

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE**  
**held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD**  
**on WEDNESDAY, 22 JUNE 2011**

**Present:** Councillor Daniel Kelly (Chair)

Councillor Rory Colville	Councillor Alister MacAlister
Councillor Gordon Chalmers	Councillor Neil Mackay
Councillor Robin Currie	Councillor Roderick McCuish
Councillor Mary-Jean Devon	Councillor Alex McNaughton
Councillor David Kinniburgh	Councillor James McQueen

**Attending:** Charles Reppke, Head of Governance and Law (up to item 3)  
Angus Gilmour, Head of Planning and Regulatory Services  
Iain Jackson, Governance and Risk Manager  
Richard Kerr, Principal Planning Officer

**Apologies:** Councillor Donald MacMillan      Councillor Al Reay

The Chair ruled, and the Committee agreed, that the business dealt with at item 11 of this Minute be dealt with as a matter of urgency on the basis that a decision required to be made before the date of the next scheduled meeting as to how to respond should an appeal be lodged against the refusal of planning application 08/00138/DET.

## **1. DECLARATIONS OF INTEREST**

Councillors MacAlister, Colville, Mackay and McCuish each declared a non-financial interest in relation to item 5 of these minutes on the basis that they are Board Members of ACHA. They left the room during discussion of the item and accordingly took no part in the decision making..

Councillor McNaughton declared a non-financial interest in relation to item 10 of these minutes on the basis that a close family member was the applicant seeking to discharge a legal agreement.

## **2. MINUTES**

- (a) The Minutes of the Planning, Protective Services and Licensing Committee of 18 May 2011 (10am) were approved as a correct record.
- (b) The Minutes of the Planning, Protective Services and Licensing Committee of 18 May 2011 (10.30am) were approved as a correct record.
- (c) The Minutes of the Planning, Protective Services and Licensing Committee of 18 May 2011 (11am) were approved as a correct record.

**3. A BULLOCH: ERECTION OF TWO HOLIDAY LODGES, FORMATION OF VEHICULAR ACCESS, INSTALLATION OF SEPTIC TANK AND ASSOCIATED LANDSCAPING: 250 M SOUTH WEST OF CASTLE ASCOG, LOCH ASCOG, MILLHOUSE, BY TIGHNABRUAICH (REF: 10/01899/PP)**

The Head of Planning and Regulatory Services spoke to the application for planning permission, discussing the nature of the site and its location relation to Castle Ascog and Portavadie. He spoke about the design, access and water/waste water arrangements. As the site was located in an area of sensitive countryside and within an Area of Panoramic Quality, an Area Capacity Evaluation (ACE) had been undertaken which concluded that there was capacity for small scale development on the lower slopes leading down to Loch Ascog and based around the two existing clusters of cottages.

The Head of Planning and Regulatory Services advised the Committee of the 3 objections received in relation to the application which were contained within his report. He explained that the application was consistent with the Local Plan, would fit within the settlement pattern with the area and the economic benefit for supporting tourism in the area. On this basis he invited the Committee to endorse the ACE and approve the application for planning permission.

### **Decision**

1. Agreed to grant Planning Permission 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 approved drawings: Drawing Number 0543/F/P01B; Drawing Number 0543/F/P02B; Drawing Number 0543/F/P03; and Drawing Number 0543/F/P07A unless the prior written approval of the Planning Authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

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

3. The holiday units hereby approved shall be used solely for holiday occupation and shall not be occupied by any individual, family or group for more than three months cumulatively in any calendar year without the prior written consent of the Planning Authority.

*Reason: In accordance with the use applied for to ensure the use of the units accords with current Development Plan Policy.*

4. Development shall not begin until details of a scheme of hard and soft landscaping works have been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:

- i) existing and finished ground levels in relation to an identified fixed datum
- ii) existing landscaping features and vegetation to be retained
- iii) location and design, including materials, of walls, fences and gates
- iv) soft and hard landscaping works, including the location, type and size of each individual tree and/or shrub
- v) programme for completion and subsequent on-going maintenance.

All the hard and soft landscaping works shall be carried out in accordance with the scheme approved in writing by the Planning Authority. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of the development unless otherwise agreed in writing with the Planning Authority.

Any trees or plants which within a period of ten years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species, unless otherwise agreed in writing with the Planning Authority.

*Reason: In the interests of visual amenity, for the avoidance of doubt and to ensure the implementation of a satisfactory scheme of landscaping.*

5. Unless otherwise agreed in writing with the Planning Authority, the existing footpath which crosses the site (a Right of Way known as the Cowal Way and shown in green on Drawing Number 0543/F/P01B) shall be retained on its present alignment and maintained free from obstruction both during construction and after the occupation of the units hereby approved.

*Reason: In order to maintain the pedestrian facilities within the area and having regard to the existence of a registered Right of Way within the site.*

6. Prior to the commencement of any works on the lodge buildings, details (including samples) of the external finishes and roof covering shall be submitted to and approved in writing by the Planning Authority. The details submitted in respect of the roof covering shall show the use of a profiled metal sheeting (or similar). Unless otherwise agreed in writing with the Planning Authority, the lodges shall be constructed using the approved materials.

*Reason: In the interests of visual amenity in order to reflect the materials used in the vicinity and for the avoidance of doubt.*

2. Agreed that the ACE undertaken in association with the assessment of this application be endorsed as a material consideration in the assessment of future applications within the "Area of Common Landscape Character"

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

**4. ARGYLL PROPERTIES LTD: ERECTION OF A FLATTED DEVELOPMENT (5 FLATS): LAND EAST OF HAWTHORN EDGE, NORTH CONNEL, OBAN (REF: 10/02097/PP)**

The Principal Planning Officer spoke to the application, explaining that the site encompassed a small area of countryside around settlement and as such would require to be approved on the basis of a minor departure from the Local Plan. He considered that approval on this basis was justifiable given that flats did not have the same permitted development rights as dwelling houses, as the area affected would be garden ground and not built upon..

He discussed the design and layout of the proposed flats and the concerns of the Community Council, Elected Members and local residents that this would result in overdevelopment. On the basis that there had been a significant level of representation, while his recommendation was for approval, he was suggesting that a discretionary hearing take place prior to the Committee determining the application.

**Decision**

Agreed to hold a discretionary hearing on Thursday 30 June 2011 at 2.00pm in the North Connel Village Hall.

(Ref: Report by Head of Planning and Regulatory Services dated 31 May 2011, submitted)

Councillors MacAlister, Colville, Mackay and McCuish, having previously declared an interest in the following item, left the meeting at this point.

**5. 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 AREA: LAND AT MCCALLUM STREET AND KINLOCH ROAD AND LONGROW, CAMPBELTOWN (REF: 10/02153/PP)**

The Principal Planning Officer advised the Committee that although permission had been granted, this had not yet been issued as there was a pending legal agreement relating to play area provision. In the interim, 2 problems had arisen with regard to the conditions imposed regarding flood risk and access by emergency vehicles and sought permission of the Committee to amend conditions 5 and 6 of the granted planning permission.

**Decision**

Agreed to amend conditions 5 and 6 of the previously approved application as follows:-

5. Notwithstanding the details shown on the approved plans, the minimum finished floor level of ground floor properties within blocks C & D shall be 4.00mAOD and within blocks E & F shall be 3.7mAOD. Prior to the commencement of built development within

the site the details of the proposed finished floor levels of each block and, surrounding proposed finished ground levels shall be submitted to and approved in writing by the Planning Authority. Thereafter the development shall be implemented in accordance with the duly approved details.

*Reason: To secure a minimum freeboard for the development over the design 1 in 200 year flood event as recommended by SEPA and the Council's Flood Alleviation Manager to sufficiently mitigate the development against the impact of flooding.*

6. Notwithstanding the details shown on the approved plans, the finished levels shall be designed to minimise periods of restricted access for emergency service vehicles to blocks C, D, E and F during a design 1 in 200 year flood event. Prior to the commencement of works on site the details of the proposed finished site levels of vehicular and pedestrian access/egress routes within the development shall be submitted to and approved in writing by the Planning Authority. Such details shall demonstrate the availability of emergency vehicular access and pedestrian access to the development during the design 1 in 200 year flood event having regard to the recommendations of CIRIA Report C624 and the updated Flood Risk Assessment submitted 7<sup>th</sup> June 2011. Thereafter the development shall be implemented in accordance with the duly approved details.

*Reason: To secure safe access and egress for emergency service vehicles to the development in the event of the design 1 in 200 year flood event as recommended by SEPA and the Council's Flood Alleviation Officer to sufficiently mitigate the development against the impact of flooding.*

(Ref: Reports by Head of Planning and Regulatory Services dated 10 June 2011 and 5 April 2011, submitted)

Councillors McNaughton, Colville, Mackay and McCuish rejoined the meeting.

**6. MUNRO BRIDGING FINANCE (IN LIQUIDATION): VARIATION OF CONDITION 1 (RELATIVE TO PLANNING PERMISSION 05/01800/DET - 10 DWELLINGS) TO EXTEND VALIDITY OF PERMISSION FROM 5 YEARS TO 6 YEARS: LAND NORTH OF ASCOG MANSIONS, ASCOG, ISLE OF BUTE (REF: 11/00027/PP)**

The Principal Planning Officer advised that the application had been made in order to extend an existing consent for a one year period to assist with disposal of the site by the liquidators. He explained that since the original application had been approved, requirements for visibility had reduced and that more significantly, the introduction of requirements for affordable housing provision, in terms of the Local Plan had come into effect. He advised that there were no objections from any consultees and although there were 17 objections, these largely related to the principle of development which had already been accepted by the Council. He invited the Committee to approve the application as a minor departure to Policy HOU 2 of the Local Plan, given that there was no

demonstrable need for affordable housing provision in the area.

## **Decision**

Agreed to grant Planning Permission as a Minor Departure to the provisions of the Development Plan, subject to the following conditions and reasons:-

1. That the development to which this permission relates must be begun by 30<sup>th</sup> June 2012.

*Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997 and having regard to the extension of time requested.*

2. The development shall be constructed in accordance with the approved plans – *Block Plan Drawing Number 04.18.01, House Type A Drawing Number 04.18.02, House Type B Drawing Number 04.18.03, House Type C Drawing Number 04.18.04 and House Type D Drawing Number 04.18.05* unless the prior written consent of the Planning Authority is obtained for variation.

*Reason: In the interests of visual amenity and in accordance with the development applied for.*

3. The landscaping scheme shown on the plan titled '*Landscape Proposals*' (*Drawing Number 229.3*) shall be implemented no later than the first planting and seeding season following the commencement of the development (or such other timescale agreed with the Planning Authority prior to the commencement of the development) and, thereafter, shall be maintained to the satisfaction of the Planning Authority for a period of ten years. No trees shall be felled or lopped within the landscaping scheme without the prior written consent of the Planning Authority and any losses of plant species through disease, weather exposure, neglect or damage shall be replaced with equivalent species within one growing season.

*Reason: In the interests of visual amenity in order to successfully integrate the proposal into its surrounding townscape setting and having due regard to Policy POL BE 16 of the Bute Local Plan 1990.*

4. The root system of the trees within the site shall be suitably protected in accordance with BS 5837 '*Retention of Trees and Appropriate Distances for Construction*' (1991) prior to the commencement of the development and during the course of the development. Prior to works commencing on site, fences shall be erected below the canopy edge of the trees to prevent encroachment by machinery and vehicles and these fences shall be maintained during building works on site.

*Reason: In the interests of visual amenity in order to ensure that reasonable and appropriate measures are taken to secure the viability of the trees within the site.*

5. A substantial sample panel, being not less than 2.0 square metres, showing the proposed external wall finishes shall be made available on the site for the inspection and written approval of the Planning Authority. The panel shall be made available prior to the application of any render to the external walls

being implemented. The dwellings shall be constructed using the approved finishes unless the prior written consent of the Planning Authority is obtained for variation.

*Reason: In the interests of visual amenity in order to ensure that the proposal integrates successfully into its surrounding townscape setting and having due regard to Central Government guidance and Local Plan policies.*

6. The roof coverings shall be of natural slate, the details of which (including a sample) shall be submitted to and approved in writing by the Planning Authority prior to the commencement of the development. The roofs shall be finished in the approved covering unless the prior written consent of the Planning Authority is obtained for variation.

*Reason: In the interests of visual amenity in order to ensure that the proposal integrates successfully into its surrounding townscape setting and having due regard to Central Government guidance and Local Plan policies.*

7. The windows shall be constructed of white-painted timber unless the prior written consent of the Planning Authority is obtained for variation.

*Reason: In the interests of visual amenity in order to ensure that the proposal integrates successfully into its surrounding townscape setting and having due regard to Central Government guidance and Local Plan policies.*

8. Prior to the commencement of the development, full details of the repair and rendering of those parts of the existing wall, to the walled garden, that are to be retained shall be submitted to and approved in writing by the Planning Authority. The works to the retained walls shall be undertaken in accordance with the approved details unless the prior written consent of the Planning Authority is obtained for variation.

*Reason: In the interests of visual amenity in order to ensure that the proposal integrates successfully into its surrounding townscape setting and having due regard to Central Government guidance and Local Plan policies.*

9. Notwithstanding the details shown on the plan titled 'Landscape Proposals' (Drawing Number 229.3) and prior to the commencement of the development, details of the position, height and appearance of all boundary treatments shall be submitted to and approved in writing by the Planning Authority. In particular, such details shall show the erection of stone walls along the eastern boundary of House No.4 and the western boundary of House No.2. All boundary treatments shall be constructed in accordance with the approved details unless the prior written consent of the Planning Authority is obtained for variation.

*Reason: In the interests of visual amenity in order to successfully integrate the proposal into its surrounding townscape setting.*

10. Prior to the commencement of the development, the location and design of the sewage treatment plant, the odour control measures to be undertaken and a scheme for the maintenance in perpetuity of the approved communal sewage system shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA, the Building Control Section and the Public Protection Service.

*Reason: To ensure the ongoing maintenance of the method of sewerage*

*treatment in the interests of residential amenity and public health of existing and future occupiers of the area and to prevent the unnecessary proliferation of septic tanks.*

11. The discharge pipe leading from the sewage treatment plant shall be constructed to a point below Mean Low Water Spring and shall be buried underground for its full length, the details of which shall be submitted to and approved in writing by the Planning Authority prior to the commencement of the development. The pipe shall be constructed in accordance with the approved details unless the prior written consent of the Planning Authority is obtained for variation.

*Reason: In order to safeguard the visual amenity of the area.*

12. Prior to the construction of the road system and parking areas, full details (including a sample) of the surfacing to be used within the internal road system and parking areas shall be submitted to and approved in writing by the Planning Authority.

*Reason: In the interests of visual amenity in order to ensure that the proposal integrates successfully into its surrounding townscape setting and no such details having been submitted.*

13. The access serving the entire development shall be a 'road' over which the public has a right of access in terms of the Roads (Scotland) Act 1984 and shall be constructed in consultation with the Area Roads Manager to the satisfaction of the Planning Authority.

*Reason: In order to ensure that provision is made for a service "road" commensurate with the scale of development and having regard to the proposed access road as a residential access road.*

14. Prior to the commencement of the development, sightlines of 42 metres in both directions measured 2.5 metres back from the edge of the public road at the centre point of the access shall be kept clear of all obstructions in excess of 1.0 metres above the level of the carriageway and shall thereafter be maintained as such in perpetuity, to the satisfaction of the Planning Authority in consultation with the Area Roads Manager.

*Reason: In the interests of road safety.*

15. Prior to the formation of the vehicular access onto the A844 road, details of the decorative steel gates, which shall not be capable of being closed, and the stone gateposts shall be submitted to and approved in writing by the Planning Authority. The gates and posts shall be erected in accordance with the approved details prior to the occupation of the first dwelling or such other timescale as may be agreed with the Planning Authority.

*Reason: In the interests of visual amenity in order to ensure that the proposal integrates successfully into its surrounding townscape setting and no such details having been submitted.*

16. No development shall commence until a detailed scheme for the phased construction of the development hereby approved has been submitted to and approved in writing by the Planning Authority. Such phasing shall show the construction of the development fronting onto the A844 public road in the initial phase(s) or as otherwise agreed in writing with the Planning Authority.

*Reason: To ensure that the development hereby approved is implemented in full in*



*an integrated manner having due regard to the A844 public road and the visual prominence of the site within the Rothesay Conservation Area.*

17. Prior to the commencement of the development, a method statement that satisfactorily addresses the issue of the potential impact of the construction works upon bats that forage within the application site shall be submitted to and approved in writing by the Planning Authority. The construction works shall be undertaken in accordance with the approved method statement unless the prior written consent of the Planning Authority is obtained for variation.

*Reason: In the interests of nature conservation.*

18. Prior to the commencement of development within the walled garden area, the existing sundial shall be carefully removed from its present location and stored in a safe manner at a location to be agreed in writing with the Planning Authority. The sundial shall then be erected in a new position, the details of which shall be first agreed in writing with the Planning Authority. Prior to the occupation of the first dwelling, the sundial shall be located in the agreed position and, thereafter, maintained as such in perpetuity unless the prior written consent of the Planning Authority is obtained for variation.

*Reason: In the interests of visual amenity in order to ensure that this attractive feature is retained within the development site.*

(Ref: Report by Head of Planning and Regulatory Services dated 3 June 2011, submitted)

**7. T MALCOLM: EXTENSION AND ALTERATIONS TO DWELLINGHOUSE AND INCREASE IN ROOF HEIGHT TO PROVIDE ADDITIONAL ACCOMMODATION: 14 KILMAHEW AVENUE, CARDROSS (REF: 11/00400/PP)**

The Head of Planning and Regulatory Services advised that a late representation had been received from Mr Major which related to the scale and height of the proposed development. He also advised there had been objectors from the Cardross Community Council and 6 neighbours. He also indicated that there had been 13 letters of support received.

The Head of Planning and Regulatory Services presented his report advising that the proposal before the Committee was an amended proposal following concerns being expressed by Planning regarding scale and impact. He stated that the amended proposals were acceptable in terms of scale and impact given that the roof heights varied throughout the neighbourhood and that the proposal for an L-shape extension would provide a "bookend" to mark the end of the street. He explained that the proposal was being recommended for approval as a minor departure to the Local Plan which sought to restrict development to 33% of the curtilage and this proposal would be 35% although would still allow for substantial garden area to the front and rear. He then discussed their conclusions regarding privacy and amenity in terms of the neighbouring property explaining that loss of view was not a material consideration. The amenity impacts were material consideration but in terms of this development it was not considered the proposal would have an overbearing impact although he asked the Committee to note that this did not satisfy the neighbour.

## **Motion**

That the application be approved subject to the conditions and reasons contained within the report by the Head of Planning and Regulatory Services dated 1 June 2011.

Moved by Councillor Daniel Kelly, seconded by Councillor Roddy McCuish

## **Amendment**

That the application be refused as the proposed extension will be out of character with the existing streetscape and accordingly does not comply with Policy LP HOU5 of the Adopted Local Plan and further as the total developed area of the proposed extension and existing detached dwelling would be 35% of the site area it would be a departure from Policy as Appendix A of the Adopted Local Plan states that detached houses (and any extensions) should only occupy a maximum of 33% of their site.

Moved by Councillor David Kinniburgh, seconded by Councillor Neil Mackay

## **Decision**

The Motion was carried by 8 votes to 3 and the Committee resolved to grant planning permission 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 09/03/2011 and the approved drawing reference numbers TM – 01A, TM 02C, TM – 03D, TM – 04, TM - 05A and TM – 06A unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

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

3. Samples of the proposed materials to be used for the external walls and roof of the development hereby granted consent shall be submitted to and approved in writing by the Planning Authority prior to any work starting on site.

*Reason: In the interests of visual amenity and in order to integrate the proposal with its surroundings*

4. Prior to work starting on site full details of parking provision for 3 cars within the curtilage of the dwellinghouse (excluding the integral garages)

shall be submitted to and approved in writing by the Planning Authority.

*Reasons: In the interests of road safety.*

5. Notwithstanding the provisions of Article 3 and Class 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, no window or other openings shall be installed in the east facing elevations of the building without the prior consent of the Planning Authority

*Reason: In order to prevent the inclusion of window and other openings in the specified elevations, which could significantly undermine the privacy and amenity of adjoining residential property.*

6. Details of a boundary fence along the eastern boundary of the application site shall be submitted to and approved in writing by the Planning Authority prior to works commencing on site. The duly approved fencing shall be erected concurrently with the extension hereby approved and shall be retained thereafter.

*Reason: To ensure that there is adequate screening and to maintain the privacy between the development site and the neighbouring property.*

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

**8. BOSSARD'S PATISSERIE: CHANGE OF USE OF FOOTPATH TO FORM OUTSIDE SEATING AREA: BOSSARD'S PATISSEIE, GIBRALTAR STREET, OBAN (REF: 11/00464/PP)**

The Principal Planning Officer advised that this was a Council Interest application and therefore was required to be determined by the Committee. He advised the proposal was for location of 3 tables and chairs alongside the building which would require use of a small area. There had been no objections and therefore he recommended that the application be granted subject to conditions.

**Decision**

Agreed to grant planning permissions subject to the undernoted conditions and reasons:

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

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

2. At all times when the external seating area is in use, the external seating area shall be bound by a restrictive barrier at both ends and the outside edge, the details of which shall be submitted to and approved in writing by the Planning Authority, prior to the commencement of the use hereby approved.

*Reason: In the interests of public safety, to ensure that the seating area does not become a thoroughfare and to ensure that the use is contained within the application site.*

3. Unless otherwise agreed in writing by the Planning Authority, the external seating area as identified on the approved plan shall only be used between the hours of 09:30 and 20.00. Outwith these time periods, the tables, chairs and barriers shall be removed from the footway and securely stored.

*Reason: To protect the amenity of the area and to ensure that the use of the pavement as a seating area is restricted to the hours of operation of the cafe.*

4. The development shall be implemented in accordance with the details specified on the application form dated 25/03/11 and the approved drawing reference numbers:

Plan 1 of 1 (Location Plan and Site Plan at scale of 1:2500 and 1:200)

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 31 May 2011, submitted)

**9. BOSSARD'S PATISSERIE: CHANGE OF USE OF FOOTPATH TO FORM OUTSIDE SEATING AREA (ALTERNATIVE PROPOSAL): BOSSARD'S PATISSERIE, GIBRALTAR STREET, OBAN (REF: 11/00710/PP)**

The Principal Planning Officer advised that this application was similar to the previous application but involved a larger area and was for location of 5 tables. He explained that if this application were to be approved, the applicant would have the option to implement either permission. He advised that there were no objections and recommended that the application be granted subject to conditions.

**Decision**

Agreed to grant planning permission subject to the undernoted conditions and reasons:

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

*Reason: In accordance with Section 58 of the Town and Country Planning*

*(Scotland) Act 1997 (as amended).*

2. At all times when the external seating area is in use, the external seating area shall be bound by a restrictive barrier at both ends and the outside edge, the details of which shall be submitted to and approved in writing by the Planning Authority, prior to the commencement of the use hereby approved.

*Reason: In the interests of public safety, to ensure that the seating area does not become a thoroughfare and to ensure that the use is contained within the application site.*

3. Unless otherwise agreed in writing by the Planning Authority The external seating area as identified on the approved plan shall only be used between the hours of 09:30 and 20.00. Outwith these time periods, the tables, chairs and barriers shall be removed from the footway and securely stored.

*Reason: To protect the amenity of the area and to ensure that the use of the pavement as a seating area is restricted to the hours of operation of the cafe.*

4. The development shall be implemented in accordance with the details specified on the application form dated 09/05/2011 and the approved drawing reference numbers:

Plan 1 of 1 (Location Plan and Site Plan at scale of 1:2500 and 1:100)

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 9 June 2011, submitted)

Councillor McNaughton, having earlier declared an interest in relation to the following item, left the meeting at this point.

**10. REQUEST FOR DISCHARGE OF SECTION 75 AGREEMENT:  
DWELLINGHOUSE AT ARDACHUPLE, GLENDARUEL (99/01652/OUT)**

The Principal Planning Officer advised that this request for the discharge of the agreement was to allow the owner to sell the land which had previously been tied to the sale of the dwellinghouse. He spoke to the circumstances behind the requirement for the Section 75 agreement and the reasons why this agreement should be discharged in favour of a new agreement which would prevent development of another house on the land.

## **Decision**

Agreed to discharge the Section 75 Agreement following the completion of a revised Agreement to preclude the erection of a dwellinghouse on the remaining holding and on condition that the owner pays the Council's legal fees and outlays in relation to the proposed discharge and revised Agreement.

(Ref: Report by Head of Planning and Regulatory Services, dated 3 June 2011, submitted)

Councillor McNaughton returned to the meeting at this point.

### **11. PROSPECTIVE PLANNING APPEAL TO SCOTTISH MINISTERS: PLANNING APPLICATION 08/00138/DET: ERECTION OF 16 WINDTURBINES AND ASSOCIATED DEVELOPMENT, KILCHATTEN WINDFARM, TODD HILL, SOUTHEND, KINTYRE**

The Principal Planning Officer advised that he had been approached by the developer earlier in the week and that they had indicated their intention to lodge an appeal prior to the 3 month expiry period. They were also seeking to establish the Council's preferred method for the determination of the appeal.

## **Decision**

Agreed that in the event an appeal is lodged against the refusal of planning application 08/00138/DET, the Council should request that the appeal is determined by way of a Public Local Inquiry.

(Ref: Report by Head of Planning and Regulatory Services dated 21 June 2011, tabled)

The Committee resolved in terms of Section 50(A)(4) of the Local Government (Scotland) Act 1973 to exclude the public for the following 3 items of business on the grounds that it was likely to involve the disclosure of exempt information as defined in Paragraph 13 of Part 1 of Schedule 7A to the Local Government (Scotland) Act 1973.

### **12. ENFORCEMENT CASE: 10/00168/ENOTH2**

The Committee considered a requested to extend a period of compliance for case 10/00168/ENOTH2.

## **Decision**

That an invitation to make a planning application in respect of the temporary occupation of the premises be made for a period not exceeding 9 months in order that the merits of the request can be formally considered in the light of relevant material considerations, including views expressed by adjacent residents and any other third parties. In event that a temporary consent is granted, the enforcement compliance period be extended to the cessation date of such a consent.

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

### **13. PROPOSED TREE PRESERVATION ORDER: HELENSBURGH**

The Committee were invited to consider imposing an immediate provisional TPO.

#### **Decision**

1. Agreed that a provisional Tree Preservation Order be imposed with immediate effect in accordance with Section 160 of the Town and Country Planning (Scotland) Act 1997 for the area marked on the submitted plan, subject to the provision of minor amendments following a more detailed survey, as may be deemed necessary.
2. Agreed that, providing no representations are received once the Order has come into effect and the required advertisement period has expired, the Order be confirmed and in the event that any representations are received, the matter should be referred back to this Committee for further consideration.

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

### **14. PROPOSED TREE PRESERVATION ORDER: KILCREGGAN**

The Committee were invited to consider imposing an immediate provisional TPO.

#### **Decision**

3. Agreed that a provisional Tree Preservation Order be imposed with immediate effect in accordance with Section 160 of the Town and Country Planning (Scotland) Act 1997 for the area marked on the submitted plan, subject to the provision of minor amendments following a more detailed survey, as may be deemed necessary.
4. Agreed that, providing no representations are received once the Order has come into effect and the required advertisement period has expired, the Order be confirmed and in the event that any representations are received, the matter should be referred back to this Committee for further consideration.

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