposed building will have windows which will directly look into existing windows in Lismore House.

Comment: The windows in the proposed development are offset from the windows in Lismore House, and there will be no direct window to window overlooking issues with the proposal. The first four floors of the development have already been approved at the site.

- Would like to be advised of timescales of works should the development go ahead.

Comment: If approved, the development could commence within three years from date of planning permission being granted. More specific timescales cannot be provided by this Service.

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, 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. | |
| <u>Argyll and Bute Structure Plan 2002</u> | |
| STRAT SI 1 – Sustainable Development | |
| STRAT DC 1 – Development within the Settlements | |
| STRAT DC 9 – Historic Environment and Development Control | |
| STRAT HO 1 – Housing – Development Control Policy | |
| <u>Argyll and Bute Local Plan 2009</u> | |
| LP BAD 2 – Bad Neighbour in Reverse | |
| 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 HOU 1 – General Housing Development | |
| LP HOU 2 – Provision of Housing to Meet Local Needs including Affordable Housing Provision | |
| LP TRAN 4 – New and Existing Public Roads and Private Access Regimes | |
| 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. | |
| Argyll & Bute Sustainable Design Guidance (2006) | |
| The Town & Country Planning Act (Scotland) 1997 | |

The Planning etc. (Scotland) Act, 2006

SPP, Scottish Planning Policy, 2010

| | | |
|------------|---|-----------|
| (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

Planning permission reference 08/01854/DET was granted in February 2009 for demolition of a single storey shop and erection of a four storey property comprising restaurant on the ground floor and flats on the upper three floors at 2 Shore Street, Oban. The current application seeks permission for an amended design incorporating an additional storey to provide two further residential flats which represents a material change to planning permission 08/01854/DET, which is live until February 2014.

In terms of the adopted Argyll and Bute Local Plan, the site is identified as being within the Settlement Zone of Oban where Policy STRAT DC 1 of the approved Argyll and Bute Structure Plan gives general support to developments serving a wide community of interest, up to large scale development within the main town, subject to compliance with other relevant Local Plan Policies.

In terms of Policy LP HOU 2, there is a requirement that all residential developments in excess of 8 units or more should include a 25% affordability component as would normally be the case for this development. However, in this particular case, the site benefits from a live consent for the first four storeys of the current five storey proposal and this live consent carries such significant weight that the requirement for affordable housing should not be applied to this development which proposes a net increase of two units. This is on the basis of the simple nature of the amendment when viewed against the existing live consent for 6 units and most importantly the fact that the live consent pre-dates the current 8 unit threshold identified in the adopted Local Plan. Furthermore, the environmental improvements obtained from redeveloping this brownfield site are such that finding an economically viable re-use would benefit the streetscape.

Should the entire 8 unit development be considered for the purposes of the calculation of affordable housing, without cognisance of the significant site history, redevelopment potential and live consent, it is considered that the developer will proceed with the four storey development as it stands and the extra two units will be lost. These additional units would make a small but positive contribution to the local housing market and in this time of ongoing housing demand, limited construction activity, and economic difficulty, the provision of the extra two units as open market units should be supported, rather than losing out on them altogether. Policy STRAT SI 1 also encourages the Planning

Authority to make best use of available brownfield sites. Capitalising on such a redevelopment opportunity within the established town centre, so close to the bus and train stations as well as all the facilities and services that are available in Oban is something that should be encouraged.

Furthermore, the recent advice from the Scottish Government on affordable housing policies encourages even greater flexibility on the Local Authorities part, in light of the current economic circumstances affecting the private sector and affordable housing providers.

On this basis the proposal is considered to be consistent with the terms of the current Development Plan, albeit including a minor departure from Policy LP HOU 2. There are no infrastructure constraints which would preclude development of the site and therefore I have no objection to planning permission being granted as a minor departure from Policy LP HOU 2 of the adopted Argyll and Bute Local Plan.

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

(R) Reasons why planning permission should be granted

It is considered that the site subject of this application represents a suitable opportunity for redevelopment consistent with the settlement strategy expressed in the current Development Plan and there are no infrastructural constraints which would preclude the development of the site.

Furthermore the proposed building is considered to be of a suitable form, scale and design, incorporating materials which will ensure that it integrates well within its setting and will represent an improvement in the overall appearance of the streetscene, which is characterised by medium rise buildings of staggered heights and varying designs.

The proposal accords with Policies STRAT SI 1, STRAT DC 1 and STRAT DC 9 of the approved Argyll and Bute Structure Plan and Policies LP BAD 2, LP ENV 1, LP ENV 13(a), LP ENV 19, LP HOU 1, and LP TRAN 6 of the adopted Argyll and Bute Local Plan.

The proposal can be justified as a 'minor departure' from Policy LP HOU 2 as the site benefits from a live consent for the first four storeys and 6 units of the current five storey proposal which carries such significant weight that the assessment of affordable housing can be limited. Under the terms of the pre-existing consent 08/01854/DET, works could commence on the four storey development at any time until February 2014.

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

Policy LP HOU 2 requires that all residential developments in excess of 8 units or more should include a 25% affordability component as would normally be the case for this development. However, in this particular case, the site benefits from a live consent for the first four storeys of the current five storey proposal and 6 units. The existence of a live consent for such a similar development carries such significant weight that the assessment of affordable housing can be limited to the additional storey only. This is on the basis of the simple nature of the amendment compared to the existing live consent

and most importantly the fact that the live consent pre-dates the current 8 unit threshold identified in the adopted Local Plan for affordable housing provision. The redevelopment nature and environmental improvements that would be secured by a viable re-use are also prevalent and have been taken into consideration alongside current Scottish Government advice on the application of affordable housing policy in economically challenging times. Under the terms of the pre-existing consent 08/01854/DET, works could commence on the four storey development at any time until February 2014.

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

Author of Report: Fiona Scott Date: 03/05/11

Reviewing Officer: Stephen Fair Date: 03/05/11

SF

**Angus Gilmour
Head of Planning**

CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 11/00389/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. No development shall commence on site until full details of the external finishing materials have been submitted to and approved in writing by the Planning Authority. The development shall thereafter be completed and maintained 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 and maintains the character of the area.

3. No development shall be commenced until full details of the type and position of the extraction ventilation system to be installed, including details of the internal and external flues have been submitted to and agreed in writing by the Planning Authority in consultation with the Public Protection Unit. The development shall thereafter be completed and maintained in strict accordance with such details as are approved.

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

4. The development shall be implemented in accordance with the details specified on the application form dated 09/03/11 and the approved drawing reference numbers:

Plan 1 of 2 (Drawing Number L(--))02 A)
Plan 2 of 2 (Drawing Number L(--))04)
Plan 3 of 3 (Drawing Number 0726 A(--))01)

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.
- 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: 11/00389/PP

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 Settlement Zone of Oban where Policy STRAT DC 1 of the approved Argyll and Bute Structure Plan gives general support to developments serving a wide community of interest, up to large scale for the main towns, subject to compliance with other relevant Local Plan Policies.

STRAT SI 1 confirms that developments should make efficient use of vacant or derelict brownfield land, maximise use of existing service infrastructure, and use public transport routes fully.

Policy LP ENV 1 assesses applications for their impact on the natural, human and built environment.

Policy LP HOU 1 gives a general presumption in favour of housing developments unless it would result in an unacceptable environmental, servicing or access impact.

Policy LP HOU 2, states that there is a requirement that all residential developments in excess of 8 units or more should include a 25% affordability component. However, the site benefits from a live permission for six residential units which was granted prior to the adoption of the Local Plan and affordable housing policy. The result of this significant material consideration, small nature of amendment are such that there should be no requirement for the provision of an affordable element in this specific instance on the net increase of two dwellings.

The application also represents a suitable opportunity for redevelopment on a site which, when redeveloped, will make a positive contribution to the local housing market and improve the streetscene and visual amenity of the area. Furthermore, the recent advice from the Scottish Government on affordable housing policies encourages even greater flexibility on the Local Authorities part, in light of the current economic circumstances affecting the private sector and affordable housing providers.

B. Location, Nature and Design of Proposed Development

The application proposes the demolition of the existing building and the erection of a four storey building which will provide premises within Use Class 3 (Food and Drink) on the ground floor with Class 9 residential units on the upper floors. It should be noted that further planning permission would be required if the restaurant was to become a hot food carry out although it should be noted that a limited amount of carry out food sales is permissible providing that the main use remains that of a restaurant.

The proposed building is a simple, modern, five storey contemporary designed structure with a ridge height approximately one metre higher than the neighbouring property of the Claredon Hotel.

There is no common theme to the architecture within this area of Oban and the design solution proposed is considered appropriate in this context representing a good example of simple contemporary architecture which will fit well within the existing streetscene and will not detract from the setting of the Claredon Hotel, a Category C(s) Listed Building.

Furthermore, it is considered that the proposed building will make a positive contribution to the visual amenity of the area.

It should be noted that whilst the amended design subject of this current application shows a building which is higher than that previously approved, it is considered the difference in height, and reinforcement of the staggered building heights found around the site, is appropriate to the overall streetscene.

No details of the proposed finishing materials for the ground floor have been submitted and therefore this will be dealt with by way of a condition to ensure an appropriate finish to help integrate the proposed building into its surroundings. The upper floors of the building are to be finished in a smooth render (colour to be agreed) with timber windows with the roof finished in natural slate.

The proposed use of the building as a restaurant and residential flats fits well with the established development within this area which is characterised by a mix of commercial and residential uses.

In this regard the proposal is considered to comply with the terms of Policy LP ENV 19 and Appendix A.

As stated above, the site is situated immediately adjacent to the Claredon Hotel which incorporates a public house and therefore Policy LP BAD 2, Bad Neighbour in Reverse requires to be considered in the determination of this application.

In this regard, the Council's Public Protection Unit was consulted and whilst raising no objection to the overall proposal, advised that as the hotel holds regular music evenings, sound from these occasions is likely to be transmitted through the dividing wall and may have an impact upon the flats. On this basis the applicant submitted additional information showing the construction of the party wall including measures to prevent or minimise the likely transmission of structurally based sound energy to which the Public Protection Unit confirmed were acceptable. Controlling noise emissions between buildings is also addressed by Building Standards at the building warrant stage.

Given the late-night licensing of the hotel, there is also the possibility of street noise at late hours. However, as the development is intended for the town centre, additional measures will not be required. Modern thermal glazed window construction should provide adequate protection against typical intermittent street noise. The site is alongside existing flatted developments, where noise disturbance has not been unacceptable. Furthermore, any disturbance associated with anti-social behaviour would be a matter for the police.

C. Affordable Housing

In terms of Policy LP HOU 2, there is a requirement that all residential developments in excess of 8 units or more should include a 25% affordability component. However, in this particular case, the site benefits from a live consent for the first four storeys of the current five storey proposal. This live consent carries such significant weight that the assessment of affordable housing should be limited. This is on the basis of the simple nature of the amendment when viewed against the existing live consent and most importantly the fact that the live consent pre-dates the current 8 unit threshold identified in the adopted Local Plan.

Should the entire 8 unit development be considered for the purposes of the calculation of affordable housing, it is considered that the developer will proceed with the four storey development as it stands and the extra two units will be lost. These additional units

would make a small but positive contribution to the local housing market and in this time of ongoing housing demand, limited construction activity, and economic difficulty, the provision of the extra two units as open market units should be supported, rather than losing out on them altogether. STRAT SI 1 also encourages the Planning Authority to make best use of available brownfield sites. Capitalising on such a redevelopment opportunity within the established town centre, so close to the bus and train stations as well as all the facilities and services that are available in Oban is something that should be encouraged.

Furthermore, the recent advice from the Scottish Government on affordable housing policies encourages even greater flexibility on the Local Authorities part, in light of the current economic circumstances affecting the private sector and affordable housing providers.

In addition, the developer has advised that the units will be marketed between £ 120,000 and £ 150,000. All of the units will be available to first time buyers with 50% of them made available via a delayed deposit payment scheme which gives a deposit of 20% delayed for 10 years and in cases of financial hardship for 15 years.

The application also represents a suitable opportunity for redevelopment on a site which, when redeveloped, will make a positive contribution to the local housing market and improve the streetscene and visual amenity of the area. The economic viability of redevelopment schemes are also accepted to be challenging in the current economic climate.

D. Road Network, Parking and Associated Transport Matters.

In terms of parking provision, Policy LP TRAN 6 requires that development of this scale should normally have a minimum of 4 parking spaces. However, Appendix C, Access and Parking Standards, states that a degree of flexibility will be available where it can be shown by the applicant that the parking requirement can be met by existing car parks and that the demand for parking in connection with the development will not coincide with the peak demand from other uses in the area. On this basis, the Area Roads Manager has confirmed that a parking survey was undertaken which identified that there was ample spare capacity within town centre car parks (Albany Street and Campbell Street) to accommodate the car parking demands and therefore the provisions of Policy LP TRAN 6 do not apply in this instance.

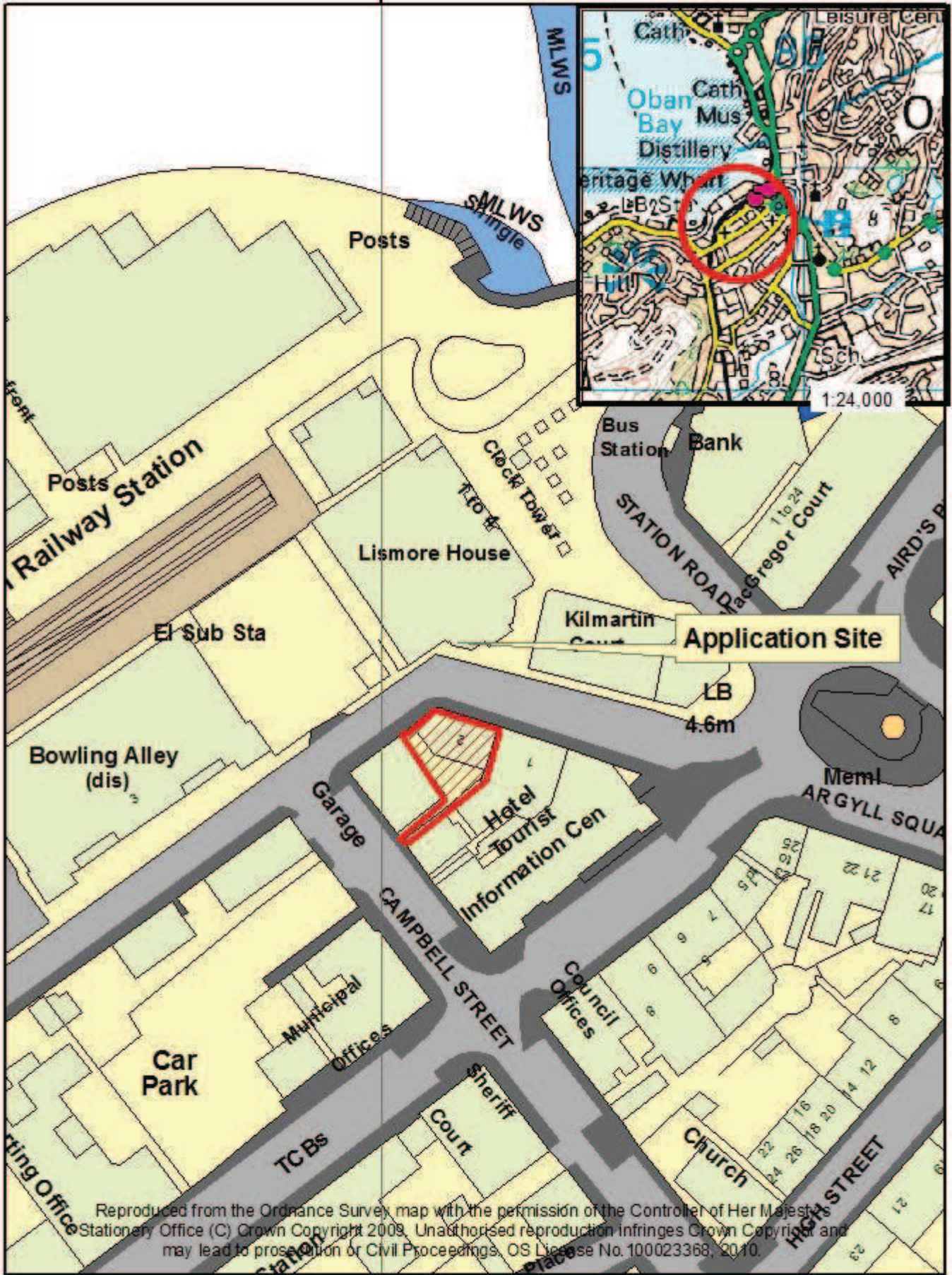
E. Infrastructure

Water supply and drainage are via connection to the public systems. Scottish Water, whilst raising no objection, advised that due to the size of the proposed development it will be necessary for the applicant to submit a Development Impact Assessment form for consideration.

In this regard, it is considered that the proposal complies with the terms of Policy LP ENV 1 which seeks to ensure the availability of suitable infrastructure to serve proposed developments.

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**Committee Plan Relative to
Planning Application Ref: 11/00389/PP**



Date: May 2011

Scale: 1:1,000

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Committee Date: 18 May 2011

ENFORCEMENT REPORT

Reference Number: 11/00107/ENOTH2
Applicants Name: Osborne Interiors Ltd
Application Type: Enforcement Report
Application Description: Removal of trees
Location: Land adjacent to 12 Cumberland Avenue, Helensburgh

SUMMARY

This report is to bring to Members attention the removal of trees at land adjacent to 12 Cumberland Avenue, Helensburgh covered by TPO 16/04. Members are asked to note the contents of the report.

BACKGROUND AND CURRENT SITUATION

It has been brought to the attention of the planning authority, who were notified by the owners of the site that trees within an area of land adjacent to 12 Cumberland Avenue, Helensburgh, covered by TPO 16/04, were potentially dangerous and should be removed.

The agent on behalf of the owners stated in an e-mail dated 26 April 2011 to the Council that "Recently a number of trees have fallen and two have fallen on property on Fraser Avenue. One of the owners of property on Fraser Avenue has complained and the land owners consider they really have no defence to this complaint. A survey has been done and the land owners have agreed to fund the felling of trees deemed to be dangerous and in accordance with TPO 16/04. This felling is restricted to any tree which, if it fell on its own accord, would fall on adjacent property including Cumberland Avenue."

In notifying the Council it was considered that in total a 20 metre strip of trees adjacent to Fraser Avenue should be removed in the interests of safety.

Under the Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas (Scotland) Regulations 2010 it is an offence for any person in contravention of a TPO to cut down, uproot, wilfully destroy a tree or wilfully damage, top or lop a tree in such manner as to be likely to destroy it without the consent of the planning authority.

A TPO may make exemptions to the prohibition of cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of trees except with the consent of the planning authority. Without prejudice to any other exemptions made by the TPO, section 160(6)a of the Town and Country Planning (Scotland) Act 1997 states that nothing in the TPO shall prohibit the uprooting, felling or lopping of trees if, inter alia, it is urgently necessary in the interests of safety.

The owners were asked to meet with the Planning Authority before trees were removed. However, approximately 7 or 8 trees have already been removed from the area.

On Tuesday 3 May 2011 the site was visited by staff of the Planning Department and the Roads and Amenity Services' Service Officer - Grounds & Horticulture, who met with representatives of West Coast Cutters who have been asked to carry out the tree felling works. An inspection of the site was undertaken and a number of potentially dangerous trees identified and recorded. A map of these will be included with the finalised report. It was agreed that certain trees within the 20 metre strip of trees adjacent to the northern boundary of the site adjoining the rear gardens of properties on Fraser Avenue were potentially dangerous and should be removed. Work is currently on-going to remove trees agreed on site by the planning authority.

Under Section 167(1) of the Town and Country Planning (Scotland) Act 1997 if any tree in respect of which a TPO is in force is removed, uprooted or destroyed in contravention of the order then it shall be the duty of the owner of the land to plant another tree or trees of an appropriate size and species. However, under section 167(1)(b) this does not apply to woodland TPOs such as TPO 16/04 where, under section 160(6)a of the Act, it is urgently necessary to remove, uproot or destroy the trees in the interests of safety. On that basis, under the legislation, we cannot require the landowners to undertake a replanting scheme for trees removed for safety reasons without their agreement. Potentially, this may mean that the majority of trees on this site could be removed if they were considered dangerous without any statutory mechanism to ensure replacement planting.

Given the above, the site will continue to be regularly monitored by the local Enforcement Officer and discussions will be on-going with the applicants to try and negotiate a suitable replanting and subsequent management scheme for the long term benefit of this site. Members will be kept updated on the progress of these negotiations.

RECOMMENDATION

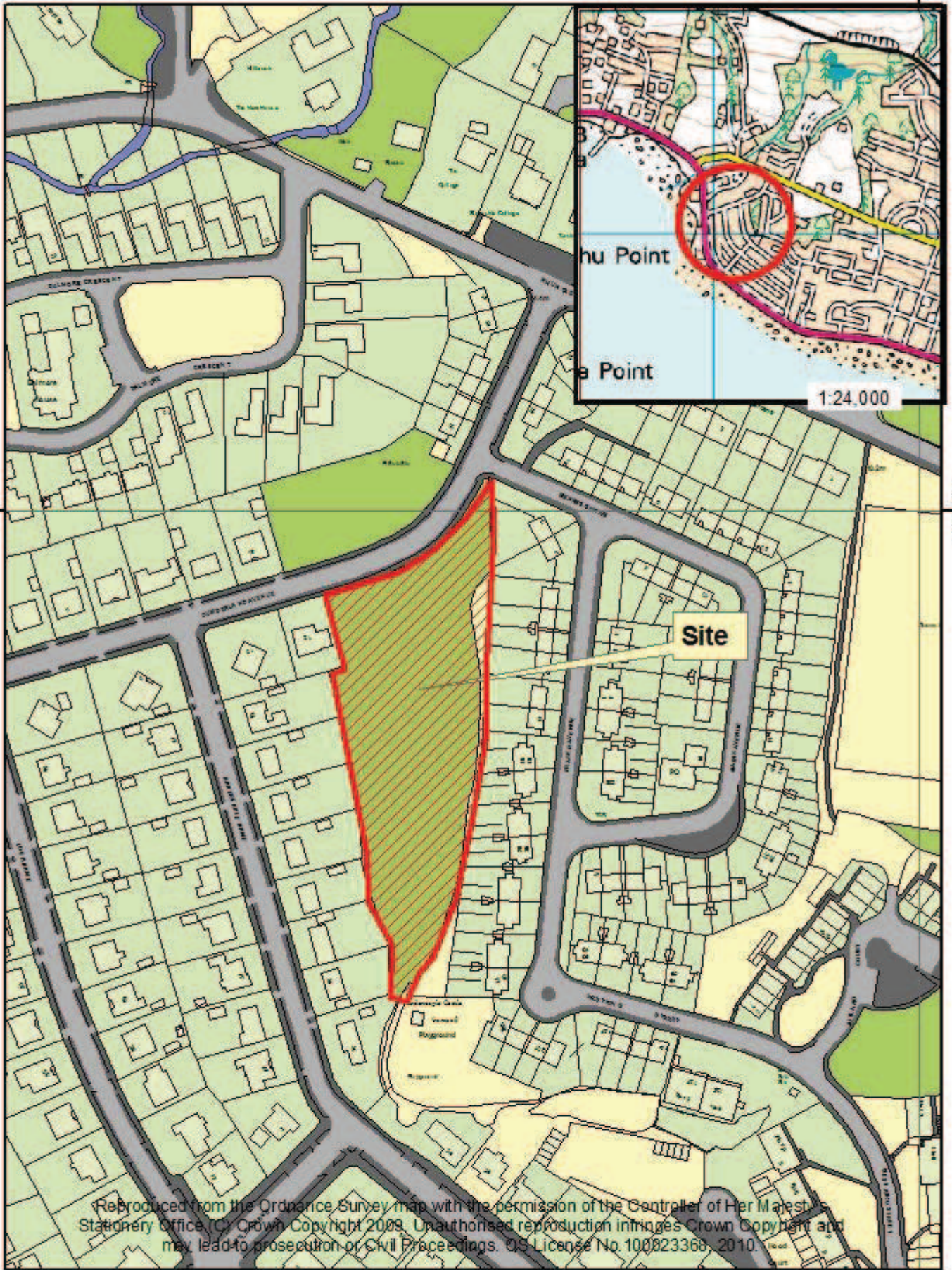
It is recommended that Members note the content of this report.

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Angus Gilmour

Head of Planning and Regulatory Services



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**Committee Plan Relative to:
Ref: 06/00076/ENFOTH**

Date: May 2011

Scale: 1:2,000



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