

Argyll and Bute Council
Comhairle Earra Ghaidheal agus Bhoid

Customer Services
Executive Director: Douglas Hendry



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15 June 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, 22 JUNE 2011** at **10:30 AM**, or at the conclusion of the 10.00am Planning, Protective Services and Licensing Committee, whichever is the latter, which you are requested to attend.

Douglas Hendry
Executive Director - Customer Services

BUSINESS

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST (IF ANY)**
3. **MINUTES**
 - (a) Planning, Protective Services and Licensing Committee 18 May 2011 (10am)
(Pages 1 - 2)
 - (b) Planning, Protective Services and Licensing Committee 18 May 2011
(10.30am) (Pages 3 - 4)
 - (c) Planning, Protective Services and Licensing Committee 18 May 2011 (11am)
(Pages 5 - 10)
4. **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)**
Report by Head of Planning and Regulatory Services (Pages 11 - 32)

5. **ARGYLL PROPERTIES LTD: ERECTION OF A FLATTED DEVELOPMENT (5 FLATS): LAND EAST OF HAWTHORN EDGE, NORTH CONNEL, OBAN (REF: 10/02097/PP)**
Report by Head of Planning and Regulatory Services (Pages 33 - 54)
6. **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)**
Report by Head of Planning and Regulatory Services (Pages 55 - 82)
7. **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)**
Report by Head of Planning and Regulatory Services (Pages 83 - 100)
8. **T MALCOLM: EXTENSION AND ALTERATIONS TO DWELLINGHOUSE AND INCREASE IN ROOF HEIGHT TO PROVIDE ADDITIONAL ACCOMMODATION: 14 KILMAHEW AVENUE, CARDROSS (REF: 11/00400/PP)**
Report by Head of Planning and Regulatory Services (Pages 101 - 114)
9. **BOSSARD'S PATISSERIE: CHANGE OF USE OF FOOTPATH TO FORM OUTSIDE SEATING AREA: BOSSARD'S PATISSEIE, GIBRALTAR STREET, OBAN (REF: 11/00464/PP)**
Report by Head of Planning and Regulatory Services (Pages 115 - 122)
10. **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)**
Report by Head of Planning and Regulatory Services (Pages 123 - 130)
11. **REQUEST FOR DISCHARGE OF SECTION 75 AGREEMENT: DWELLINGHOUSE AT ARDACHUPLE, GLENDARUEL (99/01652/OUT)**
Report by Head of Planning and Regulatory Services (Pages 131 - 136)
- E1 12. **ENFORCEMENT CASE: 10/00168/ENOTH2**
Report by Head of Planning and Regulatory Services (Pages 137 - 142)
- E1 13. **PROPOSED TREE PRESERVATION ORDER: HELENSBURGH**
Report by Head of Planning and Regulatory Services (Pages 143 - 146)
- E1 14. **PROPOSED TREE PRESERVATION ORDER: KILCREGGAN**
Report by Head of Planning and Regulatory Services (Pages 147 - 150)

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 Paragraph 13 Information which, if disclosed to the public, would reveal that the authority proposes-

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

PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE

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

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

Contact: Melissa Stewart

Tel. No. 01546 604331

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 18 MAY 2011**

Present: Councillor Daniel Kelly (Chair)

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

Attending: Charles Reppke, Head of Governance and Law
Graeme Forrester, Solicitor
Mr Docherty, Applicant

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Chalmers and Councillor Reay.

2. DECLARATIONS OF INTEREST

Councillor McAlister declared a non-financial interest in relation to the application by Mr Docherty for a Taxi Car Driver's Licence on the basis that he is the holder of a taxi car licence. He left the room during discussion of the item and accordingly took no part in the decision making.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF A TAXI DRIVER'S LICENCE: MR JAMES DOCHERTY, CLYDEBANK

The Chair welcomed everyone to the meeting, invited Members of the Committee to introduce themselves and outlined the procedure that would be followed during the meeting.

Applicant

Mr Docherty introduced himself. He advised that he was applying for the licence as a friend had given him the opportunity to work a few shifts driving taxis. He advised that currently he was an ice cream vendor, that work was very slow and that he wanted to try something else. Mr Docherty gave a background to the convictions that he had and advised that he regretted his actions. He advised that since the incident he had received counselling. Mr Docherty advised that his partner had written a letter of support for his application. The letter was circulated amongst Members.

Objectors

There were no objectors present.

Questions

Councillor Dance asked Mr Docherty for confirmation that he had been offered work by a friend and asked for details of the shifts. Mr Docherty confirmed that he had been offered shifts on Friday, Saturday and Sunday by a friend.

Sum Up

Mr Docherty advised that he had nothing further to add.

The Chair asked Mr Docherty to confirm that he had received a fair hearing. Mr Docherty confirmed that this was the case.

Decision

The Committee agreed to grant the application with formal notification in writing from the Head of Governance and Law being issued within 7 days.

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

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Councillor Mary-Jean Devon	Councillor Roderick McCuish
Councillor David Kinniburgh	Councillor Alex McNaughton
Councillor Bruce Marshall	Councillor James McQueen

Attending: Charles Reppke, Head of Governance and Law
Graeme Forrester, Solicitor

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3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF A TAXI DRIVER'S LICENCE: GRAHAM MCARTHUR, ROTHESAY

The Committee was informed that the application had been withdrawn the previous day and therefore the meeting was no longer required to take place.

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Councillor Mary-Jean Devon	Councillor Roderick McCuish
Councillor David Kinniburgh	Councillor Alex McNaughton
Councillor Bruce Marshall	Councillor James McQueen

Attending: Charles Reppke, Head of Governance and Law (until item 8)
Iain Jackson, Governance Officer (from item 8)
Angus Gilmour, Head of Planning and Regulatory Services
Richard Kerr, Principal Planning Officer
Graeme Forrester, Solicitor

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Chalmers and Reay.

2. DECLARATIONS OF INTEREST

Councillor McAllister declared a non financial interest in item 4 of these minutes (Civic Government (Scotland) Act 1982: Taxi and Private Hire Car Licensing: Best Practice for Licensing Authorities: Draft Consultation Paper) on the basis that he is the holder of a taxi car licence. He left the room during discussion of the item and accordingly took no part in the decision making.

Councillor Marshall declared a non financial interest in item 6 of these minutes (Planning Application by CWP Property Development and Investment for site at 261 Argyll Street, Dunoon – Ref: 10/00222/PPP) as he had objected to the application. He left the room during discussion of the item and accordingly took no part in the decision making.

Councillor Dance declared a financial interest in item 8 of these minutes (Enforcement Report for 12 Cumberland Avenue, Helensburgh) on the basis that a company of which she was a Director was providing consultancy services to the landowners. She left the room during discussion of the item and accordingly took no part in the decision making.

3. MINUTES

- (a) Planning, Protective Services and Licensing Committee held on 7 April 2011 at 10.45am

The Minutes of the meeting of the Planning, Protective Services and Licensing Committee held on 7 April 2011 at 10.45am were approved as a

correct record subject to it being noted that Councillor Chalmers had attended this meeting.

- (b) Planning, Protective Services and Licensing Committee held on 7 April 2011 at 2.00pm

The Minutes of the meeting of the Planning, Protective Services and Licensing Committee held on 7 April 2011 at 2.00pm were approved as a correct record subject to it being noted that Councillor Chalmers had attended this meeting.

- (c) Planning, Protective Services and Licensing Committee held on 8 April 2011

The Minutes of the meeting of the Planning, Protective Services and Licensing Committee held on 8 April 2011 were approved as a correct record.

- (d) Planning, Protective Services and Licensing Committee held on 20 April 2011 at 9.30am

The Minutes of the meeting of the Planning Protective Services and Licensing Committee held on 20 April 2011 at 9.30am were approved as a correct record subject to it being noted that Councillor McAlister had attended this meeting.

- (e) Planning, Protective Services and Licensing Committee held on 20 April 2011 at 10.00am

The Minutes of the meeting of the Planning Protective Services and Licensing Committee held on 20 April 2011 at 10.00am were approved as a correct record subject to it being noted that Councillor McAlister had attended this meeting. Councillor McKay requested amendments to paragraph one under "Question Time" and paragraph 10 under "Debate". It was agreed that these changes would be made in consultation with the Head of Governance and Law. Councillor Currie noted that the markets he made reference to in paragraph 2, sentence 2 of Question Time were in fact St Enoch's, Glasgow and Eastgate, Inverness and it was agreed that this would be amended.

- (f) Planning, Protective Services and Licensing Committee held on 20 April 2011 at 10.30am

The Minutes of the meeting of the Planning Protective Services and Licensing Committee held on 20 April 2011 at 9.30am were approved as a correct record subject to Councillor Currie requesting that the reference to him declaring an interest in item 14 of the minutes was removed as he had declared an interest at the beginning of the meeting and had changed his mind.

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

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

Members considered a report on a draft consultation paper on Revised Best Practice Guidance for Licensing Authorities for Tax and Private Hire Car Licensing which updated earlier advice and reflected legislative changes that had taken place since 2007. Comments in respect of the consultation required to be submitted by 17 June 2011.

Decision

The Committee noted the terms of the draft guidance and agreed -

1. That no comments were required in respect of the consultation;
2. That a further report be placed before the Committee in relation to accessibility issues and security issues;
3. That applicants from countries other than the UK be required to produce a certificate of good conduct authenticated by the relevant embassy;
4. That applicants requiring insulin treatment for diabetes provide evidence of satisfying C1 medical standards;
5. That a complaints procedure be published on the Council's web site.

(Reference: Report by Head of Governance and Law dated 10 May 2011, submitted)

Councillor McAlister rejoined the meeting.

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

As part of the Scottish Government's programme of Delivering Planning Reform planning authorities were required to produce an Improvement Plan on an annual basis identifying areas for improvement and how they should be tackled. The Head of Planning and Regulatory Services presented the Planning Services Improvement Plan 2011 – 2012 which sought comments from Members before submission to the Scottish Government.

Decision

Members approved the Planning Services Improvement Plan for 2011-2012 and agreed its formal submission to the Scottish Government.

(Councillor Dance having moved an amendment that failed to find a seconder,

requested that her dissent be recorded to the foregoing decision)

(Reference: Report by Head of Planning and Regulatory Services dated 4 May 2011, Planning Services Improvement Plan and Appendix A, submitted)

Councillor Marshall having previously declared an interest in the following item of business took no part in the discussion.

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)

At a hearing in the Queens Hall, Dunoon on 8 April 2011 the Committee resolved to continue determination of the application to a future meeting to allow Members to explore the formulation of a valid motion to approve the application. Only Members who attended this hearing were allowed to take part in discussion of this item. In order for members to approve the application further information on planning gain and the effectiveness/deliverability of the sequentially preferable site would be required. Without this information, the application would be recommended a significant departure from the Local Plan and would require endorsement by the full Council.

The Principal Planning Officer reported that a further application for a 32,000 sq ft supermarket had been received from the National Grid and suggested consideration of the new application to assess the effectiveness/ deliverability of the site before determination of the current application. In terms of planning gain the applicant for the Walkers site had offered a total of £147,00 to mitigate the loss of 9 affordable units and the negative impact on the town centre which Planning did not consider to be meaningful against the impact.

Decision

Agreed to continue determination of the application to allow for consideration of planning application number 11/00689/PPP and to allow for assessment of the site's effectiveness/deliverability.

(Reference: Supplementary Report 4 by Head of Planning and Regulatory Services dated 9 May 2011, submitted)

Councillor Marshall rejoined the meeting.

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)

The Committee gave consideration to an application for the erection of a class 3 restaurant and 8 flats at 2 Shore Street, Oban. The Principal Planning Officer recommended that planning permission be granted as a minor departure to Policy LP HOU 2 of the Local Plan.

Decision

The Committee agreed to grant planning permission as a minor departure to Policy LP HOU2 of the Local Plan and subject to the conditions and reasons as detailed within the report by the Head of Planning and Regulatory Services.

(Councillor Currie 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 3 May 2011, submitted)

The Chair ruled and the Committee agreed that the following item, previously marked exempt on the agenda, be taken in public.

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

8. ENFORCEMENT REPORT: 06/00076/ENFOTH

The Committee considered a report regarding the removal of trees at land adjacent to 12 Cumberland Avenue, Helensburgh covered by TPO 16/04. Supplementary Report 1 was tabled at the meeting updating members on additional information received regarding the condition of the trees on the site.

Decision

The Committee -

1. Noted the report.
2. Agreed that the remaining larch trees be felled in the interests of safety as public access to the site could not be fully limited.
3. Agreed that deciduous trees of value in the TPO site be recorded prior to the felling of the remaining larch trees.
4. Agreed that with removal of the safety issue, a note be put to the owners requesting that the heras fencing be removed and highlighting their responsibilities in terms of birds and bats as detailed within Supplementary Report 1.

(Reference: Report by Head of Planning and Regulatory Services dated May 2011, submitted and Supplementary Report 1 by Head of Planning and Regulatory Services dated 18 May 2011, tabled)

Councillor Dance rejoined the meeting.

The Committee resolved in terms of Section 50(A)(4) of the Local Government

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

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

The Committee considered enforcement update report for cases 10/00012/ENOTH1, 10/00077/ENOTH2 and 10/00210/ENFOTH2.

Decision

The Committee noted the report.

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

**Argyll and Bute Council
Development & Infrastructure Services**

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 10/01899/PP

Planning Hierarchy: Local

Applicant: A Bulloch

Proposal: Erection of two holiday lodges, formation of vehicular access, installation of septic tank and associated landscaping

Site Address: 250 metres south west of Castle Ascog, Loch Ascog, Millhouse, By Tighnabruaich

DECISION ROUTE

(i) Local Government (Scotland) Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of 2 single storey pitched roof holiday lodges
- Formation of vehicular access onto forestry road
- Installation of septic tank foul drainage system with soakaway

(ii) Other specified operations

- § Connection to public water main
-

(B) RECOMMENDATION:

- a. Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission be granted subject to the conditions, reasons and informative note within this report.
 - b. The Area Capacity Evaluation (ACE) undertaken in association with the assessment of this application should be endorsed as a material consideration in the assessment of future applications within the "*Area of Common Landscape Character*".
-

(C) HISTORY:

An application for Planning Permission (ref: 09/00210/DET) for the erection of two lodges on land some distance to the south west of the current application site was withdrawn in September 2010.

(D) CONSULTATIONS:

Area Roads Manager (report dated 8th December 2010)

No objections.

Scottish Water (letter dated 9th December 2010)

No objections.

West of Scotland Archaeology Service (email dated 9th December 2010)

No substantive archaeological issue raised.

Scottish Rights of Way and Access Society (letter dated 3rd January 2011)

There is a right of way passing through the area. The Society requests that this right of way remains open and free of obstruction both during and after any development takes place.

(E) PUBLICITY:

Regulation 20 Advertisement (closing date 7th January 2011).

(F) REPRESENTATIONS:

Three representations have been received from the following:

J M O Mitchell, Kirkokerry, Millhouse (letter dated 5th January 2011)

Michael Mitchell, Kirkokerry, Millhouse (letters dated 5th January and 29th May 2011)

Janet Sidaway, 13 Marchhall Crescent, Edinburgh (letters dated 28th January and 1st June 2011).

- i. There is no need for new housing in this quiet location. Construction work would lead to noise and peaceful character would be lost thereafter. Shooters and fishermen could walk or be driven to the site rather than living at it. There is plenty of accommodation nearby at Portavadie.

Comment: The application is not for housing as such but relates to the provision of holiday accommodation. Construction work would entail temporary disruption but it is not considered that the small-scale development proposed would alter

the nature of the landscape in a detrimental manner. The other issues will be addressed in the Assessment section below.

- ii. Proposal would impinge on the Cowal Way.

Comment: As recommended by the Scottish Rights of Way Society, a condition protecting the Cowal Way can be attached.

- iii. The support of the owner of the two adjacent cottages is conditional upon the applicant granting a servitude right of access to her properties.

Comment: This issue is essentially a civil matter between the parties concerned and does not have a material bearing upon the planning aspects of the case.

- iv. The proposed lodges are neither a 'sensitive' addition to the area (being completely out of sympathy with the 'traditionally designed building') nor would they have a 'minimum impact'; they would, in fact, be visually very obtrusive.

Comment: These issues will be addressed in the Assessment section below.

- v. There is today such pressure on the wild environment from human development that there should be an assumption of not allowing development on wild land unless there are truly urgent and pressing reasons to do so, which is not the case here.

Comment: The purpose of the Area Capacity Evaluation is to identify land in sensitive areas where there might be the possibility of successful development. The ACE report is included in Appendix B of this report.

- vi. In the report, it is stated that the proposed development is served by a forest road. In fact, the existing road is near the top of the hill and a spur road will need to be built down to the lodges.

Comment: The report has been amended accordingly.

- vii. Water, sewerage and electricity would all have to be brought from Portavadie.

Comment: None of these three matters are considered to be a constraint to development.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) Environmental Statement: No**
- (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: No**
- (iii) A design or design/access statement: No**

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

(v) **Supporting Statement**

In a letter dated 1st November 2010, Stewart Associates have submitted information in support of the application. The points made can be summarised as follows:

- The application proposes two detached lodges for use in connection with outdoor pursuits, namely: walking (adjacent to the Cowal Way); shooting (adjacent to licensed shooting grounds); fishing (adjacent to Loch Ascog and near to Loch Fyne); and cycling (adjacent to forest tracks);
 - The business is complementary to the Portavadie Marina development which provides access to sailing facilities, restaurant, bar, office and waterside letting apartments;
 - The forest resource is considered to be a key component of the on-going development with the overall intention of providing a Scottish tourist destination of unrivalled quality. This has been recognised by Highlands and Islands Enterprise by their support as an 'eligible business' and considers the significant employment benefits already created. Recent 5-star Scottish Tourism ratings for the Marina's water-side apartments confirm the client group's desire to provide a mix of luxury and affordable holiday options;
 - The location of the proposed lodges allows shooting, fishing and walking parties to be within the forest in a secluded but accessible site. It is considered that the design of the lodges is appropriate for its loch-side location with the building's connecting visually with the existing group of cottages and the ruins of Castle Ascog;
 - The proposed single track access road is designed to follow existing contours and will effectively be hidden from view when the re-planted forest matures. It also has the advantage of providing the neighbouring buildings with a vehicular access allowing their re-use and visitor potential to be realised;
 - It is not considered practical for shooting and fishing parties to be located elsewhere or off-site. Such groups have particular needs which can be accommodated in the relative seclusion of the forest;
 - The existing site is arguably unsightly with recent de-forestation and forest road access works leaving the area more reminiscent of a building site than that of a desirable rural location. The forest will, however, quickly regenerate and, as part of the applicant's forestry plan, the relative impact of the development will be further reduced having negligible impact on the designated 'sensitive countryside' area.
-

(H) PLANNING OBLIGATIONS

(i) Is a Section 75 agreement required: No

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

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

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

'Argyll & Bute Structure Plan' (adopted November 2002)

STRAT DC 5 – Development in Sensitive Countryside
STRAT DC 8 – Landscape and Development Control
Objective TOUR 1 – Tourism

'Argyll & Bute Local Plan' (adopted August 2009)

Policy LP ENV 10 – Development Impact on Areas of Panoramic Quality
Policy LP ENV 13a – Development Impact on Listed Buildings
Policy LP ENV 19 – Development Setting, Layout and Design
Policy LP TOUR 1 – Tourist Facilities and Accommodation
Policy LP TRAN 4 – New and Existing, Public Roads and Private Access Regimes

(ii) List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009.

Not applicable

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

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

(M) Has a sustainability check list been submitted: No

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

(O) Requirement for a hearing (PAN41 or other): No

(P) Assessment and summary of determining issues and material considerations

For the purpose of the Development Plan, the site for the erection of two holiday lodges is located within '*Sensitive Countryside*'. Under STRAT DC 5 of the Structure Plan, encouragement shall only be given to small-scale development (i.e. less than five units) that constitutes infill, rounding-off, redevelopment or change of use of building development.

In special cases, development in the open countryside may be supported if it accords with an area capacity evaluation which demonstrates that the specific development will integrate sympathetically with the landscape and settlement pattern and the development will result in one of the following outcomes:

- a. A positive development opportunity yielding significant countryside management or environmental enhancement benefit or building retention benefit, or local community benefit or economic benefit: OR
- b. A development with a locational need to be on or in the near vicinity of the proposed site.

The ACE concludes that there is capacity for small scale development on the lower slopes leading down to Loch Ascog and based around the two existing clusters of cottages. In terms of scale, the proposed units would accord with the definition of '*small-scale*' (i.e. less than five units) and they would be orientated in a similar fashion to the existing two cottages in the vicinity.

There would also be a limited economic benefit to the locality with the provision of further accommodation in the Portavadie/Millhouse/Tighnabruaich area.

The agent's claim of locational need (the lodges will be used in connection with outdoor pursuits such as walking, fishing and shooting) has a degree of credence and the nature of the accommodation is perhaps of a different type than is located at Portavadie, which (so far) is more directly linked to the activities at the marina.

No significant infrastructure or servicing issue have arisen during the processing of the application.

On the basis of the foregoing, the proposal can be considered positively in terms of Development Plan policy.

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

(R) Reasons why planning permission or a Planning Permission in Principle should be granted

The proposal accords with policies STRAT DC 5, STRAT DC 8 and Objective TOUR 1 of the Argyll and Bute Structure Plan 2002 and policies LP ENV 10, LP ENV 13a, LP ENV 19, LP TOUR 1 and LP TRAN 4 of the Argyll and Bute Local Plan (2009) and the proposal raises no other material consideration which would justify refusal of permission.

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

Not applicable.

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

Author of Report: Steven Gove

Date: 30/5/2010

Reviewing Officer: David Eaglesham

Date: 1/6/2010

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

CONDITIONS AND REASONS RELATIVE TO APPLICATION 10/01899/PP

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

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

2. The development shall be implemented in accordance with the 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.

NOTE TO APPLICANT

In order to comply with Section 27A(1) of the Town & Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.

In order to comply with Section 27B(1) of the Town & Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was complete.

APPENDIX A – RELATIVE TO APPLICATION NUMBER 10/01899/PP

A. Settlement Strategy

The application site is located approximately 25 metres from the western shore of Loch Ascog, which itself lies 1.5 kilometres to the north east of Portavadie. The proposal involves the erection of two holiday lodges which are to be served by a new gravel driveway taken from an existing forestry access road. The lodges will be single storey with a mixture of white render/timber external wall finish and a pitched roof with a profiled metal sheeting finish. A new septic tank and soakaway are to be installed whilst connection is to be made to the existing public water supply.

For the purpose of the Development Plan, the site is located within '*Sensitive Countryside*'. Under STRAT DC 5 of the Structure Plan, encouragement shall only be given to small-scale development (i.e. less than five units) that constitutes infill, rounding-off, redevelopment or change of use of building development.

In special cases, development in the open countryside may be supported if it accords with an area capacity evaluation which demonstrates that the specific development will integrate sympathetically with the landscape and settlement pattern and the development will result in one of the following outcomes:

- c. A positive development opportunity yielding significant countryside management or environmental enhancement benefit or building retention benefit, or local community benefit or economic benefit: OR
- d. A development with a locational need to be on or in the near vicinity of the proposed site.

Developments which do not accord with this policy are those outwith the above categories and those with incongruous siting, scale and design characteristics.

In this particular case, the proposed units cannot be considered as infill or rounding-off given that they are approximately 110 metres to the south west of the nearest buildings. Neither can they be regarded as change of use or redevelopment as there are no existing buildings within the site. Given its open countryside location, it has been necessary to undertake an Area Capacity Evaluation (ACE), the details of which are contained in Annex B of this report.

As Members will note, the ACE concludes that there is capacity for small scale development on the lower slopes leading down to Loch Ascog and based around the two existing clusters of cottages. In terms of scale, the proposed units would accord with the definition of '*small-scale*' (i.e. less than five units) and they would be orientated in a similar fashion to the existing two cottages in the vicinity.

There would also be a limited economic benefit to the locality with the provision of further accommodation in the Portavadie/Millhouse/Tighnabruaich area.

The final caveat in STRAT DC 5 for accepting development that would not fall within the above definitions is if a locational need can be demonstrated that the development requires being on or in the near vicinity of the proposed site. The *Glossary* section of the Local Plan 2009 provides the following definition of '*locational need*':

"A necessity for a proposed development to be located at or in close vicinity of the development site; 'necessity' in this context means more than 'convenience' and

should directly relate to supporting the operations of a business and associated land or water use or else supporting a bad neighbour development at a location where land use conflict will not occur”.

In the agent’s submission (summarised in Part G Section (v) above), it is stated that the lodges will be used in connection with outdoor pursuits such as walking, fishing and shooting. There is some credence to this argument in that the site is adjacent to water and to the Cowal Way and the nature of the accommodation is perhaps of a different type than is located at Portavadie, which (so far) is more directly linked to the activities at the marina.

In tying together the various strands associated with the proposal (ACE findings; economic benefit; and locational need claim), it is considered that the proposed development can be viewed favourably in the context of STRAT DC 5 of the Argyll and Bute Structure Plan 2002.

B. Location, Nature and Design of Proposed Development (Including Impact upon Environment)

For the purposes of the Local Plan, the site is located within an ‘*Area of Panoramic Quality*’ and Policy LP ENV 10 of the plan seeks to resist development within such an area where its scale, location or design would have a significant adverse impact on the character of the landscape unless it can be demonstrated that any significant adverse effects are outweighed by social and economic benefits of national or regional importance. In all cases, the highest standards of location, siting, landscaping, boundary treatment, materials and detailing will be required.

Policy LP ENV 19 seeks the production and execution of a high standard of appropriate design in accordance with the principles of Appendix A of the document. The development shall be sited and positioned so as to pay regard to the context within which it is located. The layout and density shall effectively integrate with the countryside setting and developments with poor quality or inappropriate layouts or densities will be resisted. The design of developments and structures will be compatible with the surroundings and particular attention will be paid to massing, form and design within sensitive locations such as ‘*Areas of Panoramic Quality*’.

As the site is located within ‘*Sensitive Countryside*’. Policy LP TOUR 1 of this plan presumes in favour of new tourist facilities and accommodation providing that it satisfies a number of criteria. In particular, the development should be of a form, location and scale that are consistent with STRAT DC 5 of the Structure Plan detailed above. In addition, the development should be well related to the existing development pattern and should avoid dispersed patterns of development, unless the developer has demonstrated a locational requirement based on the need to be near to the specific tourist interest being exploited and that the facility will not damage these interests.

In this particular case, the site is not visually prominent as it is located within the scrub land that is situated between the existing forestry access and Loch Ascog. The route of the Cowal Way does run through the site but it is not known how popular this walking route is.

Notwithstanding that the site is not visually prominent, the landscape between Portavadie and Loch Ascog is relatively free of physical development. The remains of Castle Ascog stand on the south western shores of the loch whilst there are two small cottages in the vicinity of the castle remains. Above the northern shore of the loch there

is the group of buildings known as Auchoirk Cottages. As concluded in the ACE, the lower slopes of the land surrounding the loch are quite distinct in character in that they accommodate the only development within the wider landscape that is situated northwards of the road that links Millhouse to Portavadie. The proposed design of the two lodges is relatively simple and they will use a mixture of traditional materials such as render and timber.

Having regard to the conclusion of the ACE process, the modest size of the buildings and their relatively traditional finishes, the proposal is considered to be in accordance with Objective TOUR 1 of the Structure Plan and LP ENV 1, LP ENV 10, LP ENV 19 and LP TOUR 1 of the Local Plan.

C. Road Network and Parking

The site would be served by an access from the existing forestry access track that runs through the Ardmarnock Forest. Given its remoteness from the public road network and the relatively small scale of the development, the Area Roads Manager has no objections.

On the basis of the foregoing, the proposal is considered to be in accordance with LP TRAN 4 of the Local Plan.

D. Foul Drainage and Water Supply

There is no existing public sewerage system at the site with the consequence that the application proposes the installation of a septic tank and soakaway. Connection is to be made to the existing public water supply. Neither of these arrangements has been questioned as part of the consultation or advertisement process.

E Impact Upon Listed Building

Castle Ascog is a Category 'B' Listed Building which is located approximately 250 metres to the north east of the development site. Given the distance between the site and the ruin, and the fact that there are two existing cottages located on the land between the two, it is not considered that the proposed lodges would have an adverse effect upon the setting of the Listed Building.

On this basis, the proposal is considered to be in accordance with LP ENV 13a of the Local Plan.

APPENDIX B – RELATIVE TO APPLICATION 10/01899/PP

AREA CAPACITY EVALUATION

LAND SURROUNDING LOCH ASCOG, MILLHOUSE, BY TIGNABRUAICH

(A) Purpose of the Assessment

This assessment has been undertaken in accordance with the Supplementary Planning Guidance approved by the Council in February 2009, which sets out situations in which an assessment may be triggered.

The guidance requires that the findings should be made available to applicants and/or agents and to Members of the Committee in advance of the determination of a related application for Planning Permission in order that, if necessary, there is an opportunity to prepare a response to the findings for consideration by the Committee at the time the application is determined, and the ACE is given consideration as part of that determination process.

The area to be assessed should be identified as a wider 'area of common landscape character' within which the prospective development site is located. An ACE is to be considered by Members at the same time as the relevant development proposal is being determined and, once endorsed, it will become a material consideration in respect of any future applications within the ACE compartment.

The current assessment has been generated by an application for two holiday lodges, the formation of a vehicular access, the installation of a septic tank and associated landscaping (ref: 10/01899/PP) located within ACE compartment 2 below.

(B) Area of Common Landscape Character

The Area of Common Landscape Character subject to review as part of this ACE process is the upland forest moor mosaic principally located to the north of the U26 road that links the minor settlements of Portavadie and Millhouse. For the purposes of the Argyll and Bute Local Plan 2009, the site is located within a larger area of '*Sensitive Countryside*' that stretches along the coast in a northerly and southerly direction from Portavadie. Its character is distinct from the other parts of the '*Sensitive Countryside*' which is characterised as a rocky mosaic.

The area, which is identified on the plans attached to this report, comprises two parcels of ground, each with different characteristics. The ACE compartment is in an area categorised by the Scottish Natural Heritage 'Landscape Assessment of Argyll and the Firth of Clyde' (1996) as '*upland forest moor mosaic*'.

(C) Key Environmental Features of Upland Forest Moor Mosaic

Having regard to the SNH landscape assessment document, the key characteristics of this landscape character type insofar as they relate to this assessment are as follows:

- Upland plateau with rounded ridges, craggy outcrops and an irregular slope profile;
- Upland lochs;

- Winding narrow glens and wider river valleys;
- Extensive, large-scale mosaic of forestry plantations and small areas of open moorland;
- No field boundaries;
- Very few buildings, occasional isolated dwellings on edges of moor;
- Little access; roads typically follow shorelines.

The main landscape issues that need to be considered with regards to the proposed development within this type of landscape are as follows:

- § Identify and conserve contrasts in landscape pattern between large-scale mosaic of moorland and conifer plantations and more diverse, small-scale landscape on the fringes of the moorland;
- § The overall balance between plantations and areas of open moorland or rough grazing is sensitive and should be carefully monitored to ensure the plantations do not completely dominate the landscape and that the characteristic mosaic of woodland and open land is retained;
- § Identify areas with rich ecological interest;
- § This is a large-scale landscape, with relatively few distinctive features, so it is important to conserve the setting of small lochs, striking rocky outcrops or attractive groups of buildings;
- § There are opportunities for the sensitive conversion of some derelict traditional buildings, particularly on lower slopes, where they are close to roads.

(D) Capacity to Absorb Development Successfully

The 'area of common landscape character' that is the subject of this assessment is land located between the minor settlements of Portavadie and Millhouse. It also stretches in a northerly direction from Millhouse along the western side of the B8000 road.

The key characteristics of the area have been broken down in the following table with an assessment of the development capacity in each of the identified area types. This table should be used in conjunction with the attached plan which identifies spatially the two compartments within the ACE area:

ACE Compartment – Landscape Type Ref No.	Description	Development Capacity
1	Upland plateau with rounded ridges, craggy outcrops and an irregular slope profile There is a mixture of open, afforested and cleared forest areas No or little development	Not suitable for new development on the basis that the landform is not conducive to building and it exhibits certain wilderness characteristics within which development would appear incongruous
2	Lower slopes leading down to Loch Ascog There is a mixture of pasture and scrub land Two groups of small cottages	No capacity for further open countryside development Limited capacity for small-scale new development based around the two existing clusters of cottages which would have minimal impact upon the environment

As noted from the above, the 'area of common landscape character' is divided into two distinct compartments each with different characteristics and capacity. The area within which the present application falls is ACE compartment 2 which has been assessed as having limited capacity for new development. In this respect, an appropriate site has been identified within this compartment, which corresponds with application 10/01899/PP.

The present application shows the erection of two modestly-sized buildings that would measure 13.6 metres in length by 6 metres in width by 4.9 metres to the roof ridge. They would be located overlooking the loch approximately 105 metres to the south west of the two existing cottages that are situated on the western shore of the loch. The two buildings would be orientated to mirror the orientation of the two existing cottages.

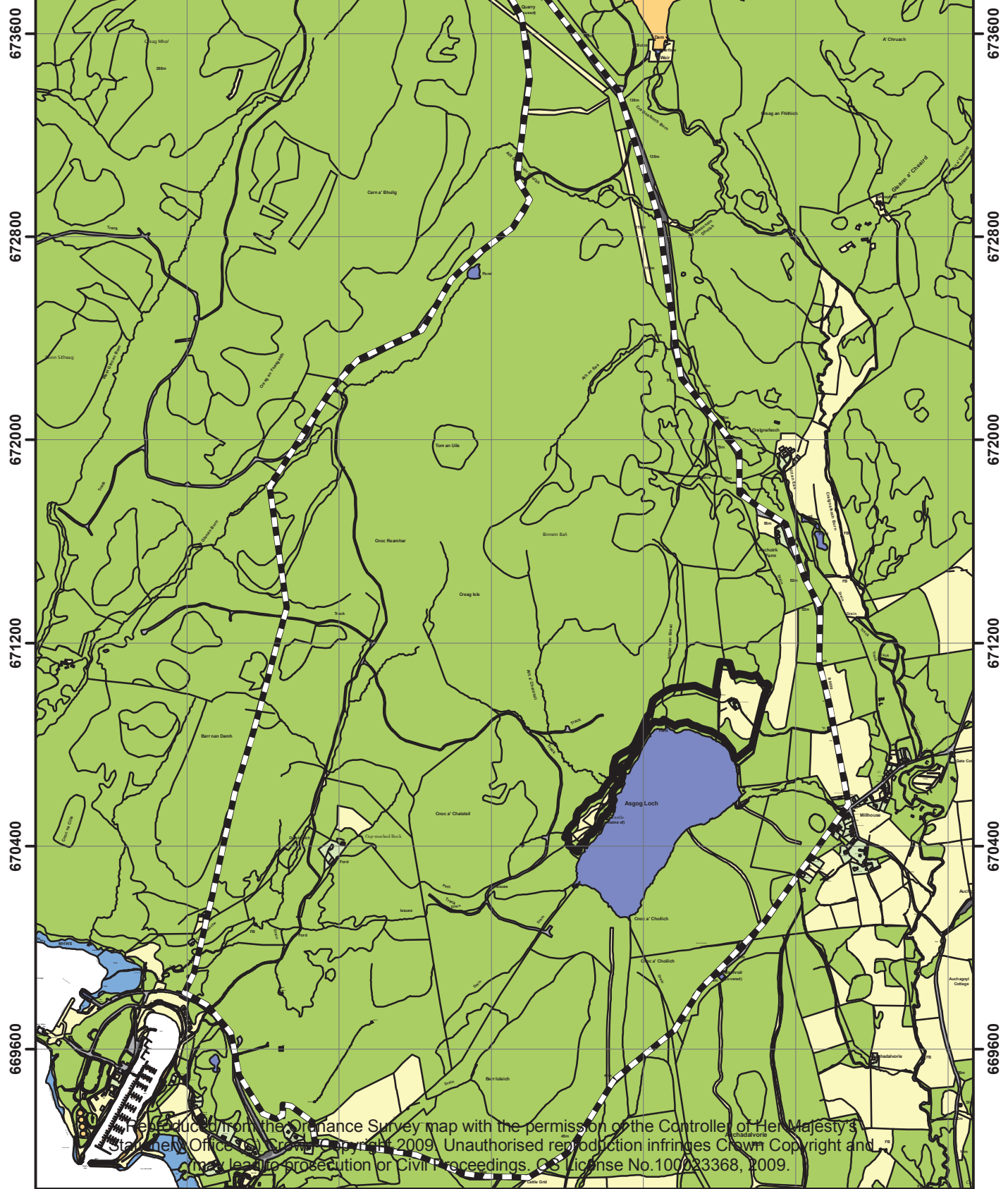
ANNEX A TO AREA CAPACITY EVALUATION

AREA CAPACITY EVALUATION MATRIX			
ACE Title		Land Surrounding Loch Ascog, Millhouse	
Date	17/04/2011	Location	Loch Ascog
Surrounding Strategic Planning Zones			
Town/Village: N/A			
Minor Settlement: Yes – Portavadie and Millhouse			
Green Belt: N/A			
Countryside Around Settlements: Yes – surrounding Portavadie and Millhouse			
Rural Opportunity Area: Located to the south of the area that is the subject of the ACE			
Sensitive Countryside/Coast: The eastern and southern parts of the ACE are within this designation.			
Very Sensitive Countryside/Coast: The northern and western parts of the ACE are within this designation.			
Landscape Description			
Context/Elevation		Upland plateau with rounded ridges, craggy outcrops and an irregular slope profile at an altitude of approx. 100m.	
Landform		Mix of upland plateau and forestry plantations with loch	
Land Cover Mosaics		Extensive, large-scale mosaic of forestry plantations and small areas of open moorland	
Settlement Pattern		Limited development – two groups of small cottages located on the northern and western slopes of Loch Ascog	
Building Style/Materials		Traditionally designed dwellinghouses with rendered/stone wall finish and metal roof coverings	
Landscape Pattern/Openness		Upland plateau with rounded ridges, craggy outcrops and an irregular slope profile	
Notable Key Environmental Features			
Significant Historical Interest and Important Cultural Associations	Scheduled Monuments Unscheduled Monuments etc		Cup and Ring Marked Rock East of Derybruich
	Gardens & Designed Landscapes		None
	Locations associated with people, events, art, literature, music culture		None
Built Heritage Importance	Important individual buildings inc. Listed and other locally important buildings		Castle Ascog (Category 'B' Listed Building)
	Important groups or areas of buildings including Conservation Areas		None
	Other important examples of		None

	built heritage including transport/industrial heritage	
Nature Conservation Importance	Internationally important wildlife sites including SPAs and SPAs SACs Ramsar Sites	None
	Nationally important wildlife sites including NNRs, SSSI, Marine Consultation Zones	None
	Local important habitats, - SINC, SNW	None
	Nationally and regionally important Geological/ Geomorphological Sites	None
Access and Amenity Importance	Long distance routes trails, mountain routes and other designated paths and their immediate corridors	The Cowal Way
	Important local paths/networks and their immediate corridors	The Cowal Way
	Important views and prospects	None
	Named and other waterfalls shown on OS	None
	Important car parks, lay byes etc	None
	Valued landscapes including NSAs RSAs & LSAs	Area of Panoramic Quality
Health and Safety Constraints	Water catchments zones	None
	MoD Zones	N/A
	Air Safety – Airfield Safeguarding and CAA Consultation Zones	N/A
	Safety – Health and Safety Executive Consultation Zone	N/A
INFRASTRUCTURE		
Road Access	The site is approximately 1.6 kilometres from the nearest road that has a public right of passage. It is served by a forestry road which is located approximately 140 metres to the north west of the actual lodges. A new access will be required down to the proposed buildings.	
Water	No known constraints	
Sewerage	No known constraints	
Electricity	No known constraints	
DEVELOPMENT		
Current Development	Two cottages located approximately 105 metres to the north east of the application site and Auchoirk Cottages located a further approximately 800 metres in a north-easterly direction	
Proposed Development	Two holiday lodges	
Other Issues/Notes	Locational Need associated with proposed devpt.	

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ACE Compartment Type 1
ACE Compartment Type 2

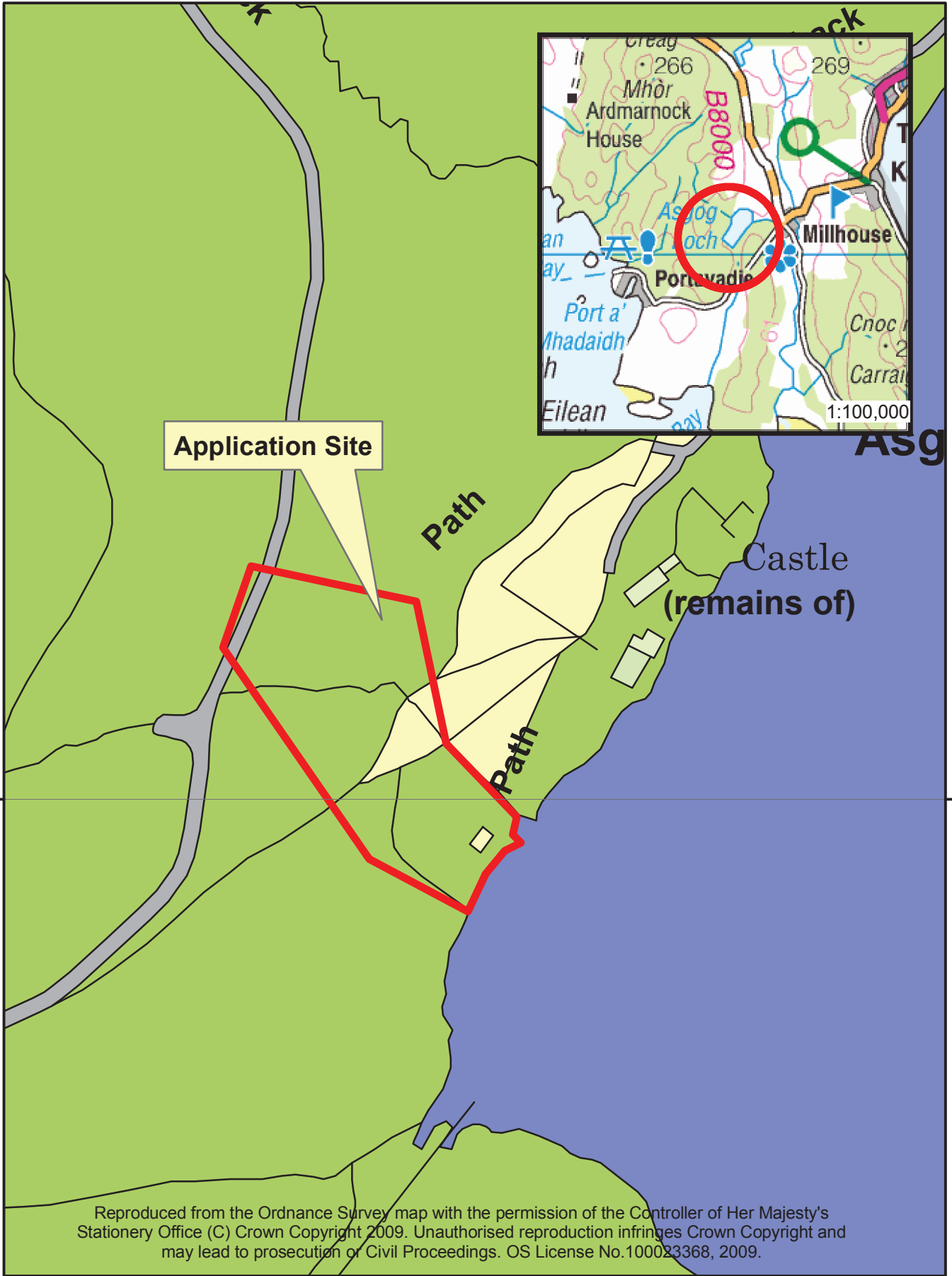


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**Location Plan relative to
Application Ref: 10/01899/PP**



Date: 22.03.11

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**Argyll and Bute Council
Development Services**

Delegated or Committee Planning Application Report and Report of Handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 10/02097/PP
Planning Hierarchy: Local Development
Applicant: Argyll Properties Ltd
Proposal: Erection of a flatted development (5 flats)
Site Address: Land east of Hawthorn Edge, North Connel, Oban

DECISION ROUTE**(i) Local Government Scotland Act 1973**

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

- Erection of a flatted development (5 flats)
- Alterations/improvements to an existing private vehicular access
- Provision of 10 on-site car parking spaces and a turning area

(ii) Other specified operations

- Connection to an existing public sewer
 - Connection to an existing public water main
-

(B) RECOMMENDATION:

Having due regard to the development plan and all other material planning considerations, it is recommended that:

- 1) planning permission be granted as a 'minor departure' and subject to the conditions and reasons appended to this report; and
 - 2) a 'Discretionary Local Hearing' being held in advance of the determination of this planning application in view of the number of representations which have been received objecting to the proposed development.
-

(C) HISTORY:

No planning history relevant to the application site.

(D) CONSULTATIONS:

Ardchattan Community Council

E-mail dated 16th May 2011 – objection to the proposed development in support of concerns expressed by local residents in relation to grounds of over-development.

Area Roads Manager

Initial response received 20th January 2011 – no objection subject to conditions, advisory comments and the requirement for a Section 75 Legal Agreement in order to achieve and maintain visibility splays measuring 42 metres x 2.4 metres including land in the ownership of Hawthorn Edge which is situated directly to the west of the application site.

Revised response received 8th February 2011 – no objection subject to conditions and advisory comments. Previous request for a Section 75 Legal Agreement was removed as the land required to achieve the visibility splay is solely within the highway verge.

Historic Scotland

Response received 18th January 2011 – no objection as any impact upon the setting of Tiroran Cairn would be insignificant.

Oban Airport Manager

No response received at time of writing report and no extension of time was requested.

Outdoor Access Team

Response received 27th May 2011 – no objection subject to a condition.

Public Protection Services

Response received 27th May 2011 – no objection.

Scottish Environment Protection Agency

Response received 2nd February 2011 – no objection subject to a condition.

Scottish Natural Heritage

Response received 27th January 2011 – no objection.

Scottish Water

Initial response received 17th January 2011 – no objection subject to advisory comments which specified that there were no public sewers within the vicinity of the application site.

However, revised response received 27th May 2011 – no objection subject to advisory comments which confirmed that the North Connel Waste Water Treatment Works currently has capacity to service the proposed development.

West of Scotland Archaeology Service

Response received 27th January 2011 – no objection subject to a condition and advisory comments.

(E) PUBLICITY:

'Regulation 20 – Advert Local Application' from the 20th January 2011 to the 10th February 2011.

The planning application was re-advertised from 3rd February 2011 to 24th February 2011 as there was an administrative error with the original advert (indicated 6 flats when the proposal is only for the erection of 5 flats).

(F) REPRESENTATIONS:

29 representations have been received from 26 individuals, including two councillors, as follows:

- Councillor D. MacDonald, Arisaig, Crannaig-a-Mhinister, Oban, Argyll and Bute, PA34 4LX (e-mail dated 02.06.2011)
- Councillor E. Robertson, Dungrianach, Crannaig-a-Mhinister, Oban, Argyll and Bute, PA34 4LU (letter dated 03.06.2011)

- Mrs C. Cotton, 9 Dal-Na-Beich, North Connel, Oban, Argyll And Bute, PA37 1QY (e-mail dated 18.01.2011)
- Mr R. Dodman, Strath Cottage, North Connel, Oban, Argyll and Bute, PA37 1QX (letter dated 22.01.2011)
- Ms E. Hunter, 21 Melvaig Nr, Gairloch, Ross-shire, IV21 2EA (e-mail dated 23.01.2011)
- Ms J. Thewless, 6 Bridgend Terrace, Pembroke, Pembrokeshire, Wales, SA71 4LG (e-mail dated 24.01.2011 & letter dated 26.01.2011)
- Mr and Mrs Jones, 8 Dal-Na-Beich, North Connel, Oban, Argyll and Bute, PA37 1QY (letter dated 25.01.2011)
- Mr C. MacLenan, Dulrinnis, Achnabeich, North Connel, Oban, Argyll and Bute, PA37 1QX (letter dated 26.01.2011)
- Ms B. Bard, Seaview, Skaw, Whalsey, Shetland, ZE2 9AW (e-mail dated 27.01.2011)
- Mr I. Forster, 2 Dal-Na-Beich, North Connel, Oban, Argyll and Bute, PA37 1QY (e-mail dated 28.01.2011)
- Mrs J. Leonhardt, 21 Little Caddesden, Berkhamsted, Herts, HP4 1PA (letter dated 30.01.2011)
- Ms E. Bell, 2 Dal-Na-Beich, North Connel, Oban, Argyll and Bute, PA37 1QY (e-mail dated 31.01.2011)
- Mr and Mrs Ellis, 25 Loweswater Road, Hatherley, Cheltenham, GL51 3AZ (letter dated 31.01.2011)

- Mr D. Roberts, Grenseveien, 2A, 4365 Naerboe, Norway (e-mail dated 31.01.2011)
- Mr J. Miller, Hawthorn Edge, North Connel, Oban, Argyll and Bute, PA37 1QX (e-mail dated 01.02.2011 and email dated 21.02.2011)
- Mr A. Crabb, 7 Dal-Na-Beich, North Connel, Oban, Argyll and Bute, PA37 1QY (e-mail dated 03.02.2011)
- Mr W. Small, Talisker, Bonawe Road, North Connel, Oban, Argyll and Bute, PA37 1QX (letter dated 03.02.2011)
- Mrs J. Small, Talisker, Bonawe Road, North Connel, Oban, Argyll and Bute, PA37 1QX (letter dated 03.02.2011)
- Mr I. Kay, 2 Heath Cottages, Newbourne Road, Waldringfield, Suffolk, IP12 4PS (e-mail dated 05.02.2011)
- Mr A. Pallas, Cashelmara, North Connel, Oban, Argyll And Bute, PA37 1RA (e-mail dated 06.02.2011)
- Mrs S. Miller, Shiskine, Blackcrofts, North Connel, Oban, Argyll and Bute, PA37 1RA (letter dated 07.02.2011)
- Mr M. Small, 2/8 East Pilton Farm Rigg, Edinburgh, EH5 3GD (letter dated 07.02.2011)
- Mr G. Ramsay, 72/7 Orchard Brae Avenue, Edinburgh, EH4 2GA (letter dated 07.02.2011)
- Mr G. Miller, Stoneyburn, 1 Mossspark, North Connel, Oban, Argyll and Bute, PA37 1TD (e-mail dated 09.02.2011)
- Mr A. Macaskill, 5 Ferryfield Road, Connel, Oban, Argyll and Bute, PA37 1SR (letters dated 09.02.2011, 18.02.2011 and 28.03.2011)
- Ms E. Henderson, Hawthorn Edge, North Connel, Oban, Argyll and Bute, PA37 1QX (letter dated 16.02.2011)

The concerns raised are summarised as follows:

- Increased noise and activity would be unfair, disruptive and highly unwelcome.

Comment: Public Protection Services have not objected in relation to potential noise disturbance generated from the proposed development.

- The existing public sewer is at capacity.

Comment: Scottish Water have confirmed that the North Connel Waste Water Treatment Works currently has capacity to service the proposed development.

- There is a lack of private open space within the application site.

Comment: Argyll and Bute Local Plan 2009, Appendix A: Sustainable Siting and Design Principles, Design of New Housing in Settlements, Open Space/Density, advises that all development should have some private open space (ideally a minimum of 100 square metres). The site plan shows ample private open space to both the south and north of the proposed flatted development which provides in excess of 500 square metres of private open space within the application site. The proposal therefore satisfies the requirements of Appendix A. Ongoing maintenance of the open space will be the subject of a planning condition (please see Condition 8) since this is a flatted development.

- Wildlife such as otters, hen harriers, deer, woodpeckers, polecats are all often seen within the application site and the immediately surrounding area.

Comment: Scottish Natural Heritage have not raised any objection. The site is not known to be frequented by protected species.

- The proposal constitutes a form of overdevelopment.

Comment: Argyll and Bute Local Plan 2009, Appendix A: Sustainable Siting and Design Principles, Design of New Housing in Settlements, Open Space/Density, states that housing developments should only occupy a maximum of 33% of their site (increasing to 45% maximum for courtyard developments). The submitted plans demonstrate the site measuring 2054 square metres with the ground floor footprint measuring 309 square metres, representing only 15% of the application site. The building is only 1¾ storeys high, which compares well to immediately adjacent housing and the care home and flatted developments within the near vicinity. The proposal is not considered to constitute a form of overdevelopment of the application site nor is the building height or flatted nature new to North Connel.

- The proposed flatted development completely overshadows the existing dwellinghouse at Hawthorn Edge.

Comment: The Building Research Establishment Guide – ‘Site Layout Planning’ (1991), sets out empirical guidelines and methods for assessing natural light. When measuring a line at an angle of 45 degrees from the ground level at the nearside wall of Hawthorn Edge, no part of the proposed development encroaches on the line. This proves the proposed development will not cause an unacceptable overshadowing impact on Hawthorn Edge.

- The proposed flatted development will cause an unacceptable traffic impact.

Comment: The Area Roads Manager has not objected subject to conditions and advisory comments. Subject to the requirements of Condition 3 being met, the proposed access, parking and turning arrangements are acceptable. A development of five residential units within the existing settlement is not considered to involve excessive traffic generation.

- The proposed flatted development would be out of keeping with the surrounding area.

Comment: Immediately to the west of the application site there are three 2 storey dwellinghouses and situated in close proximity and further to the west are two 2 storey blocks of flats and an existing 2 storey retirement home. It is also considered that the area of deciduous trees immediately east of the application site forms a natural end to this part of the settlement. It is considered the proposal constitutes an appropriate form of small scale, rounding-off development which conforms with the settlement pattern and landscape character of the area. Therefore, the proposal satisfies Policy ‘STRAT DC 1’ of the Argyll and Bute Structure Plan 2002.

- The proposed flatted development encroaches onto the development zone of ‘Countryside Around Settlements’.

Comment: The majority of the proposed flatted development is situated within the 'Settlement Zone' for North Connel albeit the curtilage to the rear (northern area), one of the 10 car parking spaces, a small part of the north easterly corner of the building and the existing access track are situated within the development zone identified as 'Countryside Around Settlements'. Argyll and Bute Structure Plan 2002, Policy 'STRAT DC 2' states:

"Within the Countryside Around Settlements encouragement shall be given to development which accords with the settlement pattern for the area; this includes appropriate small scale (small scale corresponding to developments not exceeding 5 dwelling units) infill, rounding-off, redevelopment...."

It is important to acknowledge that the proposed rear boundary mirrors the rear curtilages of the dwellinghouses to the west of the application site. Also, the access track to the east of the site already exists so no undeveloped land is being lost to the east. Beyond the existing track, the wooded area acts as a robust containing feature that allows for rounding-off up to that point. No built development is proposed within that part of the site falling within the 'Countryside Around Settlements' development zone and there would be no future prospect of such without permission being granted, as flats do not benefit from any 'permitted development' rights. Therefore, the proposal warrants a 'minor departure' being made to normal planning policy considerations.

- The proposed flatted development will result in a substantial loss of privacy for the existing dwellinghouse at Hawthorn Edge.

Comment: Argyll and Bute Local Plan 2009, Appendix A: Sustainable Siting and Design Principles, Design of New Housing in Settlements, Overlooking, requires a distance of 12 metres between habitable room windows and gable ends or elevations with only non-habitable room windows. The submitted drawings show that a distance of 12 metres has been achieved between the side elevation of Hawthorn Edge and the side elevation of the proposed development. Therefore the separation distance satisfies Appendix A of the Argyll and Bute Local Plan 2009.

Furthermore, the ground and first floor windows on the western elevation of the proposed flatted development are to be opaque glazed windows and will remain so in perpetuity due to the attachment of Condition 9. This further ensures that the proposed flatted development will cause no overlooking or adverse privacy impacts on Hawthorn Edge.

- The proposed flatted development will reduce the value of our dwellinghouse.

Comment: This is not a material planning consideration.

- Are the proposed flats to be rented, if so this could potentially lead to flats being empty for periods of time? Who would then be responsible for the maintenance of the building?

Comment: It is not within the jurisdiction of the Planning Authority as to whether the flats are to be rented, sold or who will be responsible for controlling occupation of the development.

- Why is a Section 75 Legal Agreement no longer required?

Comment: The Area Roads Manager advised on 20th January 2011 of the requirement for a Section 75 Legal Agreement in order to achieve and maintain visibility splays measuring 42 metres x 2.4 metres. However, a revised response was received from the Area Roads Manager on the 8th February 2011 which removed the requirement for a Section 75 Legal Agreement as the land required to achieve the visibility splay is solely within the highway verge and does not involve any third party land.

- The proposed flatted development will cause a detrimental impact upon Tiroran Cairn and the Moss of Achnacree.

Comment: Historic Scotland have not objected in terms of impact upon the Scheduled Ancient Monument (Tiroran Cairn) which would be insignificant. The West of Scotland Archaeology Service recommend no objection subject to a condition (please see Condition 4) requiring the implementation of a programme of archaeological works, prior to the commencement of any works on-site, for the recording and recovery of archaeological resources within the application site.

- No pavement exists along the southern edge of the application site which will increase the already significant dangers posed to pedestrian traffic.

Comment: The Area Roads Manager has not identified any requirement for the provision of a footpath in his response.

- Planning applications 10/00787/PPP and 10/00788/PPP have been approved subject to a Section 75 Legal Agreement and visibility splays of 75 metres x 2.4 metres. Both of the above planning applications were for private vehicular accesses off of the C25 Bonawe public road. Why is the required visibility splay only measuring 42 metres for this planning application?

Comment: The Area Roads Manager has recommended visibility splays of 42 metres x 2.4 metres in this case, based upon the most recent standards adopted for this purpose. It would be open to the developers of the other sites to seek review of the conditions in respect of their permissions in the light of the engineer's subsequent review of visibility standards.

The above represents a summary of the issues raised. Full details of the representations 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 the assessment of the application.**

Argyll and Bute Structure Plan 2002

Policy 'STRAT SI 1 – Sustainable Development'

Policy 'STRAT DC 1 – Development within the Settlements'

Policy 'STRAT DC 2 – Development within the Countryside Around Settlements'

Policy 'STRAT DC 7 – Nature Conservation and Development Control'

Policy 'STRAT DC 8 – Landscape and Development Control'

Policy 'STRAT DC 9 – Historic Environment and Development Control'

Policy 'STRAT HO 1 – Housing – Development Control Policy'

Argyll and Bute Local Plan 2009

Policy 'LP ENV 1 – Development Impact on the General Environment'

Policy 'LP ENV 6 – Development Impact on Habitats and Species'

Policy 'LP ENV 7 – Development Impact on Trees/Woodland'

Policy 'LP ENV 16 – Development Impact on Scheduled Ancient Monuments'

Policy 'LP ENV 17 – Development Impact on Sites of Archaeological Importance'

Policy 'LP ENV 19 – Development Setting, Layout and Design'

Policy 'LP HOU 1 – General Housing Development'

Policy 'LP SERV 2 – Incorporation of Natural Features/Sustainable Drainage Systems (SUDS)'

Policy 'LP TRAN 1 – Public Access and Rights of Way'

Policy 'LP TRAN 4 – New and Existing, Public Roads and Private Access Regimes'

Policy 'LP TRAN 6 – Vehicle Parking Provision'

Appendix A – Sustainable Siting and Design Principles

Appendix C – Access and Parking Standards

(ii) List of all other material planning considerations taken into account in the assessment of the application having due regard to Annex A of Circular 4/2009.

Ancient Monuments and Archaeological Areas Act 1979

Argyll and Bute Sustainable Design Guidance (2006)

Building Research Establishment Guide – 'Site Layout Planning' (1991)

Land Reform (Scotland) Act 2003

Scottish Planning Policy (2010)

The Planning etc. (Scotland) Act 2006

The Town & Country Planning (Scotland) Act 1997

(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 (PAN 41 or other):** Yes

A 'Discretionary Local Hearing' is recommended in view of the level of objection to the planning application.

(P) **Assessment and summary of determining issues and material considerations**

This application is seeking planning permission for the erection of a 1 ¼ storey flatted development (5 flats in total) on land situated to the east of Hawthorn Edge, North Connel, Oban.

The Argyll and Bute Local Plan 2009 includes the majority of the site within the 'Settlement Zone' for North Connel. The Argyll and Bute Structure Plan 2002, Policy 'STRAT DC 1' states:

“Encouragement shall be given....within the Small Towns and Villages to development serving a local community of interest, up to and including medium scale development (medium scale corresponding to development of between 6 and 30 dwelling units) on appropriate infill, rounding-off and redevelopment sites...”

Immediately to the west of the application site there are three 2 storey dwellinghouses and approximately 250 metres further west there are two 2 storey blocks of flats and a 2 storey retirement home. It is considered that the area of deciduous trees immediately to the east of the application site forms a natural end to the settlement. It is considered that the proposal constitutes an appropriate form of small scale, rounding-off development which conforms with the settlement pattern and landscape character of the immediately surrounding area. The proposal therefore satisfies Policy 'STRAT DC 1' of the Argyll and Bute Structure Plan 2002.

One of the 10 car parking spaces, a small part of the north easterly corner of the building, part of the rear curtilage and the existing access track are situated within the development zone identified as 'Countryside Around Settlements' where Argyll and Bute Structure Plan 2002, Policy 'STRAT DC 2' states:

“Within the Countryside Around Settlements encouragement shall be given to development which accords with the settlement pattern for the area; this includes appropriate small scale (small scale corresponding to developments not exceeding 5 dwelling units) infill, rounding-off, redevelopment...”

It is important to acknowledge that the proposed rear boundary mirrors the rear curtilages of the dwellinghouses situated to the west of the application site. Also, the access track to the east of the application site already exists so no undeveloped land is being lost to the east. Beyond the existing track, the wooded area acts as a robust containing feature that allows for rounding-off up to that point. No built development of any significance is proposed within that part of the site falling within the 'Countryside Around Settlements' development zone and there would be no future prospect of such without permission being granted, as flats do not benefit from any 'permitted development' rights. Therefore, the proposal warrants a 'minor departure' being made to normal planning policy considerations.

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

The proposal is not wholly consistent with the Argyll and Bute Local Plan 2009. Consequently, the proposal is being determined as a 'minor departure' from development plan policy.

(R) Reasons why planning permission should be granted

Please see section (S) below.

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

The proposal for the erection of a 1 $\frac{3}{4}$ storey flatted development (5 flats in total) on land which is situated to the east of the existing dwellinghouse at Hawthorn Edge, North Connel conforms with the settlement pattern of the immediately surrounding area which is characterised by three 2 storey dwellinghouses which are situated immediately to the west of the application site and by two 2 storey blocks of flats and an existing 2 storey retirement home which are situated approximately 250 metres further to the west. It is also considered that the area of curtilage which is situated to the rear (northern area) of the proposed flatted development mirrors the extent of the rear curtilages of the dwellinghouses situated to the west of the application site and the area of deciduous trees situated to the east of the application site forms a natural end to this part of the settlement. The proposal will not cause any detrimental visual impacts or evident privacy or amenity issues within the immediately surrounding area.

Although one of the 10 car parking spaces, an insignificant part of the north easterly corner of the building, part of the rear curtilage and the existing access track extend into the 'Countryside Around Settlement' development control zone, no meaningful countryside will be lost to built development and there would be no future prospect of such without permission being granted, as flats do not benefit from any 'permitted development' rights. It is considered that the proposal may be accepted as a justified 'minor departure' to the provisions of the approved development plan in this regard. There are no other material considerations, including the views expressed by third parties, which would warrant the refusal of planning permission.

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

Author of Report: Walter Wyllie

Date: 30th May 2011

Reviewing Officer: Stephen Fair

Date: 31st May 2011

Angus Gilmour
Head of Planning

CONDITIONS AND REASONS RELATIVE TO APPLICATION 10/02097/PP

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

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

2. The development shall be implemented in accordance with the details specified on the application form dated 13th December 2010 and the approved drawing reference numbers:

- Plan 1 of 3 (1068 L (--) 01 Rev B) (Location Plan at a scale of 1:1250, Site Plan at a scale of 1:500 and Proposed Streetscape at a scale of 1:100)
- Plan 2 of 3 (1068 L (--) 03) (Location Plan at a scale of 1:500 demonstrating the proposed foul drainage and water supply arrangements and Site Plan at a scale of 1:500 demonstrating the development control boundaries within the Argyll and Bute Development Plan 2009)
- Plan 3 of 3 (1068 L (--) 03 Rev B) (Proposed Elevations, Ground and First Floor Plans and Roof Plan at a scale of 1:00)

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

3. No development shall commence or is hereby authorised until the private vehicular access has been completed in strict accordance with the Area Roads Authority Drawing No. (SD 08/006a) including clear visibility splays measuring 42 metres in each direction formed from a point 2.4 metres back from the edge of the metalled portion of the C25 Bonawe public road. These visibility splays thereafter shall be maintained clear of all obstructions measuring over 1.05 metres in height. No walls, fences, hedges or other obstructions will be placed within 2m of the channel line of the C25 Bonawe public road.

Reason: In the interests of road safety and to ensure the proposed development is served by a safe means of vehicular access and to accord with Policy 'LP TRAN 4' of the Argyll and Bute Local Plan 2009.

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

Reason: To enable the opportunity to identify and examine any items of archaeological interest which may be found on this site and to allow any action required for the protection, preservation or recording of such remains to occur.

5. No development shall take place within the site until full details of the proposed means of surface water drainage have been submitted to and have been approved in writing by the Planning Authority. Such details shall include a drainage layout plan which shall include any mitigation measures required to address surface water run-off from the development site. The development thereafter shall be completed in strict accordance with this plan prior to the initial occupation of any of the flats hereby approved.

Reason: To ensure that surface water arising from the development is adequately managed.

6. No development shall take place within the site until details in relation to the mechanism for maintaining or improving public access along the existing track situated to the east of the application site which links to an existing woodland path have been submitted to and agreed in writing by the Council's Outdoor Access Team and approved in writing by the Planning Authority. Such mechanisms as are agreed shall be fully implemented both during construction and during the subsequent occupation of the development.

Reason: In the interest of public access and to accord with Policy 'STRAT SI 1' of the Argyll and Bute Structure Plan 2002 and Policies 'LP ENV 1' and 'LP TRAN 1' of the Argyll and Bute Local Plan 2009.

7. No development shall take place within the site until the finishing colour for the timber doors and windows has been submitted to and approved in writing by the Planning Authority. The development shall be completed and maintained in strict accordance with such details as are approved.

Reason: In the interest of visual amenity and to accord with Policies 'LP ENV 1' and 'LP ENV 19' of the Argyll and Bute Local Plan 2009.

8. No development shall take place within the site until full details of the proposed means of ongoing maintenance of all communal land within the site has been submitted to and approved in writing by the Planning Authority. The development shall thereafter be maintained in strict accordance with such details as are approved.

Reason: To ensure that communal grounds surrounding the flats are regularly and adequately cared for in the interests of maintaining the high quality visual amenity of the surrounding area.

9. The opaque glazed windows which feature on the ground and first floors upon the western elevation of the flatted development to which this permission relates, shall remain in perpetuity.

Reason: To ensure that no overlooking or privacy issues are caused with the existing dwellinghouse at Hawthorn Edge.

NOTE TO APPLICANT

- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on-site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997, it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.
- A Road Opening Permit (S56) under the Roads (Scotland) Act 1984 will be required in connection with the creation of an altered/improved private vehicular access at the junction of the C25 Bonawe public road. The Council's highway engineers should be contacted in this regard prior to any works commencing on-site. The access should be formed so as not to discharge surface water onto the C25 Bonawe public road.
- An informal list of Archaeological Contractors who have offered to undertake work in the West of Scotland Archaeology Service area, and who have asked to have their details provided to enquirers, is attached as part of the decision notice along with the approved plans.

Scottish Water have advised as follows:

Scottish Water has no objection to this planning application. Please note that although Scottish Water has given approval at this stage, this does not guarantee a connection to Scottish Water's infrastructure. A separate application should be made for connection to our infrastructure after planning permission has been granted.

Tullich Water Treatment Works currently has capacity to service this proposed development.

Water Network – our initial investigations have highlighted that there may be a requirement for the developer to carry out works on the local network to ensure that there is no loss of service to existing customers. The developer should discuss the implications directly with Scottish Water.

North Connel Waste Water Treatment Works currently has capacity to service the proposed development.

Please note: the location is some distance from a gravity sewer. If the developer can manage to gravitate, then 5 foul-only connections would be acceptable. A connection to the rising main (pumped system) would not be permissible.

In some circumstances it may be necessary for the developer to fund works on existing infrastructure to enable their development to connect. Should we become aware of any issues such as flooding, low pressure etc the developer will require to fund works to mitigate the effect of the development on existing customers. Scottish Water can make a contribution to these costs through 'Reasonable Cost' funding rules.

Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10 metres head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements installed, subject to compliance with the current water byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area then they should write to the Customer Connections Department at the address illustrated below. If connection to the

public sewer and/or water main requires to be laid through land out-with public ownership then the developer must provide evidence of formal approval from the affected landowner(s). This should be done through a deed of servitude.

Should the developer require information regarding the location of Scottish Water infrastructure then please contact:

Property Searches Department
Bullion House
Dundee
DD2 5BB Tel: 08456 018855

If the developer requires any further assistance or information on our response then please contact:

Scottish Water
Customer Connections
419 Balmore Road
Glasgow
G22 6NU

Tel: 01413 555511 Web: www.scottishwater.co.uk

APPENDIX B – RELATIVE TO APPLICATION NUMBER 10/02097/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

This application is seeking planning permission for the erection of a 1 ¼ storey flatted development (5 flats in total) on land situated to the east of Hawthorn Edge, North Connel, Oban.

The Argyll and Bute Local Plan 2009 includes the majority of the site within the 'Settlement Zone' for North Connel. The Argyll and Bute Structure Plan 2002, Policy 'STRAT DC 1' states:

“Encouragement shall be given....within the Small Towns and Villages to development serving a local community of interest, up to and including medium scale development (medium scale corresponding to development of between 6 and 30 dwelling units) on appropriate infill, rounding-off and redevelopment sites...”

Immediately to the west of the application site there are three 2 storey dwellinghouses and approximately 250 metres further west there are two 2 storey blocks of flats and a 2 storey retirement home. It is considered that the area of deciduous trees immediately to the east of the application site forms a natural end to the settlement. It is considered that the proposal constitutes an appropriate form of small scale, rounding-off development which conforms with the settlement pattern and landscape character of the immediately surrounding area. The proposal therefore satisfies Policy 'STRAT DC 1' of the Argyll and Bute Structure Plan 2002.

One of the 10 car parking spaces, a small part of the north easterly corner of the building, part of the rear curtilage and the existing access track are situated within the development zone identified as 'Countryside Around Settlements' where Argyll and Bute Structure Plan 2002, Policy 'STRAT DC 2' states:

“Within the Countryside Around Settlements encouragement shall be given to development which accords with the settlement pattern for the area; this includes appropriate small scale (small scale corresponding to developments not exceeding 5 dwelling units) infill, rounding-off, redevelopment....”

It is important to acknowledge that the proposed rear boundary mirrors the rear curtilages of the dwellinghouses situated to the west of the application site. Also, the access track to the east of the application site already exists so no undeveloped land is being lost to the east. Beyond the existing track, the wooded area acts as a robust containing feature that allows for rounding-off up to that point. No built development is proposed within that part of the site falling within the 'Countryside Around Settlements' development zone and there would be no future prospect of such without permission being granted, as flats do not benefit from any 'permitted development' rights. Therefore, the proposal warrants a 'minor departure' being made to normal planning policy considerations.

B. Location, Nature and Design of Proposed Development

The application site is located within the village of North Connel situated to the north east of Connel Bridge approximately 5 miles north east of Oban. Situated directly to the north of the application site is agricultural grazing land and an existing woodland path. Situated directly to the east of the application site is existing dense woodland and situated directly to the south is the existing C25 Bonawe public road. Situated directly to the west of the application site is the existing residential dwellinghouse of 'Hawthorn Edge' with other housing beyond.

The site is flat and has been utilised in the past for grazing. The site measures approximately 2054 square metres with the actual ground floor area of the proposed flatted development measuring approximately 309 square metres. Appendix A: Sustainable Siting and Design Principles, Design of New Housing in Settlements, Open Space/Density, states:

“all development....should only occupy a maximum of 33% of their site...”

In relation to the above, the proposal only occupies 15% of the application site. The proposal does not constitute overdevelopment of the application site.

With regards to design, the proposed flatted development is in three wings forming a C shape with a central section facing the public road and two perpendicular wings at the east and west elevations. The development measures approximately 8.1m to the ridge, 20.9m in length and 16.5m in width, albeit that each wing shows a narrower span, which helps maintain a domestic scale. The submitted plans show Hawthorn Edge measuring 7.2m to the ridge. The relationship of the building to adjacent development, and the impacts on such existing development, is considered acceptable.

Plan 1 of 3 Drawing No. (1068 L (-- 01 Rev B), shows adequate separation from Hawthorn Edge and confirms that no unacceptable over-shadowing or blocking or daylight will occur. The proposal satisfies Appendix A: Sustainable Siting and Design Principles, Design of New Housing in Settlements, Overlooking of the Argyll and Bute Local Plan 2009, and relevant BRE guidance on assessing impacts on daylighting.

The ground and first floor windows on the western elevation are to be opaque glazed windows, to prevent overlooking or privacy impacts on 'Hawthorn Edge'.

With regards to building materials, the outside walls of the proposed flatted development will be finished in a white coloured polymer render and the roof covering will be natural blue/grey slate and zinc ridging. The doors and windows will be timber with the colour still to be proposed by the applicant. Recommended Condition 7 shall control this. Gutters and downpipes will be black upvc and the balconies will be finished in grey painted galvanised steel posts with glazed infill panels.

The scale, form, proportions, materials, detailing and colour, subject to conditions are all acceptable which ensures there are no unacceptable visual, overlooking, privacy or overshadowing impacts upon the surrounding area. Policies 'LP ENV 1' and 'LP ENV 19' of the Argyll and Bute Local Plan 2009 both seek to ensure that the Council assesses applications for their impact on the natural, human and built environment and that all development shall be sited and positioned so as to pay regard to the context within which they are located and that development layout and density shall effectively integrate with the setting of the development. The proposal satisfies Policies 'STRAT SI

1' and 'STRAT HO 1' of the Argyll and Bute Structure Plan 2002 and Policies 'LP ENV 1', 'LP ENV 19' and 'LP HOU 1' of the Argyll and Bute Local Plan 2009.

C. Natural Environment

There is nature conservation designation in respect of the application site or its immediate locale. Scottish Natural Heritage have not raised objections. The proposal satisfies Policies 'STRAT SI 1', 'STRAT DC 7' and 'STRAT DC 8' of the Argyll and Bute Structure Plan 2002 and Policies 'LP ENV 1', 'LP ENV 6' and 'LP ENV 7' of the Argyll and Bute Local Plan 2009.

D. Built Environment

The application site is within close proximity to the Moss of Achnacree which covers the remains of a prehistoric landscape which demonstrates the use of this ground during that particular period. The application site is 130m from the Tiroran Cairn which is a Scheduled Ancient Monument. Historic Scotland considered that the proposal will have insignificant impacts on the cairn and do not object. West of Scotland Archaeology Service also recommended no objections subject to the condition recommended. Subject to the requirements of Condition 4 being met, the proposal satisfies Policies 'STRAT SI 1', 'STRAT DC 8' and 'STRAT DC 9' of the Argyll and Bute Structure Plan 2002 and Policies 'LP ENV 1', 'LP ENV 16', 'LP ENV 17' and 'LP ENV 19' of the Argyll and Bute Local Plan 2009.

E. Landscape Character

The landform of the surrounding area to the north of the C25 Bonawe public road is predominantly flat. However, to the south of the C25 Bonawe public road the landform declines in a gradual southerly manner towards the foreshore of Loch Etive. The land cover of the surrounding area is predominantly open semi-rough grazing with small copses of deciduous trees sporadically distributed particularly to the east of the application site, which will help shelter and screen the proposed development from wider views.

With reference to the Argyll and Bute Structure Plan 2002, Policy 'STRAT DC 8 – Landscape and Development Control' states:

“Development which, by reason of location, siting, scale, form, design or cumulative impact, damages or undermines the key environmental features of a visually contained or wider landscape or coastscape shall be treated as 'non-sustainable' and is contrary to this policy.”

In relation to the above, the proposal will conform with the existing settlement pattern and landscape character in this locale. The proposal will therefore not cause an adverse visual impact upon the wider landscape which shall consequently ensure that the proposal satisfies Policy 'STRAT DC 8' of the Argyll and Bute Structure Plan 2002.

F. Road Network, Parking and Associated Transport Matters

It is proposed to alter/improve an existing vehicular access at the east side of the application site. The Area Roads Manager recommends no objection subject to conditions and advisory comments. Subject to the requirements of Condition 3 being

met, the proposed private vehicular access arrangements satisfy Policies 'LP ENV 1' and 'LP TRAN 4' of the Argyll and Bute Local Plan 2009.

With regards to parking and turning arrangements, it is proposed to provide 10 on-site car parking spaces and a turning area to the rear of the proposed flatted development. This is considered to be the most appropriate area to provide on-site car parking spaces and a turning area as the cars will be screened from the main public vantage points situated along the C25 Bonawe public road, which bounds the application site to the south. The proposed parking and turning arrangements satisfy Policies 'LP ENV 1' and 'LP TRAN 6' of the 'Argyll and Bute Local Plan' 2009.

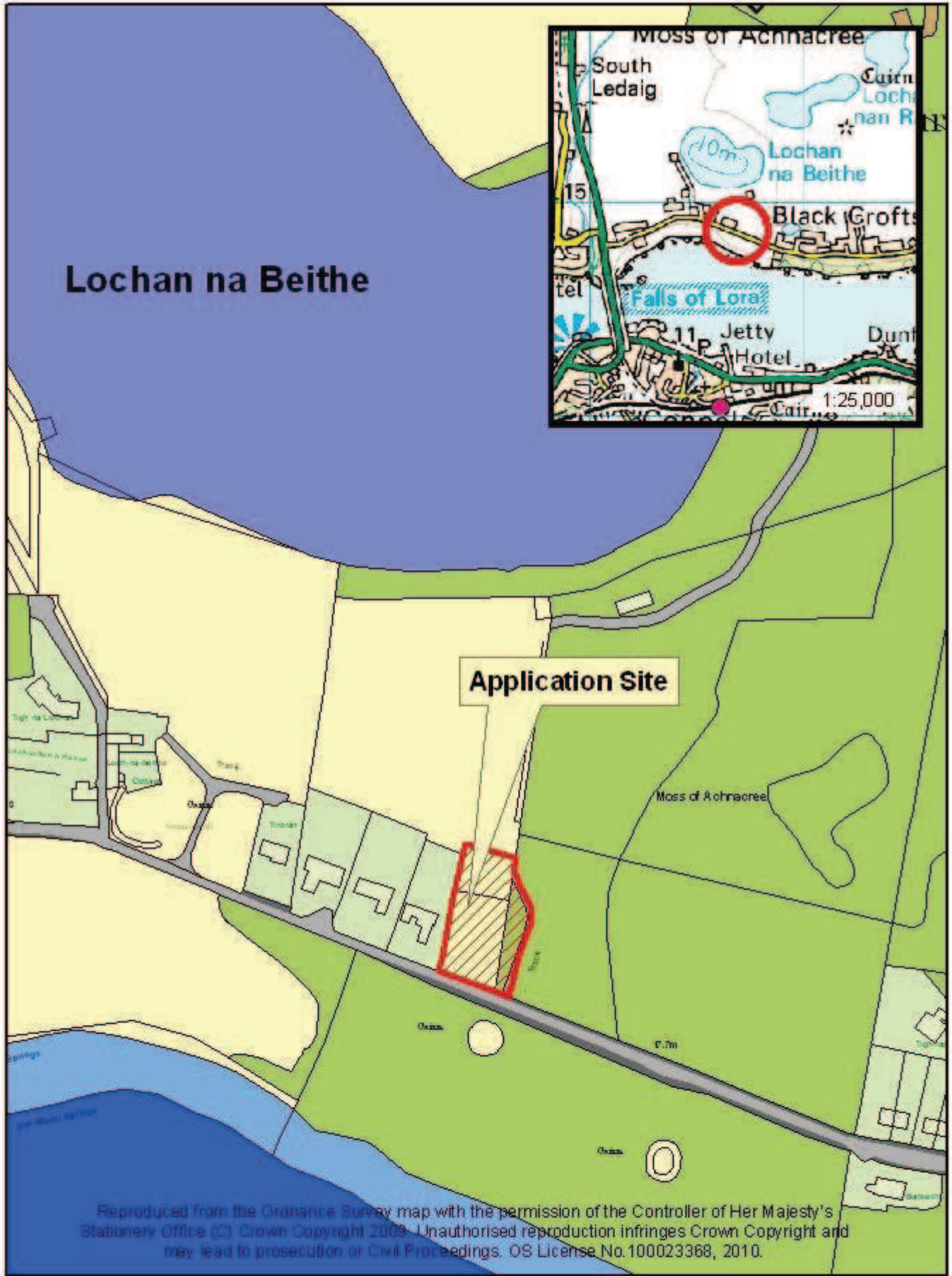
With regards to public access and rights of way, there is an existing track situated to the east of the application site which links with a woodland path which is situated to the north of the application site. With reference to the Argyll and Bute Local Plan 2009, a key aim of Policy 'LP TRAN 1 – Public Access and Rights of Way' is to safeguard public rights of way, core paths and important public access routes. The Council's Outdoor Access Team have been consulted and they recommend no objection subject to a condition to secure ongoing public access at the eastern side of the site. Subject to the requirements of Condition 6 being met, the proposal satisfies Policy 'STRAT SI 1' of the Argyll and Bute Structure Plan 2002 and Policy 'LP ENV 1' and 'LP TRAN 1' of the Argyll and Bute Local Plan 2009.

G. Infrastructure

With regards to water supply arrangements it is proposed to connect to an existing public water main. Scottish Water have not objected subject to advisory comments. After initially indicating no public sewer existed near the site, Scottish Water have now confirmed that the North Connel Waste Water Treatment Works currently has capacity to service the proposed development. Therefore, the proposed water supply and foul drainage arrangements satisfy Policy 'STRAT SI 1' of the Argyll and Bute Structure Plan 2002 and Policy 'LP ENV 12' of the Argyll and Bute Local Plan 2009.

With regards to surface water run-off drainage arrangements there have been no details submitted as yet. A suspensive planning condition has been recommended in this regard. There is sufficient undeveloped space within the site to accommodate ground based soakaways. Subject to the requirements of Condition 5 being met, the proposed surface water run-off drainage arrangements satisfy Policies 'LP ENV 1', 'LP ENV 12' and 'LP SERV 2' of the Argyll and Bute Local Plan 2009.

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**Location Plan relative to
Application Ref: 10/02097/PP**

Date: 23.02.2011

Scale: 1:2,500



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**Argyll and Bute Council
Development & Infrastructure Services**

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 10/02153/PP
Planning Hierarchy: Local
Applicant: Argyll Community Housing Association (ACHA)
Proposal: Erection of 30 residential units (comprising 2 semi-detached dwellinghouses and 28 flats over 4 blocks) with associated access road, parking and communal garden areas.
Site Address: Development Site, McCallum Street, Kinloch Road and Longrow, Campbeltown

SUPPLEMENTARY REPORT NO. 1

A) BACKGROUND

This report seeks to update Members on events subsequent to the Head of Planning & Regulatory Service's report dated 5th April 2011 which was considered by Members at the April meeting of PPSL committee.

As yet permission remains to be formally issued whilst details of a Section 69 agreement necessary to secure funding for off-site play area provision remain outstanding. It has however been brought to light by the agent for the application that the provisions of conditions 5 and 6 relating to flood prevention measures cannot be fully secured having regard to the circumstances of the site and wider locale, and the currently proposed development layout. Accordingly an update to the previously submitted Flood Risk Assessment (FRA) has been provided which specifically addresses these concerns and seeks dispensation for reduced standards. This report seeks Members approval to update these conditions to reflect recent discussions with the developer, to ensure the development can go ahead whilst maintaining a level of flood risk that is acceptable.

B) ASSESSMENT

Condition 5 – Minimum Finished Floor Levels

The original provisions of condition 5 sought to ensure that the minimum finished floor levels (FFL) of blocks C & D and E & F were at least 4.0m AOD. Whilst the applicant has confirmed that blocks C & D will be finished to a FFL of 4.35m AOD they have also alerted planning officers to the fact that blocks E & F cannot be raised from the specified 3.5m AOD on the approved plans to 4.0m AOD within the provisions of the current layout. The reason for this is that increasing the floor level of these blocks would result in a requirement for a wider increase in levels across the site to accommodate Building Standards requirements for level access, and this cannot be readily achieved without significant alteration to the proposed layout in order to be able to accommodate existing levels of adjoining roads and buildings

which lie outwith the scope of the development.

The submitted FRA update seeks to clarify that the risk criteria applied have been set at conservative levels and have scope to be reduced without significantly increasing the actual likelihood of the development being damaged by flooding. In this respect it is noted that the design level of a 1 in 200 year event is 3.04m AOD, in line with SEPA's technical guidance. This has been augmented with a 300mm increase to accommodate potential climate change and a further 600mm freeboard which takes into account the elements of uncertainty, producing a FFL at 3.94m AOD, which was rounded up to 4.0m AOD by the Council's Flood Prevention Officer in his previous recommendations on this matter.

The updated FRA confirms that predicted 300mm for climate change is at the very conservative end of predictions. With that in mind it has been suggested that allowance for uncertainty relating to climate change predictions within the freeboard could be reasonably be reduced to 200mm. It is further advised that the sheltered location of blocks E & F are unlikely to be affected by wave action. This is corroborated by SEPA's previous comments, and as such would permit a further 300mm to be discounted from the freeboard requirement for uncertainty. Similarly it is noted that settlement is not an issue at this location – in this respect the updated FRA advises that the minimum FFL for blocks E & F should be set at 3.54m AOD. It has however been confirmed that the layout of the development can accommodate an increase in the FFL of blocks E & F to 3.7m AOD, within the confines of the site constraints.

The Council's Flood Prevention Officer has confirmed (09.06.11) that this compromise solution is considered to be acceptable provided FFL of 3.7m is achieved for blocks E & F.

Condition 6 – Secure Emergency Access

The original provisions of condition 6 sought to ensure that the site levels were designed to ensure access to the development for emergency vehicles throughout the duration of a design 1 in 200 year flood event – in this respect it was required that an access route of 3.7m AOD be secured within the development design.

The updated FRA confirms that whilst large portions of the development between blocks C & D and E & F achieve this requirement, that elsewhere site levels are constrained by existing infrastructure and buildings and cannot be raised to achieve the minimum requirement of 3.7m AOD. In this respect it is noted that the existing junction of McCallum Street and Longrow begins at 2.6m AOD and is constrained by existing buildings to 2.88m AOD for the first 40m of its length. Similarly, Kinloch Road and its realigned section which bounds the northern edge of the development also includes sections which lie at lower level than that required for continuous access through a design flood event although the lowest point along this route is at 3.0m AOD. It is further noted that a flood event at this location would be exacerbated by tidal action with a difference in design event water level of some 2.5m between high and low tides.

In this respect it has been suggested that a means of emergency vehicular access to be provided to the site off of Kinloch Road between blocks C & D would ensure that emergency vehicles have access to the site during a design flood event with the exception of a 2½ hour period during high tide. It is considered that this is the only viable solution without effecting significant alterations to the wider locale in the form of enhanced coastal flood defences or raising existing public road levels.

It is also worth noting that this development forms a strategic part of the regeneration of Campbeltown as part of the CHORD project, and the levels are a significant improvement on those of the former flats on the site. With these in mind it is considered that the level of proposed risk to allow the development to proceed is acceptable and condition 6 can be amended to reflect the levels outlined above.

The Council's Flood Prevent Officer has been consulted and has confirmed (09.06.11) that the proposed compromise solution is acceptable.

C) RECOMMENDATION

It is recommended that planning permission be granted in accordance with the Head of Planning and Regulatory Services report dated 5th April 2011, subject to the revised provisions of conditions 5 & 6 attached.

Author of Report: David Love

Date: 9th June 2011

Reviewing Officer: Peter Bain

Date: 10th June 2011

Angus Gilmour
Head of Planning & Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION 10/02153/PP

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

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

2. The development shall be implemented in accordance with the details specified on the application form dated 8/12/2010 and the approved drawing reference numbers:

Plan 1 of 24 (Site Plan as Existing at scale of 1:1000)
Plan 2 of 24 (Park Square Flats Elevations as Existing at scale of 1:100)
Plan 3 of 24 (Park Square Flats as Existing at scale of 1:100)
Plan 4 of 24 (Site Plan as Proposed at scale of 1:200)
Plan 5 of 24 (Park Square Residential Drainage Scheme at scale of 1:200)
Plan 6 of 24 (Bin Store as Proposed at scale of 1:20)
Plan 7 of 24 (Block A Elevations as Proposed at scale of 1:100)
Plan 8 of 24 (Block A Floor Plans as Proposed at scale of 1:100)
Plan 9 of 24 (Block A Roof Plan as Proposed at scale of 1:50)
Plan 10 of 24 (Block A Section A-A as Proposed at scale of 1:50)
Plan 11 of 24 (Block A Section B-B as Proposed at scale of 1:50)
Plan 12 of 24 (Block C Elevations as Proposed at scale of 1:100)
Plan 13 of 24 (Block C Floor Plans as Proposed at scale of 1:100)
Plan 14 of 24 (Block C Roof Plan as Proposed at scale of 1:50)
Plan 15 of 24 (Block C Sections as Proposed at scale of 1:100)
Plan 16 of 24 (Block D Elevations as Proposed at scale of 1:100)
Plan 17 of 24 (Block D Floor Plans as Proposed at scale of 1:50)
Plan 18 of 24 (Block D Roof Plan as Proposed at scale of 1:50)
Plan 19 of 24 (Block D Sections as Proposed at scale of 1:50)
Plan 20 of 24 (Blocks E & F Elevations as Proposed at scale of 1:100)
Plan 21 of 24 (Blocks E & F Comprehensive Plan at scale of 1:50)
Plan 22 of 24 (Blocks E & F Comprehensive Roof Plan at scale of 1:50)
Plan 23 of 24 (Block E Sections as Proposed at scale of 1:50)
Plan 24 of 24 (Block F Section A-A as Proposed at scale of 1:50)

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

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

3. Prior to the commencement of works onsite, a contaminated land remediation scheme should be submitted to and approved in writing by the Planning Authority. The agreed remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Planning Authority. Following completion of measures identified in the agreed remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure the site is appropriately remediated of all contaminants and ensure the safety of those working and living on the site.

4. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared which is subject to the approval in writing of the Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Planning Authority in accordance with condition 4.

Reason: To ensure that any contaminants found during construction are appropriately dealt with in terms of safety to the environment and people working and living on the site.

5. Notwithstanding the details shown on the approved plans, the minimum finished floor level of ground floor properties within blocks C & D 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 7th 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.

7. That further flood resistant techniques shall be incorporated in the design of Block A as detailed in the Flood Risk Assessment submitted in support of this planning application. Full details of these measures including details of finished floor levels shall be submitted to and approved in writing by the Planning Authority prior to the commencement of the development of this block. Thereafter the development shall proceed in accordance with these details unless otherwise approved in writing by the Planning Authority.

Reason: In order to minimise the impact of flooding on this block during the 1 in 200 year event.

8. Prior to the commencement of development and notwithstanding the details specified on the approved plans, full details of the proposed roof covering shall be submitted to and approved in writing by the Planning Authority; such details shall show the use of natural slate or a high quality slate substitute tile coloured dark blue/grey. Thereafter the development shall thereafter be implemented in accordance with the approved details unless otherwise agreed in writing by the Planning Authority.

Reason: In the interests of visual amenity, in order to ensure that the development integrates with its surroundings.

9. Prior to the commencement of development, samples of the proposed external wall finishes shall be submitted to and approved in writing by the Planning Authority. Thereafter the development shall be implemented in accordance with the duly approved details, unless otherwise agreed in writing by the Planning Authority.

Reason: In the interests of visual amenity, in order to ensure that the development integrates with its surroundings.

10. The development shall not begin until details of a scheme of boundary treatment, surface treatment and landscaping works have been submitted to and approved in writing by the Council, as Planning Authority: Details of the scheme to include –

- i) location and design, including materials, of any walls, fences, hedges and gates.
- ii) surface treatment of means of access, communal gardens and hardstanding areas.

All the hard and soft landscaping works shall be carried out in accordance with the scheme approved in writing by the Council as planning authority, within six months of the associated dwelling unit being occupied or brought into use. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting season following the commencement of the development unless otherwise agreed in writing with the Council, as Planning Authority.

Reason: In the interests of visual amenity, in order to integrate the development with its surroundings and maintain the landscape character of the area.

11. Prior to the development commencing full details of the surface water drainage system to be incorporated into the development shall be submitted to and approved in writing by the Council as Planning Authority, and in consultation with the Scottish Environment Protection Agency. Such measures shall show the provision of a Sustainable Urban Drainage System; thereafter the surface water drainage system shall be implemented in accordance with the duly approved details.

Reason: To ensure the provision of a SUDS surface water drainage system to meet the requirements of the development and no such details having been submitted.

NOTE TO APPLICANT

- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.
- Please note the advice contained within the attached letter from Scottish Water. Please contact them direct to discuss any of the issues raised.

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Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 10/02153/PP
Planning Hierarchy: Local
Applicant: Argyll Community Housing Association (ACHA)
Proposal: Erection of 30 residential units (comprising 2 semi-detached dwellinghouses and 28 flats over 4 blocks) with associated access road, parking and communal garden areas.
Site Address: Development Site, McCallum Street, Kinloch Road and Longrow, Campbeltown

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of 28 flats over 4 blocks
- Erection of 2 semi-detached town houses
- Formation of new access
- Formation of parking areas
- Formation of garden areas

(ii) Other specified operations

- Connection to public water supply
 - Connection to public waste water network
 - Site contamination remediation works
-

(B) RECOMMENDATION:

It is recommended that planning permission be granted subject to a section 69 agreement under the Local Government (Scotland) Act 1973 and to the conditions and reasons attached.

(C) CONSULTATIONS:

Area Roads Manager

Report dated 23rd February 2011

No objections on road safety matters subject to imposition of conditions relating to parking provision.

Concern noted in respect of potential flood risk and a stated requirement that no development should be commenced until such time as the finished floor levels have been agreed by the Council's Flood Alleviation Manager.

Scottish Water

Letter dated 2nd February 2011

No objection but advised that the applicant will be required to submit a Development Impact Assessment direct to Scottish Water on the event of the planning authority granting permission.

Public Protection Unit

Memo dated 1st February 2011

No objections. However, it is worth noting that subsequent discussions highlighted a potential contaminated land issue on the former Council depot site. Discussions are on-going between Argyll and Bute Council and the applicants and a course of remediation has been agreed. In order to ensure it is carried out prior to any works commencing on site a condition will be attached to any consent requiring confirmation that the contaminated material has been removed and the site remediated to safely allow for a housing development. Environmental Health has agreed this approach in correspondence dated 17 February 2011.

Health and Safety Executive

Report dated 1st February 2011 and PADHI+ consultation response 23rd March 2011

Initially HSE objected to the density of development within safeguarding zones, however upon discussion and re-consultation using the HSE's online consultation system (PADHI+) there are no objections.

Historic Scotland

Letter dated 3rd February 2011

No objections.

West of Scotland Archaeology Service

Email dated 2nd February 2011

No objections.

Scottish Environment Protection Agency

Letter dated

No objection but have raised concerns relating to the level of flood risk at blocks E and F and also about the potential blockage of access and egress during extreme flood events.

Flood Risk Officer

Emails dated 7th February 2011 and 30th March 2011

Originally the council's Flood Risk Officer objected to the proposal on the basis of finished floor levels being below the appropriate level to avoid flood risk. Since this objection the applicant has demonstrated that appropriate freeboard can be achieved within the site. With this in mind the objection has been removed subject to a minimum FFL of 4.0mAOD being achieved. It should be noted however that to address concerns of FFL and access/egress the planning authority has attached a condition to this report requiring the applicant to finalise FFLs and the level of the access/egress. This will ensure a minimum 600mm freeboard allowance and that emergency access/egress will be maintained at all times.

(D) HISTORY:

Although there is no formal planning history on the site it is worth noting that the site originally had a significant flatted development of Council housing until recently. These units have since been demolished – prior notification was provided to the Council in respect of the demolition in 2007 (ref. 07/00375/PNDEM). Part of the site also formed a Council roads depot which has recently been relocated to RAF Machrihanish and is presently being cleared and remediated in anticipation of this development.

As a part of this development a second application has been submitted for the development of Block B under reference 10/02137/PP. This was approved at the March meeting of the PPSL committee.

Planning permission has previously been granted for the re-alignment of Kinloch Road to accommodate large loads being transported to/from Campbeltown Harbour – ref. 10/00711/PP. The re-aligned public highway forms the northern boundary of the application site.

(E) PUBLICITY:

Advertised under the provisions of Regulation 20, closing date 25th February 2011

(F) REPRESENTATIONS:

(i) Representations received from:

Mr Angus McAllister, The Wallpaper Shop, 99 Longrow, Campbeltown PA28 6EX

(ii) Summary of issues raised:

- Concern is raised that construction activities may adversely impact upon adjacent business property – e.g. dust and noise emissions, disruptions to customer parking and access for delivery vehicles.

Comment: Issues of impact during construction can be resolved in some cases with a construction management plan, however impact on businesses in terms of ability to ensure delivery is not a planning material consideration. It should be noted that any access rights to ensure delivery should not be affected.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- | | | | |
|-------|---|-------------------|-----------------------|
| (i) | Environmental Statement: | No | |
| (ii) | An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: | No | |
| (iii) | General supporting statement: | No | |
| (iv) | A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: | Yes | Flood Risk Assessment |
| | | General Statement | Supporting Statement |

Flood Risk Assessment - The FRA set out the source of potential flooding and states the argument behind the proposed finished floor levels. In conclusion the FRA sets out that the proposed FFLs are appropriate to ensure properties aren't flooded.

General Supporting Statement - The supporting document outlines how the proposal links in with the larger scale CHORD regeneration project of Campbeltown. The CHORD project aims to create a renewables industry hub within the town and this development will provide a key gateway project upon entering Campbeltown town centre. This project is a key component of the overall regeneration and revitalisation of Campbeltown that the CHORD project aims to realise.

(H) PLANNING OBLIGATIONS**Section 69 Agreement under the Local Government (Scotland) Act 1973**

A section 69 Agreement is proposed in order to secure a payment of £16,250 to be directed towards the upgrading of the existing play area at Kinloch Park and payable prior to the commencement of development.

Reason for Refusal in the event that the section 69 agreement is not concluded

The applicant has failed to provide a contribution for play provision. The proposal is therefore contrary to Policy LP HOU 4 of the Argyll and Bute Local Plan 2009 which requires a direct financial contribution for improvement to an existing Council play area where it is not possible to make on site provision and where there is such a facility in close proximity to the development.

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

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

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

'Argyll and Bute Structure Plan' 2002

STRAT DC 1 – Development within the Settlements
STRAT DC 9 – Historic Environment and Development Control
STRAT DC 10 – Flooding and Land Erosion

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment
LP ENV 14 – Conservation Areas and Special Built Environment Areas
LP ENV 17 – Impact on Sites of Archaeological Importance
LP ENV 19 – Development Setting, Layout and Design
LP BAD 2 – Bad Neighbour Development in Reverse

LP HOU 1 – General Housing Development
LP HOU 2 – Provision of Housing to Meet Local Needs including Affordable Housing Provision
LP HOU 3 – Special Needs Access Provision in Housing Developments
LP HOU 4 – Housing Green-Space

LP SERV 1 – Private Sewage Treatment Plants and Wastewater Systems
LP SERV 2 – Incorporation of Natural Features/Sustainable Drainage Systems
LP SERV 3 – Drainage Impact Assessment (DIA)
LP SERV 4 – Water Supply
LP SERV 5 – Waste Related Development and Waste Management Sites
LP SERV 7 – Contaminated Land
LP SERV 8 – Flooding and Land Erosion – The Risk Framework for Development
LP SERV 9 – Development in the Vicinity of Notifiable Installations

LP TRAN 1 – Public Access and Rights of Way
LP TRAN 2 – Development and Public Transport Accessibility
LP TRAN 3 – Special Needs Access Provision
LP TRAN 4 – New and Existing Public Roads and Private Access Regimes
LP TRAN 6 – Vehicle Parking Provision
LP REN 3 – Other (Non-Wind) Forms of Renewable Energy Related Development

Appendix A – Sustainable Siting and Design Principles
Appendix C – Access and Parking Standards
Appendix E – Allocations, Potential Development Area Schedules and Areas for Action Schedules

(ii) List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009.

- Argyll & Bute Sustainable Design Guidance (2006)
- Affordable Housing Guidance Note (2007)
- The Town & Country Planning Act (Scotland) 1997
- The Planning etc. (Scotland) Act, 2006
- SPP, Scottish Planning Policy, 2010
- Planning Advice Note (PAN) 69 – Planning and Building Standards Advice on Flooding, 2004
- Circular 4/1998 – Planning Conditions
- Circular 1/2010 – Planning Agreements

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

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

(M) Has a sustainability check list been submitted: No

(N) Does the Council have an interest in the site: Yes

(O) Requirement for a hearing (PAN41 or other): No

(P) Assessment and summary of determining issues and material considerations

This is an application for local scale development which requires to be reported to the PPSL committee for determination in light that the Council has a landownership interest in the development site – this interest being in relation to the site of a former Roads Depot and MacCallum Street.

The proposal seeks planning permission for a ‘medium’ scale housing development of 30 units for a registered social landlord on a brownfield site located within the ‘settlement area’ and adjacent to Campbeltown centre. The proposal replaces a former Council housing estate (recently demolished) and a Council Roads Depot; the proposed design, layout and finishes are considered to be of a high standard and will result in a positive improvement to what is a gateway site to the centre of Campbeltown and the wider setting of the Campbeltown Conservation Area.

Whilst the proposal requires some revision to comply with the provisions of the Council's policy on flood risk the content of the submitted Flood Risk Assessment and comment from SEPA and the Council's Flood Alleviation Manager indicate that such amendments can be readily achieved by planning conditions. During the processing of the application it has also been established that the proposal satisfies the requirements of the Health and Safety Executive in respect of the safeguarding of Campbeltown Gas Works and, that it is appropriate for the applicant to make offsite provision of equipped amenity space in the adjoining public Kinloch Park.

One third party representation has been received which raises concern in respect of the impact of construction activities upon the surrounds.

In addition to the above, the proposal is acceptable having regard to the relevant considerations in respect of access, parking, infrastructure and amenity and is accordingly supported as being consistent with the relevant provisions of the development plan.

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

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

1. The proposal will rejuvenate a vacant brownfield site in a prominent edge of centre location.
2. The development is of good quality and will provide a positive gateway development for those entering and exiting Campbeltown from and to the North.
3. The proposal conforms to the relevant development plan policies and that there are no other material considerations, including issues raised by third parties, which would warrant anything other than the application being determined in accordance with the provisions of the development plan.

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

n/a

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

Author of Report: David Love

Date: 5th April 2011

Reviewing Officer: Peter Bain

Date: 5th April 2011

Angus Gilmour
Head of Planning & Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 10/02153/PP

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

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

2. The development shall be implemented in accordance with the details specified on the application form dated 8/12/2010 and the approved drawing reference numbers:

Plan 1 of 24 (Site Plan as Existing at scale of 1:1000)
Plan 2 of 24 (Park Square Flats Elevations as Existing at scale of 1:100)
Plan 3 of 24 (Park Square Flats as Existing at scale of 1:100)
Plan 4 of 24 (Site Plan as Proposed at scale of 1:200)
Plan 5 of 24 (Park Square Residential Drainage Scheme at scale of 1:200)
Plan 6 of 24 (Bin Store as Proposed at scale of 1:20)
Plan 7 of 24 (Block A Elevations as Proposed at scale of 1:100)
Plan 8 of 24 (Block A Floor Plans as Proposed at scale of 1:100)
Plan 9 of 24 (Block A Roof Plan as Proposed at scale of 1:50)
Plan 10 of 24 (Block A Section A-A as Proposed at scale of 1:50)
Plan 11 of 24 (Block A Section B-B as Proposed at scale of 1:50)
Plan 12 of 24 (Block C Elevations as Proposed at scale of 1:100)
Plan 13 of 24 (Block C Floor Plans as Proposed at scale of 1:100)
Plan 14 of 24 (Block C Roof Plan as Proposed at scale of 1:50)
Plan 15 of 24 (Block C Sections as Proposed at scale of 1:100)
Plan 16 of 24 (Block D Elevations as Proposed at scale of 1:100)
Plan 17 of 24 (Block D Floor Plans as Proposed at scale of 1:50)
Plan 18 of 24 (Block D Roof Plan as Proposed at scale of 1:50)
Plan 19 of 24 (Block D Sections as Proposed at scale of 1:50)
Plan 20 of 24 (Blocks E & F Elevations as Proposed at scale of 1:100)
Plan 21 of 24 (Blocks E & F Comprehensive Plan at scale of 1:50)
Plan 22 of 24 (Blocks E & F Comprehensive Roof Plan at scale of 1:50)
Plan 23 of 24 (Block E Sections as Proposed at scale of 1:50)
Plan 24 of 24 (Block F Section A-A as Proposed at scale of 1:50)

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

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

3. Prior to the commencement of works onsite, a contaminated land remediation scheme should be submitted to and approved in writing by the Planning Authority. The agreed remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Planning Authority. Following completion of measures identified in the agreed remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure the site is appropriately remediated of all contaminants and ensure the safety of those working and living on the site.

4. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared which is subject to the approval in writing of the Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Planning Authority in accordance with condition 4.

Reason: To ensure that any contaminants found during construction are appropriately dealt with in terms of safety to the environment and people working and living on the site.

5. Notwithstanding the details shown on the approved plans, the minimum finished floor level of ground floor properties within blocks C, D, E and F shall be 4.00mAOD. Prior to the commencement of built development within the site the details of the proposed finished floor levels of each block and, surrounding proposed finished ground levels shall be submitted to and approved in writing by the Planning Authority. Thereafter the development shall be implemented in accordance with the duly approved details.

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

6. Notwithstanding the details shown on the approved plans, the finished levels shall be designed to permit access for emergency service vehicles to blocks C, D, E and F at all times during a design 1 in 200 year flood event. Prior to the commencement of works on site the details of the proposed finished site levels of vehicular and pedestrian access/egress routes within the development shall be submitted to and approved in writing by the Planning Authority. Such details shall demonstrate the availability of emergency vehicular access and pedestrian access to the development during the design 1 in 200 year flood event having regard to the recommendations of CIRIA Report C624. Thereafter the development shall be implemented in accordance with the duly approved details.

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

7. That further flood resistant techniques shall be incorporated in the design of Block A as detailed in the Flood Risk Assessment submitted in support of this planning application. Full details of these measures including details of finished floor levels shall be submitted to and approved in writing by the Planning Authority prior to the commencement of the development of this block. Thereafter the development shall proceed in accordance with these details unless otherwise approved in writing by the Planning Authority.

Reason: In order to minimise the impact of flooding on this block during the 1 in 200 year event.

8. Prior to the commencement of development and notwithstanding the details specified on the approved plans, full details of the proposed roof covering shall be submitted to and approved in writing by the Planning Authority; such details shall show the use of natural slate or a high quality slate substitute tile coloured dark blue/grey. Thereafter the development shall thereafter be implemented in accordance with the approved details unless otherwise agreed in writing by the Planning Authority.

Reason: In the interests of visual amenity, in order to ensure that the development integrates with its surroundings.

9. Prior to the commencement of development, samples of the proposed external wall finishes shall be submitted to and approved in writing by the Planning Authority. Thereafter the development shall be implemented in accordance with the duly approved details, unless otherwise agreed in writing by the Planning Authority.

Reason: In the interests of visual amenity, in order to ensure that the development integrates with its surroundings.

10. The development shall not begin until details of a scheme of boundary treatment, surface treatment and landscaping works have been submitted to and approved in writing by the Council, as Planning Authority: Details of the scheme to include –

- i) location and design, including materials, of any walls, fences, hedges and gates.
- ii) surface treatment of means of access, communal gardens and hardstanding areas.

All the hard and soft landscaping works shall be carried out in accordance with the scheme approved in writing by the Council as planning authority, within six months of the associated dwelling unit being occupied or brought into use. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting season following the commencement of the development unless otherwise agreed in writing with the Council, as Planning Authority.

Reason: In the interests of visual amenity, in order to integrate the development with its surroundings and maintain the landscape character of the area.

11. Prior to the development commencing full details of the surface water drainage system to be incorporated into the development shall be submitted to and approved in writing by the Council as Planning Authority, and in consultation with the Scottish Environment Protection Agency. Such measures shall show the provision of a Sustainable Urban Drainage System; thereafter the surface water drainage system shall be implemented in accordance with the duly approved details.

Reason: To ensure the provision of a SUDS surface water drainage system to meet the requirements of the development and no such details having been submitted.

NOTE TO APPLICANT

- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.
- Please note the advice contained within the attached letter from Scottish Water. Please contact them direct to discuss any of the issues raised.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 10/02153/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The site is located within the 'settlement area' of Campbeltown wherein the provisions of policies STRAT DC 1 and LP HOU 1 would support the principle of up to and including 'large' scale housing development on appropriate sites and subject to compliance with all other relevant policy requirements. The current proposal relates to a 'medium' scale housing development.

The proposal lies within the 'Edge of Town Centre' designation as per the adopted Argyll and Bute Local Plan 2009. Additionally, the site is allocated as an 'Area for Action' (AfA) reference 14/4.

The AfA intends to make effective use of this area of Campbeltown as part of the regeneration of fragile communities in the Kintyre Peninsula. With regard to this site the AfA requires consideration of appropriate redevelopment opportunities and townscape enhancement opportunities (particularly on the Kinloch Road and Longrow frontages).

B. Location, Nature and Design of Proposed Development

The application site relates to 0.6ha of vacant land which straddles MacCallum Street and extends from Longrow within the town centre to Kinloch Park to the west. The site is bounded to the north by a further parcel of vacant land which is also within the control of ACHA and Lochend Street; the southern portion of the site is bounded by existing commercial properties.

Historically the site contained a number of run down, flatted residential properties known as Park Square which were formerly part of the Council's housing portfolio. These have since been demolished in recent years and this proposal aims to replace those units with a more iconic development on the approach into Campbeltown town centre, the prominence of the site having been increased by the Council's intentions to re-align Kinloch Road to facilitate large vehicles travelling to/from Campbeltown Harbour with the resultant creation of a corner site.

The proposal is to erect 30 dwellings consisting of 28 flats over 4 blocks and 2 semi-detached units. In order to achieve this development and make best use of the site McCallum Street is being closed to through traffic and a former Council depot, located South of the original site, is being incorporated into the development area.

The current proposal is split into 5 blocks (A, C, D, E and F). Blocks A and C are wholly located on the original site of the Council housing, whilst the remaining blocks are partly located on the former depot site and the original housing site. Each block is described below. It should be noted a separate application (ref. 10/02137/PP) has been approved for Block B which is an extension to the northern gable of the existing flats and provided for 2 flatted units. This has been included in the descriptions below for completeness and to give an overall view of the development proposal. The development is set out to create an enclosed area consisting of landscaped space, communal gardens and parking within the grouping of buildings – this layout makes

adequate provision for pedestrian access and egress between Kinloch Road and Longrow.

Block A

This part of the development sits on Longrow at the North West section of the development site. This is a small extension onto the southern gable of an existing row of flats which are the only section of the original Council housing not to be demolished. The original block consists of a 3-storey gabled building which is being refurbished and currently a terraced group of 4 houses. The extension will be 2-storey gabled building and will be connected via a low ridged modern link. Solar panels will adorn the roof with tiles and a precast stone will provide the external wall finish on the front and gable elevations (street facing), the rear wall shall be finished in smooth white render. The link will have a zinc clad roof and with an aluminium framed curtain wall. The extension will consist of 2 properties whilst the refurbishment will maintain the existing 4 units.

Block B

A separate application (reference 10/02137/PP) has been approved for the development of block B located in the uppermost North West corner of the site. This block consists of a second extension to the northern gable of the existing flatted development protruding toward the north and west and a formation of enclosed garden space. The proposal will add an additional 2 units forming a corner unit consisting of a ground floor 1-bedroom flat with the upper 2 floors as a 2-bedroom flat. Externally the extension will have a flat roofed semi-circular feature on the gable totalling 3-storeys in height sitting below the ridge line of the existing flats. The extension will be finished in sandstone with a zinc roof.

Block C

Block 'C' will be positioned at the northern most boundary of the site measuring 51.3m x 8.6m x 13.6m from base to ridge and will be aligned along the new section of Kinloch Road as it cuts through the heart of the old Park Square site. This three storey block will be finished in tiles with solar panels on the southern (rear) elevation with an external wall finish of pre-cast stone on the front (north) and gable elevations and a white smooth render to the south (rear) elevation. The front elevation has been designed with well proportioned windows of vertical emphasis which will complement the surrounding townscape, the overall bulk of the block is divided by two sections of front and back curtain wall glazing from floor to wall head height which will provide natural light to the stairwells and reduce the overall mass of the building. The rear (south facing) elevation of the block incorporates enclosed balconies within each unit which will overlook the communal gardens. The block will consist of 12x2 bed units. The block provides for significant levels of communal garden space, boundary landscaping, bin storage and parking areas.

Block D

This block sits on the north east boundary of the site parallel to the existing line of Kinloch Road and opposite Kinloch Park. The block will measure 45m x 8.6m x 13.6m from base to ridge consisting of 12 units – 6 x 2 bed and 6 x 1 bed. This three storey block will be finished in tiles with solar panels on the west (rear) elevation with an external wall finish of pre-cast stone on the east (front) and gable elevations and a white smooth render to the rear elevation. The front elevation has been designed with well proportioned windows of vertical emphasis, the overall bulk of the block is divided by two sections of front and back curtain wall glazing from floor to wall head height which will provide natural light to the stairwells and reduce the overall mass of the building. The rear (south facing) elevation of the block incorporates enclosed balconies within each unit which will overlook the communal gardens. The block

provides for significant levels of communal garden space, boundary landscaping, bin storage and parking areas.

Blocks E and F

Blocks E and F sit partly in the former Council depot site in the southern most section of the site. Block F sits at an approximate 45 degree angle to Block E which is perpendicular to Block D. Block E measures 16.5m x 6.5m x 8m and is finished in smooth white render, tiles and solar panels. The block contains 2no. semi detached 2 bed, dwellinghouses. Block F measures 12m x 6m x 10m and is finished in pre-cast stone, tiles and solar panels. The block contains 1 x 2 bed flat and 1 x 3 bed flat. These 2 blocks are connected to one another by a single storey bedroom unit on the ground floor of Block F. Both of these blocks contain areas of private garden amenity space, parking and bin storage facilities.

Overall, the proposal amounts to a well considered housing development which with the inclusion of substantial three storey elements, a variety of building scale and mass, a strong vernacular emphasis to building design and high quality finishes will work well at a location which provides a transition between the built up urban core of Campbeltown and the wide open space of Kinloch Park and Campbeltown Loch beyond. A single element of concern however, is the applicant's proposed use of a concrete roof tile as the roof covering throughout the development. Whilst it is noted that the now demolished Park Square development was tile clad, the visible roofscape of all the buildings surrounding the application site, with the sole exception of the surviving block from Park Square, are finished in West Highland slate. It is considered that the use of natural slate should also be the preferred roof finish within the current proposal and will sufficiently contribute to the integration of the new development with the existing built environment; it is however acknowledged that the proposal is being taken forward by a Registered Social Landlord in an adverse financial climate, in the event that cost of such a requirement proved prohibitive then it would be appropriate to accept a specification of a high quality slate substitute coloured dark grey/blue – this requirement can readily be secured by planning condition as can a sample of the proposed pre-cast stone finish and render to be applied to the external walls. The proposal is considered acceptable having regard to the provisions of policy LP ENV 19, Appendix A and the Council's Sustainable Design Guidance. The installation of solar panels on internal roof planes of the development is considered consistent with the provisions of LP REN 3.

It is worth noting that Block F sits 5m from the closest point to the boundary it shares with an adjacent pub to the west. The upper floors of the pub potentially house a self contained accommodation unit but there are no windows facing directly onto this building and they are approximately 15m apart. There are not considered to be any issues of privacy due to the angular nature of Block F to these windows. In terms of height difference Block F is 10m tall over 2 levels whilst the pub building is also over 2 levels, therefore there are no issues of day lighting as the buildings will be of an approximate similar height. The provisions of policy LP BAD 2 seek to resist inappropriate development which would be adversely affected by existing 'bad neighbour' land uses; in this instance however, it is noted that Council's Environmental Health Officer's have not raised objection to the proximity of the proposed new housing development to an existing public house.

C. Built Environment

The site lies adjacent the Campbeltown Conservation Area and therefore the design of the development needs to be of a high quality; the provisions of policy LP ENV 14 would seek to resist new development which has an adverse impact upon the setting,

character or appearance of the conservation area. Firstly, it is noted that the development is in effect a replacement of a former three storey, dilapidated Council Housing scheme which, until its demolition, created an unfavourable impression upon arrival at Campbeltown town centre. The redeveloped site will also act as a gateway development for the town as it will sit adjacent the new main route through the town. With this in mind it is considered that the proposal achieves the high quality in design through the use of appropriate scale, massing, form and materials which sufficiently reflect the key characteristics of the adjoining conservation area and townscape setting.

It is also noted that part of the site falls within an archaeological trigger zone. The West of Scotland Archaeology Service has advised that they have no objections and the proposal is considered consistent with the provisions of LP ENV 17.

D. Affordable Housing

The provisions of policy LP HOU 2 requires all housing development of 8 units and above to include a minimum of 25% 'affordable housing' provision. The applicant is the Argyll Community Housing Association, it is stated in the application details that all 30 units within this application are to be made available as 'affordable housing' for rent managed by a registered social landlord.

E. Road Network, Parking and Associated Transport Matters.

The proposal will seek to access the site off Longrow with McCallum Street being closed. The proposal provides 50 car parking spaces along the access road, landscaping and bin collection areas.

The development is readily accessible from Longrow and Kinloch Road with means of egress on identified desire lines through the site and is located in an edge of centre location which is as accessible to residents by public transport as the adjacent core shopping area of Campbeltown where local services are concentrated.

The adopted local plan 2009 sets out car parking standards for flatted developments as requiring 1.5 spaces per each 1-bed unit, 2 spaces per each 2-bed unit and 2 spaces per every 3-bed unit. This totals a requirement of 61 spaces. The site, however, is within easy walking distance of the town centre as it occupies an Edge of Centre Location and as such is well served by public transport and pedestrian links. Additionally, significant on-street parking is available around Kinloch Park should peak demand require additional spaces. With the above in mind a reduced car parking provision can be accepted due to compliance with one of the criteria in Appendix C (Access and Parking Standards) of the adopted local plan. The Area Roads Manager has not raised objection to the proposals in respect of access or parking.

The proposal is considered consistent with the relevant provisions of LP TRAN 1, LP TRAN 2, LP TRAN 3, LP TRAN 4 and LP TRAN 5 of the Local Plan.

F. Infrastructure

The development intends to connect to the public water supply and waste water systems. Scottish Water has not objected but has advised that further details will be required from the applicant prior to connection to their network.

The submitted details show a surface water drainage system for the site which connects to the existing surface water sewer; these details indicate that surface water can readily be contained within the site boundaries and indicate a single level of SuDS treatment. Details accompanying the Flood Risk Assessment indicate that the re-development of this site is unlikely to affect local surface water drainage in particular that relating to overtopping of the Milknowe Burn as any surface water flows along adjacent streets will be directed to the lower lying areas of Kinloch Park and surrounding roads – neither SEPA or the Council's Flood Alleviation Manager have raised concern in this respect. SEPA have however noted that the means of SuDS treatment remains unclear from the submitted details, however this can readily be addressed by planning condition. The proposal is considered consistent with the provisions of LP SERV 2 and 3.

G. Amenity Space Provision

The provisions of policy LP HOU 4 set out the Council's minimum requirement for provision of open space and equipped play areas for development in excess of 20 dwelling units. In this instance the proposed play space will be provided off-site and the applicant has indicated that they will contribute a commuted sum to the upgrade of the nearest public play park facility. The play area for upgrade would be the one in Kinloch Park which is located some 120m to the north east of the development site, on the opposite side of Kinloch Road and forms part of a larger, public amenity space that is within easy walking distance and will undoubtedly be utilised by residents of the proposed development. It is further noted that proposal for the realignment of Kinloch Road will also introduce new uncontrolled road crossings facilitating safe pedestrian access from the development to Kinloch Park. Although this application is for 30 units another application for 2 units also forms part of the overall development, therefore it is considered appropriate to seek a commuted sum for 32 units in total.

As per Council policy the applicant is required to provide £500 per each 1 and 2 bed units and £750 per each 3-bed unit this totals £16,250 (7 x 1-bed, 24 x 2 bed, 1 x 3 bed). Please note this figure includes the proposal under reference 10/02137/PP for the development of Block B. On its own the development of Block B calculates at £1,250 (1 x 2 bed and 1 x 3 bed) with £15,000 remaining for this application, the condition on the current application addressing the cumulative impact of the re-development of Park Square.

It is proposed to secure this amount and direct it toward the play space at Kinloch Park via a section 69 agreement as defined by the Local Government (Scotland) Act 1973.

H. Flood Risk

Policies STRAT DC 10 and LP SERV 8 set out the Council's detailed policies in respect of the acceptability of new development in relation to risk of flooding. In this instance the development site is located within a 'medium to higher risk area' with a 1:200 or greater annual probability of flooding, the principle risk in this instance being from coastal inundation.

The accompanying Flood Risk Assessment (FRA) submitted in support of the application identifies that the 1 in 200 year still water level is 3.04mAOD. Taking into account the potential effect of wave action and climate increase the design flood level to 3.34mAOD; the minimum freeboard has been identified as 600mm above this level, this figure has been agreed by both SEPA and the Council's Flood Alleviation Manager who states that a minimum FFL of 4.0mAOD should be achieved. SEPA

have also confirmed that, given that the principle source of flood risk is coastal, the proposed development of the site is not likely to have a significant detrimental effect on flood plain storage, conveyance or impact local flooding problems.

The proposed finished floor level of blocks A and B is set at 3.3mAOD on the site plan and FRA (shown as 2.86 metres on the section plan) which is significantly below the minimum freeboard prescribed but ties in with the ground levels of the existing building which these blocks will physically tie into. The applicant has confirmed that as this portion of the development involves tying onto an existing structure this places significant constraint on the vertical arrangement of these blocks; it is however recommended that the freeboard provided will approximately equal the 1 in 200 design tide level and will be above the 1 in 100 year event. It is further stated that it is possible to design and construct the ground floor level of these blocks using flood resistant techniques for at least the lower 250mm of the outer walls to allow the building to conform to this environment. This might include use of water resistant materials, raised electrical equipment and appropriate door systems which would minimise damage to ground floor levels in the very infrequent 1 in 200 year event – it is noted that in such a case the depth of flooding if any water entered the building would be minimal 40-240mm and that refuge would be readily available on the lower landings of the property. SEPA has confirmed that the proposals for blocks A and B are acceptable as they involve the redevelopment of an existing building and are therefore considered to be outwith the scope of flooding advice contained within the Scottish Planning Policy and PAN 69 although the use of the afore-mentioned design improvements to minimise the impact of a flood event is recommended.

Blocks C & D are shown in the submitted plans as having a proposed finished floor level of 4.0mAOD which is approximately 660mm above the design flood level and is considered acceptable to SEPA and the Council's Flood Alleviation Manager.

Blocks E & F are shown in the submitted plans as having a proposed finished floor level of 3.5mAOD on the site plan and 3.25mAOD on the sections plan; the submitted FRA however details a design floor level of 3.475mAOD and it is upon this figure that SEPA have provided flood risk comment which notes that the FFL is only some 135mm above the design flood level it does not allow the provision of the recommended freeboard. Application of the minimum FFL of 4.0mAOD recommended by the Council's Flood Alleviation Manager would require the level of blocks E & F to be raised by at least 525mm; in this respect it is considered that such an increase can readily be accommodated without impact to privacy/amenity or existing streetscape given the location of these blocks away from the site frontage and the requirement of SEPA and the Council's Flood Alleviation Manager that ground levels within the site be raised to ensure safe access and egress to the development for emergency vehicles during a flood event (see below).

Existing site levels vary from 2.6m on Longrow rising to 3.44mAOD on the realigned section of Kinloch Road, falling off to 2.5m within the site of the former Council Roads Depot and 3.04m on the existing section of Kinloch Road to the east of the application site boundary. The submitted details indicate that site levels will be increased within the south eastern portion of the site with varying levels of between 3.2mAOD and 4.0mAOD to accommodate the new development. SEPA and the Council's Flood Alleviation Manager have both raised concern that the details as submitted would restrict access to the site for emergency service vehicles would be temporarily restricted during a design flood event – CIRIA report C624 indicates that viable access/egress is only available at low flood depths of 0.3m and less (i.e. 3.04mAOD in this instance). In this instance it is noted that the principle means of access comes from Longrow and will utilise the existing route of MacCallum Street

with existing site levels of approximately 2.65m which cannot be readily altered given the presence of existing buildings (in the event of a design flood event this would result in a flood depth which exceeds this requirement by approximately 0.1m). The submitted FRA notes that access for emergency vehicles can be achieved to blocks C,D,E & F during the design flood event; access to blocks A & B would be temporarily restricted as would access to existing adjoining property on Longrow. It is however unclear from the details submitted how emergency vehicles would gain access to the block E & F which lie to the rear of the site unless provision is made to utilise a proposed pedestrian link from the realigned Kinloch Road. SEPA also note that the proposed ground levels around blocks C, D, E & F are at or slightly below the design flood level – it is considered that these levels are capable of being raised marginally to accommodate these concerns without adverse impact to the existing streetscape, such an increase would also facilitate pedestrian access/egress during a design flood event and can be achieved by planning condition.

Having regard to the above, neither SEPA or the Council's Flood Alleviation Manager have raised objection to the proposal on grounds of flooding subject to minimum floor levels and emergency access being achieved; therefore subject to conditions, the proposal is considered to be consistent with the relevant requirements of the SPP, PAN 69, STRAT DC 10 and LP SERV 8.

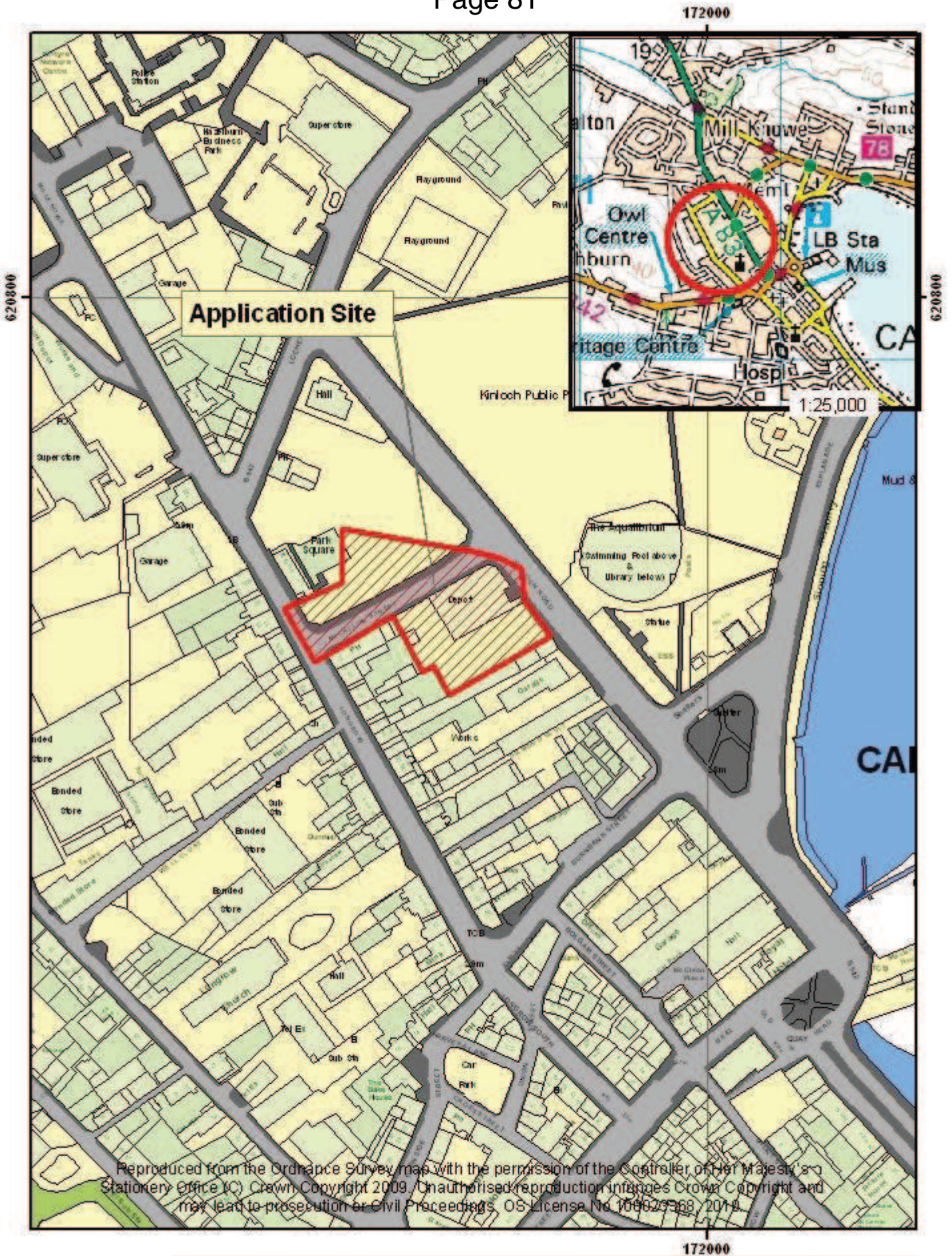
I. Contaminated Land

The former Council depot site has been investigated for contaminants and the significant levels of hydrocarbons have been found. The Council's contaminated land specialist has confirmed that remediation works to remove the contaminated material have been agreed and therefore is content for a suitably worded planning condition to be attached to any consent to ensure these works are carried out and the site remediated prior to the commencement of works.

J. Safeguarding of Notifiable Installations

The provisions of policy LP SERV 9 seeks to protect the interests of existing notifiable installations from encroachment by development which is incompatible with the safeguarding criteria for the installation.

The proposal lies within the safeguarding radius for the nearby gas storage facility and as such the Health and Safety Executive has been consulted for their comments. A consultation response dated 1st February has indicated an objection however discussions with HSE has resolved the issue. The applicant has essentially increased the site area through the use of the rear gardens in block B and incorporating part of the main road into the development area. Notice has been served onto the council as landowner of the road and the Area Roads Manager has not raised any concerns. This has effectively lowered the density of the development within the safeguarding zones to levels acceptable to the HSE development methodology. A consultation through HSE's online system (23rd March 2011) has removed the objection.



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Committee Plan Relative to Planning Application Ref: 10/02153/PP

Date: 20.04.2011

Scale: 1:2,500



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**Argyll and Bute Council
Development and Infrastructure Services**

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 11/00027/PP

Planning Hierarchy: Local

Applicant: Munro Bridging Finance (In Liquidation)

Proposal: Variation of Condition 1 of Planning Permission 05/01800/DET to extend validity of permission from 5 years to 6 years

Site Address: Land North of Ascog Mansions, Ascog, Isle of Bute

DECISION ROUTE

(i) Local Government (Scotland) Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

Variation of Condition 1 of Planning Permission 05/01800/DET (erection of ten dwellinghouses) to extend permission from 5 years to 6 years

(ii) Other specified operations

Not applicable

(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission be granted, as a 'minor departure' to the provisions of the Development Plan, subject to the conditions, reasons and informative notes given within this report.

(C) HISTORY:

Outline Planning Permission (ref: 112/79) was sought in February 1979 for the erection of 2 dwellings within the south eastern (roadside) corner of the current application site. After a site inspection, the application was refused on the grounds that it would adversely affect the character of the Conservation Area and could set a precedent for

further development that would erode the existing mature private open spaces between buildings.

An application for Detailed Planning Permission (ref: 01/01535/DET) for the erection of 10 dwellings on the subject site was withdrawn in January 2002.

An application for Detailed Planning Permission (ref: 02/01543/DET) for the erection of 12 dwellings on the subject site was withdrawn July 2004.

An application for Detailed Planning Permission (ref: 05/00863/DET) for the erection of 10 dwellings on the site was withdrawn in September 2005.

Detailed Planning Permission (ref: 05/01800/DET) was granted on 13th January 2006 for the erection of ten dwellinghouses and the installation of a discharge pipe to the sea on the subject site.

(D) CONSULTATIONS:

Area Roads Manager (comments received 24th February 2011)

Seeking visibility splays of 42 metres by 2.4 metres. A Road Construction Consent and Road Bond will be required.

E) PUBLICITY:

Article 9 neighbour notification procedure (closing date 8th February 2011) and Conservation Area Advert (closing date 18th February 2011).

(F) REPRESENTATIONS:

Representations have been received from a total of seventeen people as follows:

R H Carley, Clyde House, Ascog, Isle of Bute (letter dated 25th January 2011)

Jack Torrens, Unit 3, Ascog Mansion, Ascog, Isle of Bute (emails dated 31st January 2011 and 23rd February 2011)

Robert S Hall, The Old Manse, Ascog, Isle of Bute (letter dated 2nd February 2011 and e-mail dated 24th February 2011)

Ronald Falconer, Hawkstone Lodge, Ascog, Isle of Bute (e-mail dated 13th February 2011)

James Hendry, Invergyle Cottage, Ascog, Isle of Bute (e-mails dated 14th February 2011 and 12th April 2011)

Norman and Gail Foster, Seal Lodge, Ascog, Isle of Bute (e-mails dated 16th February 2011 and 3rd April 2011)

Douglas Lindsay, 3 Tarfside, Ascog, Isle of Bute (e-mail dated 23rd February 2011)

Norman Elliott, 1 Tarfside, Ascog, Isle of Bute (e-mail dated 24th February 2011)

Sue Dennis, The Pumphouse, Ascog, Isle of Bute (e-mail dated 24th February 2011)

Tony Harrison, 1 Eastlands Park, Rothesay, Isle of Bute (e-mail dated 24th February 2011)

Beryl Harrison, 1 Eastlands Park, Rothesay, Isle of Bute (e-mail dated 24th February 2011)

John Dennis, The Pumphouse, Ascog, Isle of Bute (e-mail dated 24th February 2011)

E McVey, Ascog Farm, Ascog, Isle of Bute (e-mail dated 24th February 2011)

Philip Kirkham, Crofton Cottage, Ascog, Isle of Bute (e-mail dated 25th February 2011)

Colin Slinn, Capital Developments (GB) Ltd, 145-147 St John Street, London (e-mails dated 25th February, 28th February, 20th March and 28th March 2011)

Louise Johnson, Millburn, Ascog, Isle of Bute (e-mail dated 10th March 2011)

The points raised can be summarised as follows:

- i. Town and Country Planning (Scotland) Act 1997 clearly states (Section 58) that the consent is for five years from the date of grant or deemed to grant. There is no provision in the Act that if an application is made to extend the life of the permission before it expires, it does not expire on the due date and is still a valid consent after that date. The effect of this is that, on the 13th January 2011, the permission ceased to exist. The Committee cannot consider an application pursuant to a permission that has expired and does not exist as a matter of fact and law. They have no authority or power to extend the time for the validity of the application beyond 13th January 2011 if they are asked to consider it after that date. If they acted to extend the life of the permission which has already expired such a decision would be amenable to judicial review as being an *ultra vires* act by the Committee.

Comment: This issue will be addressed in Appendix A below.

- ii. Proposal represents a threat to road safety on the basis of the location of the access and the frequency of vehicles travelling the road.

Comment: This issue will be addressed in Appendix A below.

- iii. Certain properties have not been notified as neighbours.

Comment: As far as can be ascertained, all of those properties with a notifiable interest under Regulation 18 of the Town and Country (Development Management Procedure) (Scotland) Regulations 2008 were properly served with the requisite notification.

- iv. The proposal is contrary to many Local Plan policies – LP ENV 1; LP ENV 2; LP ENV 7; LP ENV 11; LP ENV 12; LP ENV 19; LP SERV 1; LP SERV 2; LP SERV 3; LP SERV 8; and LP TRAN 4.

Comment: An assessment of the proposal against the relevant Development Plan policies is carried out in Appendix A below.

- v. Concern that the proposal would have an effect on wildlife within the site and in its environs.

Comment: The developers will be reminded by way of a note of their responsibilities in respect of protected species.

- vi. It is put forward that the interests of the community would not be best served by extending the permission. If permission is refused, either the owners will have to make a fresh application for a scheme which more accurately matches the market and the needs of the community, or they will have to sell to a developer and the developer will have to make a fresh application.

Comment: The Council is duty bound to determine the application as submitted.

- vii. The proposed development is inappropriate and out of scale with surrounding existing properties.

Comment: This issue will be addressed in Appendix A below.

- viii. The legal position is that the applicant is not in liquidation and is still in administration. The application should, therefore, be in the name of the joint administrators at KPMG in Edinburgh or in the name of the company with their consent. The name and title of the applicant being incorrect means that the statement of truth signed by the applicant is wrong and, therefore, the application is invalid.

Comment: The application form states that the applicant is "Munro Bridging Finance in Liquidation c/o KPMG 20 Castle Terrace, Edinburgh". The agent is Alan McCaw of DM Hall. It is considered that the application form contains correct information in respect of the applicant and that the application can be competently determined by the Council on that basis.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) **Environmental Statement:** No
- (ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
- (iii) **A design or design/access statement:** No
- (iv) **Supporting Information**

DM Hall (letter dated 14th March 2011) has advised of the following:

The reason the existing consent needed to be extended is that KPMG have agreed to sell the site to a house builder, subject to the existing consent being extended. It is KPMG's understanding that the builder intends to build out the site as soon as the consent has been granted. It is hoped that the Council would agree that, in this difficult economic climate, this is very encouraging news and hopefully it will deliver some much needed economic activity within the area.

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

(H) PLANNING OBLIGATIONS

(i) Is a Section 75 agreement required: No

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

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

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

Argyll and Bute Structure Plan 2002

STRAT DC 1 – Development within the Settlements

STRAT DC 9 – Historic Environment and Development Control

Argyll & Bute Local Plan 2009

LP ENV 10 seeks to resist development within Areas of Panoramic Quality where its scale, location or design will have a significant adverse effect on the character of the landscape.

LP ENV 14 presumes against development that does not preserve or enhance the character or appearance of an existing Conservation Area.

LP ENV 19 *'Development Layout, Setting & Design'* requires developers to execute a high standard of setting, layout and design where new developments are proposed.

LP HOU 1 presumes in favour of housing developments of appropriate scale unless there is an unacceptable environmental, servicing or access impact.

LP HOU 2 states that all new housing developments with a total capacity of 8 dwellings or more should contribute 25% of the total number of units as affordable housing.

LP TRAN 4 states that, in the case of new public roads, the new road shall be constructed to a standard as specified in the Council's Road Development Guide. Such a standard will be reflective of the development's location i.e. in a settlement, in a rural or remote rural situation, or in a Conservation Area.

(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.

Appeal decision (ref: PPA-180-2007) dated 15th September 2010 to carry out development of 18 dwellinghouses in Dundee without compliance with Condition 1 of Permission 08/00124/FUL.

(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 (ref: 05/01800/DET) was granted on 13th January 2006 for the erection of 10 dwellinghouses and the installation of a discharge pipe to the sea on land to the north of Ascog Mansions, Ascog, Isle of Bute. The present application, which seeks to vary condition 1 of the permission to extend the period by which development is to commence from 5 years to 6 years, was registered on 12th January 2011, one day before the permission was due to expire. Having regard to recent case history in similar cases, it is considered competent to proceed with the determination of the application.

There have been some changes in circumstance since 2006 and one of these (the standard of sightlines) is considered to be relatively insignificant. However, Policy LP HOU 2 was introduced in the 'Argyll and Bute Local Plan' 2009 and this sets out the requirements for affordable housing contribution. In essence, sites of eight or more dwellinghouses should have an affordable housing contribution of 25%.

Notwithstanding the effect of LP HOU 2, there are other factors that should be taken into account. These factors are as follows:

- The development relates to the erection of ten substantial dwellinghouses. It is not considered that the type and form of development which is proposed would be conducive the provision of affordable housing on the site;
- There is recent evidence to suggest that there is an overprovision in affordable housing on the Isle of Bute;
- The pursuit of affordable housing at this site, either through on-site provision or through a Section 75 agreement relating to the provision of a commuted sum could present an obstacle to facilitating development. In the context of the current economic climate and recent government advice, it is considered that encouragement should be given to supporting development wherever that is both possible and reasonable.

On the basis of the foregoing, the application is being recommended for approval as a 'minor departure' to the affordability requirements of the 'Argyll and Bute Local Plan' 2009.

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

(R) Reasons why planning permission or a Planning Permission in Principle should be granted

The proposal accords with policy STRAT DC 1 and STRAT DC 9 of the Argyll and Bute Structure Plan 2002 and policies LP ENV 10, LP ENV 14, LP ENV 19, LP HOU 1 and LP TRAN 4 of the Argyll and Bute Local Plan (2009) and can be justified as a minor departure from Policy LP HOU 2 of the Local Plan 2009. The proposal raises no other material consideration which would justify refusal of permission.

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

Policy LP HOU 2 was introduced in the Argyll and Bute Local Plan 2009 and sets out the requirements for affordable housing contribution. In essence, sites of eight or more dwellinghouses should have an affordable housing contribution of 25%.

Notwithstanding the terms of LP HOU 2, there are other factors that should be taken into account. These factors are as follows:

- The development relates to the erection of ten substantial dwellinghouses. It is not considered that the type and form of development which is proposed would be conducive to providing affordable housing;
- There is recent evidence to suggest that there is an overprovision in affordable housing on the Isle of Bute;
- The pursuit of affordable housing at this site, either through the physical erection of dwellinghouses or through a Section 75 agreement relating to the provision of a commuted sum, might be considered as an obstacle to facilitating development particularly in the context of a site being sold on by the receiver. In the context of the current economic climate and recent government advice on not overburdening the house-building sector with unnecessarily onerous obligations, it is considered that encouragement should be given to enabling development wherever that is both possible and reasonable.

On the basis of the foregoing, the application can be justified as a minor departure to the Argyll and Bute Local Plan 2009.

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

Author of Report: Steven Gove

Date: 3/6/2011

Reviewing Officer: David Eaglesham

Date: 3/6/2011

**Angus Gilmour
Head of Planning**

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO: 11/00027/PP

1. That the development to which this permission relates must be begun by 30th 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.

NOTES TO APPLICANT

In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.

In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.

Legal/Ownership Issues

Correspondence has been received from the Director of Capital Developments (GB) Ltd and the Caledonian Contracting Partnership Ltd to the effect that his company owns part of the land under which the discharge pipe is proposed to be constructed.

Prior to the commencement of the development, the applicants should satisfy themselves that they have sufficient control over all of the land within the application site to enable the development to be constructed in accordance with the approved plans and in compliance with Condition 10 above.

Surface Water

The Area Roads Manager has advised that a system of surface water drainage is required to prevent water running off the road in accordance with Section 99 of the Roads (Scotland) Act 1984, which states that:

"(i) The owner and occupier of any land, whether or not that land is such as constitutes a structure over or across a road, shall prevent any flow of water, or of filth, dirt or offensive matter from, or any percolation of water through, the land onto the road."

A drainage system including positive surface water drainage measures should be agreed with the Area Roads Manager. The applicant is advised to contact the Area Roads Manager (Mr. Paul Farrell tel. 01369 708600) directly in this regard.

Road Opening Permit

The Area Roads Manager has advised that the proposed works will require a Road Bond (Section 17), Construction Consent (Section 21) and a Road Opening Permit (Section 56). The applicant is advised to contact the Area Roads Manager (Mr. Paul Farrell, tel. 01369 708600) directly upon this matter.

Water/Sewerage

The applicant is advised by Scottish Water, that:

- The applicant must make separate application to Scottish Water, Planning & Development Services team for permission to connect to the public water network at the appropriate time. It is important to note that the granting of planning permission does not guarantee a connection to Scottish Water's assets.
- Scottish Water's network is not affected by this proposal at this time; however, a supply from the public water network is dependent on the spare capacity at the time of the application for a water connection.
- Planning & Development Services no longer deal with requests for location of services. Should the developer require this information, they should contact Property Searches Department, Bullion Road, Dundee DD2 5BB.
- There are no known sewers in the vicinity of the proposed development. It is advisable that any septic tank should be sited in such a manner as to allow easy access for emptying by tanker.

For all of the advisory points given above, the applicant/developer is advised to contact Scottish Water directly (Developer Services, tel.0845 601 8855, or at www.scottishwater.co.uk).

Permitted Development

The applicant is advised that the site is within the Rothesay Conservation Area within which an Article 4 Direction has removed the '*permitted development*' rights associated with alterations/extensions to dwellings and the erection of outbuildings within the curtilages of dwellings. In this regard, all future occupiers of the dwellings should be made aware that an approach should be made to Planning Services (tel: 01369 708607 or 708606) prior to any such works being undertaken.

Septic tanks

If planning permission has been issued to you including a specific location and type for a septic tank and/or outfall and if, for any reason, it is necessary to change the location of the tank or outfall an additional permission will be necessary and further advice should be sought from your local planning office.

In addition, before a **Building Warrant** will be granted and as part of the ground assessment you will require to have trial holes dug to specified dimensions to determine the position of the water table and soil type and conditions and submit the results of a professionally carried out percolation test using the method described in BS 6297:1983 or other acceptable method to determine the area of ground required for the "infiltration system".

Connection to a Future Public Sewerage System

SEPA has stated that the development should be connected into the public sewerage system when the facility to do so becomes available. The developer should make contact with Scottish Water to ascertain the likelihood of such a facility becoming available.

Protected species

The developers are reminded of their responsibilities under the Conservation (Natural Habitats etc. Regulations) 1994 whereby it is an offence to damage or destroy the breeding or resting place of any European Protected Species. Although there has not been evidence of the presence of any such species at the time of permission being granted, it remains the developer's responsibility to check for the presence of any protected species prior to development and to see any necessary licence in respect of disturbance to that species as a consequence of development. Advice in respect of the conservation status of species and the necessity of any mitigation measures may be sought from Scottish Natural Heritage.

ANNEX A – RELATIVE TO APPLICATION NUMBER 11/00027/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The site is located within the settlement zone of Rothesay, where policies seek to focus development within. On this basis, the proposal is considered to accord with STRAT DC 1 of the Structure Plan.

B. Location, Nature and Design of Proposed Development (Including Impact upon Built Environment)

The proposed development is the same as that approved in 2006 and, in terms of layout, scale, density and design, it was considered to be acceptable at that time. On the basis that there has been no material change in circumstance since January 2006, the development remains acceptable.

On the basis of the foregoing, it is considered that the proposal is in accordance with Policy STRAT DC 9 of the Structure Plan and policies LP ENV 10, LP ENV 14, LP HOU 1 and LP ENV 19 of the Local Plan.

C. Road Safety

There were a number of conditions attached to the original permission in terms of road safety and the only material change in circumstance since 2006 has been a revision in the Council's standard for sightlines in this location. It is recommended that the revised visibility splays are incorporated into Condition 14.

On the basis of the foregoing, and subject to the recommended safeguarding conditions, the proposal is considered to accord with policy LP TRAN 4 of the Local Plan.

D. Affordable Housing

One relatively significant change in circumstance since 2006 is the introduction of LP HOU 2 of the Argyll and Bute Local Plan 2009. This advocates that that all new housing developments with a total capacity of 8 dwellings or more should contribute 25% of the total number of units as affordable housing. This applies in this instance as the total number of units is 10.

A letter has been sent to the agent, D M Hall, seeking their views on the most appropriate method of securing affordable housing within the site. They have responded (letter dated 11th May 2011) by stating the following:

"We would like the application to proceed on the basis that we would again reiterate that the application in front of you at present is only to extend the time period of the application from 5 years to 6 years. In consideration of this matter, we believe that the changes to the local plan policy, which have been adopted since the consent was granted, are not a material consideration when determining this application. We would, therefore, be grateful if you could conclude your application determination on this information."

As mentioned in the next section, when an application is being considered under Section 42(1) of the Town and Country Planning (Scotland) Act 1997, the Planning Authority should consider only the question of the conditions to which permission should be granted. On this basis, it is

perfectly competent to address the issue of affordable housing and, equally, the most up-to-date policy should be that which the conditions are assessed against.

Notwithstanding the terms of LP HOU 2, there are other factors that should be taken into account. These factors are as follows:

- The development relates to the erection of ten substantial dwellinghouses. It is not considered that the type and form of development which is proposed would be conducive to providing affordable housing;
- There is recent evidence to suggest that there is an overprovision in affordable housing on the Isle of Bute;
- The pursuit of affordable housing at this site, either through the physical erection of dwellinghouses or through a Section 75 agreement relating to the provision of a commuted sum, might be considered as an obstacle to facilitating development particularly in the context of a site being sold on by the receiver. In the context of the current economic climate and recent government advice on not overburdening the house-building sector with unnecessarily onerous obligations, it is considered that encouragement should be given to enabling development wherever that is both possible and reasonable.

In this particular case, and having regard to the mitigating factors detailed above, it is considered reasonable to allow the application as a 'minor departure' to Policy LP HOU 2 of the Local Plan.

E. Procedural Matters

The application which has been submitted was made under Section 42(1) of the Town and Country Planning (Scotland) Act 1997, as amended, which applies to the determination of applications to develop land without compliance with conditions attached to a previous Planning Permission. In these circumstances, Section 42(2) states that the Planning Authority should consider only the question of the conditions subject to which permission should be granted. However, Section 42(4) states that Section 42 shall not apply if the previous permission was granted subject to a condition requiring the development to have begun within a certain time and that time has expired without the development having started. In this particular case, the application was submitted and registered prior to the permission having expired.

In an appeal decision (ref: PPA-180-2007) dated 15th September 2010, a Reporter specifically addressed the question of when an application for the variation of a condition can be submitted. He made the following statement:

"I have given this matter careful consideration but do not agree with the Council. Rather, I prefer the view put forward in the Counsel's opinion obtained by the appellant that it is the making of the application under Section 42(1) that is the material date, and not the date of its determination either by the Planning Authority or on appeal. To accept the Council's position would mean that a Planning Authority would only have to delay the determination of an application under Section 42 until after the original time had expired to effectively remove the applicant's right of appeal."

Having regard to the above very recent appeal decision, it is considered competent to proceed with the determination of the application.

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Location Plan relative to Application Ref: 11/00027/PP



Date: 22.03.11

Scale: 1:2,500

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**Argyll and Bute Council
Development & Regulatory 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: 11/00400/PP

Planning Hierarchy: Local Application

Applicant: Mr Thomas Malcolm

Proposal: Erection of extension and alterations to dwellinghouse and increase in roof height to provide additional accommodation

Site Address: 14 Kilmahew Avenue, Cardross

DECISION ROUTE

(i) Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of extension
- Raising of roof height

(ii) Other specified operations

- None
-

(B) RECOMMENDATION:

It is recommended that planning permission be approved subject to the attached conditions and reasons.

(C) HISTORY: None

(D) CONSULTATIONS:

Cardross Community Council (14/04/2011) Object to the application on the following grounds:

The extension seems not to conform to what may be appropriate or acceptable within the context of neighbouring properties.

The plan would substantially increase the footprint of the existing bungalow and the increase in roof height would constitute a considerable increase in scale overall.

The proposed extension would project beyond the front line of the house and would be at odds visually with the consistent appearance of other bungalows on the street.

The application may set a precedent. It is also a concern that smaller scale more affordable houses would be lost.

Several letters of support are from people outwith the area. Those opposed all come from local sources.

(E) PUBLICITY: None

(F) REPRESENTATIONS:

Six letters of objection and thirteen letters of support were received from the following:

Objections:

Robert Murray, 6 Napier Avenue, Cardross (email dated 14/04/2011)

W J Major, 41 Hillside Road, Cardross (email dated 04/04/2011)

A W Westwood, 16 Kilmahew Avenue, Cardross (email dated 11/04/2011 & 14/04/2011)

Mr and Mrs Leckie 29 Kilmahew Avenue Cardross (letter received 05/04/2011)

Margaret Johnston (email dated 07/04/2011)

Support:

Lynda Hayes (email dated 13/04/2011)

Brian McGinley, 48 St Annes Wynd, Erskine (email dated 14/054/2011)

Catherine Harkins (email dated 15/04/2011)

Paul Keerns (email dated 12/04/2011)

Lesleyanne Roy (email dated 12/04/2011)

Lisa Hawkins (email dated 13/04/2011)

Kimberley Moore (email dated 14/04/2011)

Jennifer Clarke (email dated 11/04/2011)

Alexis Watson (email dated 11/04/2011)

Kate McGinty (email dated 11/04/2011)

Emma Kelly (email dated 11/04/2011)

Veronica Cumming (email dated 11/04/2011)

Emma Warren 22 (email dated 11/04/2011)

(i) Summary of issues raised in objection

Local Plan Policy LP HOU 5 indicates that extensions should not dominate the original by way of size, proportion or design. This proposal will increase the footprint of the building by 42%, it will have a floor area 3 times that of the existing house, the total amount of building will exceed 33% of the site area, and it will destroy the front garden and reduce the external useable space.

Comment: See my assessment.

The development does not accord with the building line of the six bungalows on the street and will be out of character with the form on the street of which it is part.

Comment: See my assessment.

Approval of this planning application could create a dangerous precedent that would be detrimental to the existing street line and to the estate if followed by others.

Comment: Each case is judged on its own merit.

The extension will border an existing public access route. The removal or more than 100 metres of soil where the site meets the access route means that in icy conditions this could be hazardous.

Comment: The application site is adjacent to a public path. Each person is responsible for his/her own safety and it is not considered that the application will present a safety hazard.

The excavated area will be up to 2 metres deep. Water run-off sometimes leads to flooding and this can only increase. This change in levels between the development, my garden and the access route will lead to stability problems.

Comment: The processing of the building warrant will ensure that the extension is built to standard and these issues will be dealt with then.

My garden (41 Hillside Road) is north facing and to the east enjoys an open aspect. The development will be six metres high along my west boundary. It will be overbearing and obtrusive, overshadowing my property, particularly in the afternoon and evening, the amenity I enjoy and the introduction of a first floor window overlooking my garden affecting my property.

Comment: See my assessment. The view from the garden at 41 Hillside Road is currently fairly open, looking over the rooftops and front garden areas of the houses on Kilmahew Avenue from an elevated position. The proposed extension, will sit considerably lower than the existing dwelling at 41 Hillside Road. Once built, instead of having an open aspect over the front garden area of 14 Kilmahew Avenue, they will overlook a roof. View is not a material planning consideration but daylight, overshadowing and amenity are. While there will be an impact it is considered to be within acceptable limits given the elevated position number 41 Hillside Avenue has over this property. Furthermore, the proposed velux window to the roof of the proposed extension will not affect the privacy of the adjacent property since the views are oblique and will not be direct.

The change from a small affordable bungalow into a large four bedroom house is at odds with the Councils' Housing Strategy relating to affordable housing.

Comment: Each individual has the right to extend their own home.

There is evidence that the applicant could be running a business from the house.

Comment: This is an enforcement issue should this be the case.

What is the proposed timescale for the work? The applicant is a self employed builder and can be working till 10 o'clock at night which is very unsociable.

Comment: This is not a material planning consideration. The Environmental Health Department should be contacted with regards to noise issues at unsociable hours.

The right of way on the path is being used as a parking area this will only increase if construction work starts.

Comment: At the moment the start of the footpath is being used as a parking area but does not restrict access and this is unlikely to change when the extension is built. Therefore this is not a material planning consideration in the assessment of the current proposal.

Several of the letters of support come from people outwith the area. All of the letters of objection come from a local source.

Comment: Anyone can object or support a planning application, no matter where they live.

(ii) Summary of issues raised in support

The proposal is in keeping with the surrounding area.

I feel this development will improve the property value of the house and in turn the property value of the area.

It is important to encourage the development of the area as if people are not allowed to renovate their homes they will inevitably move out of the area.

It is wonderful to have a variety of houses in the area. Having visited Cardross there appears to be various extensions to most of the properties therefore the precedent has been set.

Due to the location of the house being on a hill and at the end of a cul de sac I can't see that there will be any light/amenity issues.

This is a young couple trying to turn a small house into a larger family friendly home. This should be welcomed by the Council as it will inject some much needed life into the area.

The proposal will create further parking by way of a large driveway and double garage which will reduce the need for parking on the street.

The topography of the site means that the house sits 1 metre below street level and appears 'sunk' and the house appears to be overlooked by its neighbours. By extending to the front of the site this will retain the private garden to the rear. It will also make the best use of the available land on site since due to the topography of the site is underused and exposed.

The area has a mix of single and two storey dwellings and dormer bungalows. The extension has been carefully designed to look single storey and unobtrusive and the character of the row of properties is retained.

Development in front of the building line is not uncommon in the surrounding area therefore does not create a precedent.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) **Environmental Statement:** No
- (ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
- (iii) **A design or design/access statement:** Yes
- (iv) **A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No

Summary of main issues raised by each assessment/report

Supporting statement

No 14 Kilmahew Avenue is a corner plot in terms of streetscape. The extension would result in an L shaped property consistent with the streetscape. The existing front building line would continue to reflect the properties to the west.

The property would continue to be perceived as single storey from the public road. Housing is a mix of single, 1 ½ and 2 storey properties and so increasing the roof height will not be out of keeping with the character of the area.

The extension will remain subordinate in scale to the main dwelling footprint. The rear garden would be unaffected by the proposals.

No 41 Hillside Road to the east and 16 Kilmahew Avenue to the north overlook and sit considerably higher than the application property. No 12 sits lower and has no east elevation windows. Considering the immediate context of the site, it can be concluded that the increased roof height will not adversely affect neighbours in terms of daylighting or privacy.

The windows proposed on the east elevation will sit at an angle and considerably lower than the west facing window of no 41 Hillside Road. The mutual boundary fence and shrubbery will act as a screen so the impact will be minimal.

The application property is sited at the corner of the street lending itself to a carefully positioned extension to the front.

The double garage and driveway will provide ample in curtilage parking provision for a resulting 4 bedroom house.

The resulting dwelling would be more energy efficient than the existing. The construction would comprise locally sourced materials where possible.

(H) PLANNING OBLIGATIONS

- (i) **Is a Section 75 agreement required:** No

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

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

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

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment
LP ENV 19 – Development Setting, Layout and Design

LP HOU 5 – House Extensions

LP TRAN 6 – Vehicle Parking Provision

Appendix A – Sustainable Siting and Design Principles

- (ii) **List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009.**

Argyll & Bute Sustainable Design Guidance (2006)

(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): A total of 19 letters and e-mail representations have been received. Of these, 6 are from objectors and 13 are in support of the proposal. Given this and that it is a minor, householder development; it is not considered that a hearing is justified in this instance.

(P) Assessment and summary of determining issues and material considerations

The proposal is for the erection of an extension to the front of a dwellinghouse and raising the height of the existing dwellinghouse. The extension will accommodate a double garage at ground floor level and the raising of the roof will allow for accommodation at first floor level.

The site sits at the end of a road in the middle of a hill and as such the house to the east side sits substantially higher than the existing house. This means that the raising of the roof will not seem overbearing or out of character with the existing streetscape. Since originally submitted the proposals have been subject to change to accommodate neighbour and planning concerns. In effect both the vertical and horizontal scale of the proposed extension has been reduced. The scale and design is considered to be acceptable and it is not considered that there will be any daylight, privacy or amenity issues.

It is considered that the proposal is acceptable and it is recommended that planning permission be granted.

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

(R) Reasons why planning permission or a Planning Permission in Principle should be granted

The scale and design of the proposed extension is acceptable and it raises no privacy/amenity issues. While the development is a minor departure from Appendix A of the Argyll and Bute Local Plan in terms of developed open space, it is considered that there will be adequate private open space to the rear of the dwelling and that the site will not appear over developed.

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

It is considered that the proposed extension sits comfortably within its plot and is of a scale and design in keeping with the existing house. The proposed extension, when added to the existing footprint of the house measures approximately 157 square metres. With the site area measuring 442 square metres this gives the total developed area of approximately 35% of the site. This is therefore a slight departure to policy since Appendix A of the adopted Local Plan restricts this to 33%. However, in this instance it is considered to be acceptable since the existing house will be left with a reasonably sized rear garden measuring approximately 142 square metres which is flat, useable private space associated with the dwelling which will be unaffected by the proposals. Furthermore, the front of the site will not appear over developed due to the unique position of the dwelling set off the end of a road, where the proposed front extension will be to the east of the site and will clearly mark the end of the road. An area of open space measuring approximately 75 square metres will remain to the front of the dwelling adjacent to this extension.

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

Author of Report: Stephanie Glen

Date: 31/05/2011

Reviewing Officer: Howard Young

Date: 01/06/2011

Angus Gilmour
Head of Planning & Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION 11/00400/PP

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

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

2. The development shall be implemented in accordance with the details specified on the application form dated 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.

NOTES TO APPLICANT

1. In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
2. In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 10/00400/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The site is within the settlement boundary of Cardross as defined by the adopted Local Plan. Within the settlement boundary there is a presumption in favour of development subject to compliance with all other Local Plan Policies.

B. Location, Nature and Design of Proposed Development

The application site is situated at the top of Kilmahew Avenue, Cardross. Kilmahew Avenue rises along its length which means that number 14 is higher than number 12, which is higher than number 10 and so on. Above number 14, but with a different road frontage, is 41 Hillside Road and adjacent to this is a footpath.

The proposal is for the erection of an extension to the front of the dwellinghouse and the raising of the ridge height of the existing dwelling. The ridge height of the existing building will be increased by approximately 1.6 metres which will allow the loft space to be converted to living accommodation. The upper floor would then accommodate 2 additional bedrooms and a bathroom. The extension will accommodate a double garage and will be finished in materials to match the existing dwelling. As originally submitted, the extension measured approximately 50 square metres and the ridge height of the extension was shown to match the proposed raised ridge height of the dwellinghouse. However this was considered to have an overbearing impact on the adjoining neighbouring property and the streetscape and as such the ridge height of the extension has been lowered by approximately 1.9 metres and the footprint reduced to approximately 45.5 square metres. This reduction has meant the loss of living accommodation above the garage, but this was necessary in order to reduce the impact of the extension on the streetscape and the adjoining property.

All of the houses to this side of Kilmahew Avenue are uniform in style; however number 14 is in a unique position as it clearly marks the end of the road. It is set off a small spur, which only serves the application dwelling and the footpath to the golf course beyond. The proposed extension would project from the front of the dwelling giving the house an L-shape. This is considered to be acceptable at this location as it clearly marks the end of the road. As the end property in this short row of similarly designed houses and sitting against a house at higher level of different design any visual impact will be limited and it is not considered that it will have a detrimental impact on the streetscape.

Policy LP HOU 5 and Appendix A of the adopted Local Plan gives advice on house extensions and sets out a number of criteria which should be adhered to. These include that the extension should not dominate the original building by way of size, scale proportion or design, that the materials should complement the existing house and that the extensions should not have significant adverse impact on the privacy of neighbours. Appendix A goes further than this and states that detached houses should only occupy a maximum of 33 % of their plot.

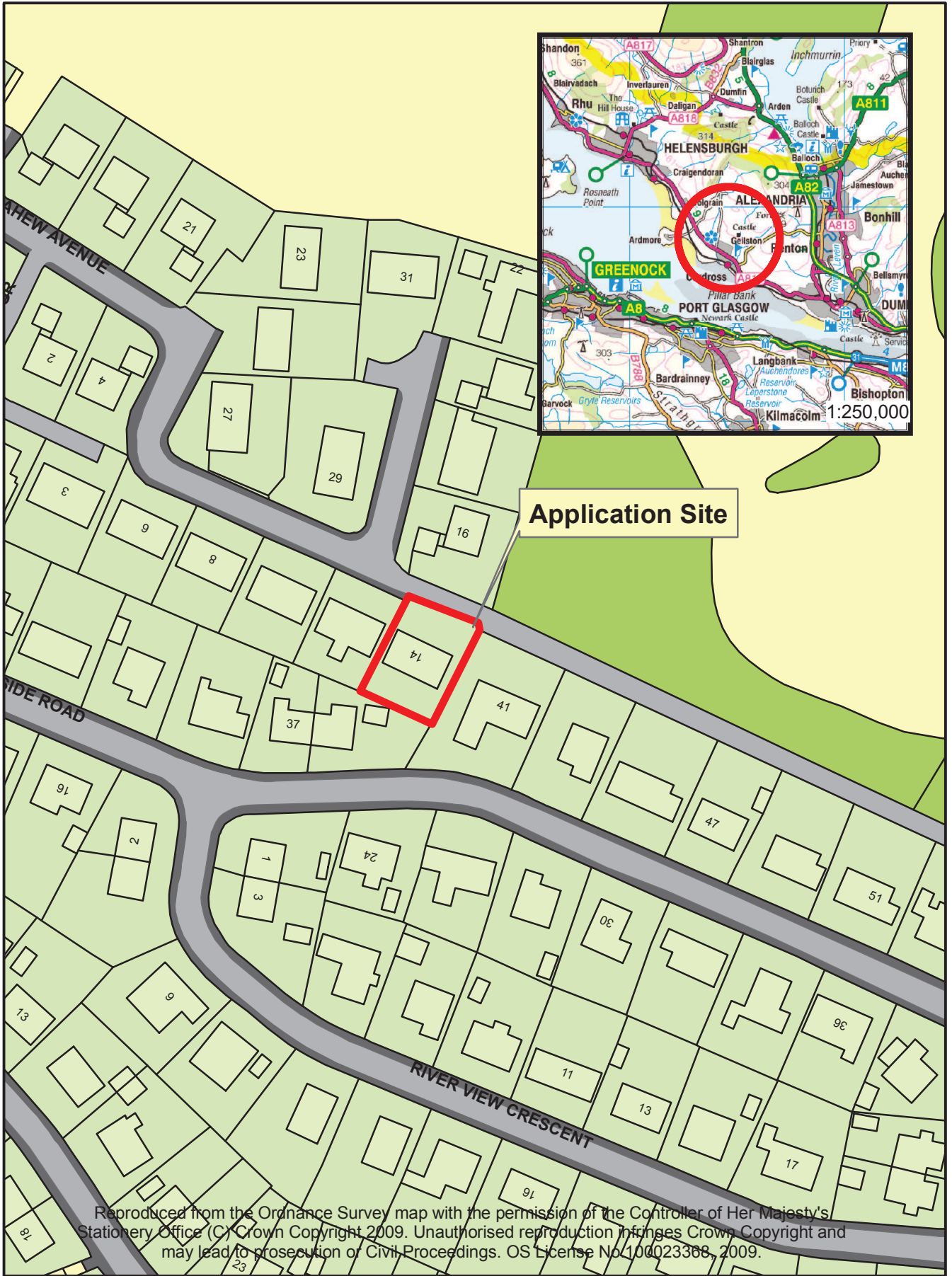
The proposed extension, when added to the existing footprint of the house measures approximately 157 square metres. With the site area measuring 442 square metres this gives the total developed area of approximately 35% of the site. This is therefore a

slight departure to policy. However, in this instance it is considered to be acceptable since the existing house will be left with a reasonably sized rear garden measuring approximately 142 square metres which is flat, useable private space associated with the dwelling which will be unaffected by the proposals. Furthermore, the front of the site will not appear over developed due to the unique position of the dwelling set off the end of a road, where the proposed front extension will be to the east of the site and will clearly mark the end of the road. An area of open space measuring approximately 75 square metres will remain to the front of the dwelling adjacent to this extension.

Concern has been raised that the proposed raised ridge height and front extension would have a detrimental impact on the amenity of the adjacent neighbouring property at 41 Hillside Road by way of daylighting, overshadowing and privacy. While this is an issue it is considered to be within acceptable limits. Because of the sloping nature of the site, the house at number 41 Hillside Road sits substantially higher than the existing dwellinghouse at 14 Kilmahew Avenue. There would be a slight loss of view since the rear garden of this property currently has an open aspect and with the extension the view will now be over the roof of the extension. However, view is not a material planning consideration. A velux window will be added to the roof of the proposed extension however, it will not affect the privacy of the adjacent property since the views are oblique and will not be direct. It is considered that raising the roof height of the existing building is acceptable given the existing streetscape and the fact that the dwellinghouse is located on a hill. The proposed extension although to the front of the dwelling, as previously mentioned, is at a unique position at the end of the road and therefore this will not look out of place on the streetscape. The height of the proposed extension will sit approximately 1.9 metres lower than the roof height of the main house, thus being subordinate and not over dominant.

C. Road Network, Parking and Associated Transport Matters.

The Area Roads Manager has no objections in principle to the application. However, he has noted that integral garages have the potential to be converted to extra living rooms without requiring planning consent. A condition has therefore been placed on the consent to ensure that there is adequate parking for three cars within the curtilage of the dwellinghouse, excluding the double garage.



Application Site

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Location Plan relative to Application Ref: 11/00400/PP



Date: 21.02.11

Scale: 1:1,250

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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: 11/00464/PP

Planning Hierarchy: Local Development

Applicant: Bossard's Patisserie

Proposal: Change of use of footpath to form outside seating area

Site Address: Bossard's Patisserie 1 Gibraltar Street, Oban, Argyll, PA34 4AY

DECISION ROUTE

(i) Local Government Scotland Act 1973

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

- Use of footpath to form outside seating area associated with cafe
-

(B) RECOMMENDATION:

Having due regard to the development plan and all other material considerations, it is recommended that planning permission be granted subject to the attached conditions.

(C) HISTORY:

There is no relevant planning property history.

(D) CONSULTATIONS:

Area Roads Manager

Report dated 18 April 2011

No objection subject to conditions re: barriers, duration and layout.

Public Protection Unit
Memo dated 7 April 2011
No objections

(E) PUBLICITY:

The proposal has been advertised in the local press as it affects the setting of a listed building. A site notice was also erected; both share a closing date of 05.05.2011.

(F) REPRESENTATIONS:

None received.

(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 | No |
-

(H) PLANNING OBLIGATIONS

- | | |
|---|----|
| (i) Is a Section 75 agreement required: | No |
|---|----|
-

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

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

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

Argyll and Bute Structure Plan 2002

STRAT DC 1 – Development within the Settlements

Argyll and Bute Local Plan 2009

LP ENV 1 – Impact on the General Environment
 LP ENV 13a – Development Impact on Listed Buildings
 LP ENV 19 – Development Setting, Layout and Design

- (ii) **List of other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009.**

Scottish Planning Policy (February 2010) – Town Centres and Retailing paragraphs 52 – 65

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

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

(M) Has a sustainability check list been submitted: No

(N) Does the Council have an interest in the site: Yes

(O) Requirement for a hearing (PAN41 or other): No

(P) Assessment and summary of determining issues and material considerations

Planning permission is sought for the change of use of an area of footpath to form a small outside seating area along the wall of Bossard’s Patisserie, 1 Gibraltar Street, Oban. The application only requires committee referral as the Council owns the land.

The proposal falls within the Oban settlement zone where there is a general presumption in favour of appropriate development that underpins the vitality and vibrancy of the town centre.

The proposal accords with Local Plan policy ENV 1 as it is of an appropriate form and scale in an appropriate location. Barriers will be erected to enclose the seating area in

the interests of public safety and to define the cafe customer space from the remaining public footpath. The use of the outside seating area will contribute to the character of Oban, particularly in the summer months; it will also benefit the business by increasing footfall with the seating area in place there remains ample space in this location for safe pedestrian access as well as easy through access for prams and wheelchairs.

Whilst the building adjacent to the patisserie – ‘1 High Street’ or ‘13 Argyll Square’ is a Category B listed building, the outside seating area will have a localised visual impact and will not unacceptably detract from the setting of the listed building.

The Area Roads Manager confirms no objection to the proposal subject to a condition requiring suitable barriers to enclose the seating area. It is highlighted that separate permission to occupy the footway under roads legislation is required from Development and Infrastructure Services, which is appropriately highlighted by a note to the applicant. The Area Roads Manager has recommended that the consent be limited to a period of five years given that it is development involving use of part of the highway, but as occupation of the footway will need to be the subject of an annual permit issued by them, it is not considered necessary to limit permission to a temporary period for planning purposes, as the Council will retain direct control over the duration of the use under roads legislation.

With the above assessment in mind I recommend that planning permission be granted subject the conditions attached to this permission.

Members are advised that a further application for an alternative proposal for a slightly larger external seating area, extending out to an existing notice board (planning reference 11/00710/PP) appears elsewhere on the agenda.

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

(R) Reasons why planning permission should be granted

The proposal is acceptable in terms of location, appearance and setting. The proposal raises no adverse privacy or amenity issues, nor unacceptable impacts on pedestrian safety. The formation of the outdoor seating area will contribute to Oban’s cafe culture and vitality. The proposal accords with structure plan policy STRAT DC 1 and local plan policies LP ENV 1, ENV 13a and ENV 19 of the adopted local plan.

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

N/A

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

Author of Report: Daniel Addis

Date: 31 May 2011

Reviewing Officer: Stephen Fair

Date: 31 May 2011

**Angus Gilmour
Head of Planning**

CONDITIONS AND REASONS RELATIVE TO APPLICATION 11/00464/PP

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

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

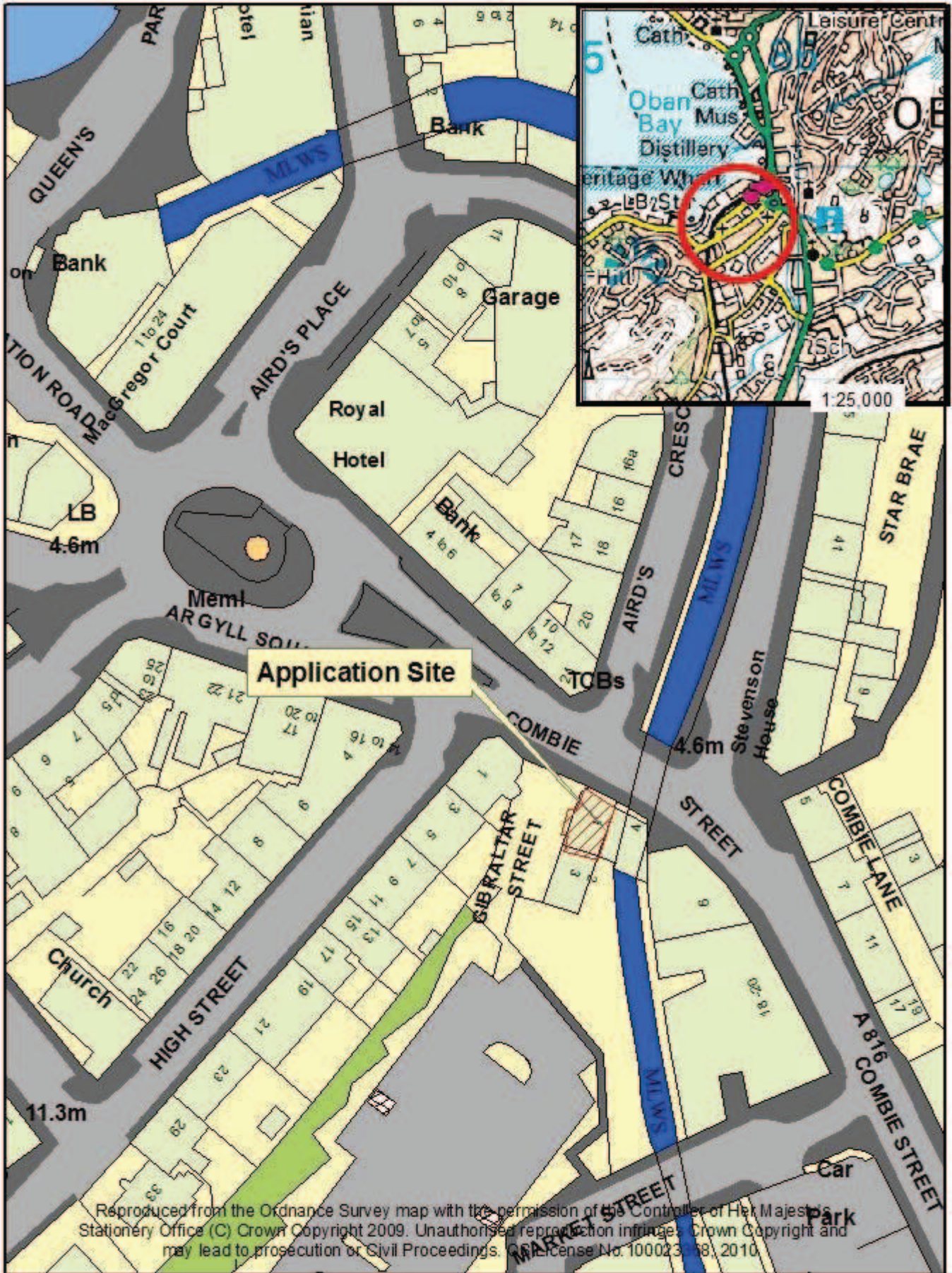
Plan 1 of 1 (Location Plan and Site Plan at scale of 1:2500 and 1:200)

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.

NOTE TO APPLICANT

- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the planning authority specifying the date on which the development will start.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997(as amended), it is the responsibility of the developer to submit the attached 'Notice of Completion' to the planning authority specifying the date upon which the development was completed.
- The Area Roads Manager has highlighted that in addition to this planning permission separate permission to occupy the footway is required directly from Development and Infrastructure Services under roads legislation. Contact: 01631 569170.



Committee Plan Relative to Planning Application Ref: 11/00464/PP

Date: May 2011

Scale: 1:1,000



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**Argyll and Bute Council
Development Services**

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 11/00710/PP

Planning Hierarchy: Local Development

Applicant: Bossard's Patisserie

Proposal: Change of use of footpath to form outside seating area

Site Address: Bossard's Patisserie 1 Gibraltar Street, Oban, Argyll, PA34 4AY

DECISION ROUTE**(i) Local Government Scotland Act 1973**

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

- Change of use of footpath to form outside seating area
-

(B) RECOMMENDATION:

Having due regard to the development plan and all other material considerations, it is recommended that planning permission be granted subject to the attached conditions.

(C) HISTORY:

11/00464/PP - Change of use of footpath to form outside seating area – report appears elsewhere on the agenda.

(D) CONSULTATIONS:

Area Roads Manager

Report dated 16 May 2011

No objection subject to conditions re: barriers, duration and layout.

Core Paths
Letter received 09 June 2011
No comments

Public Protection Unit
Memo dated 20 May 2011
No objections

(E) PUBLICITY:

The proposal has been advertised in the local press as it affects the setting of a listed building. A site notice was also erected; both share a closing date of 16.06.2011.

(F) REPRESENTATIONS:

None received.

(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 | No |
-

(H) PLANNING OBLIGATIONS

- | | |
|--|----|
| (i) Is a Section 75 agreement required: | No |
|--|----|
-

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

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

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

'Argyll and Bute Structure Plan' 2002

STRAT DC 1 – Development within the Settlements

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment

LP ENV 13a – Development Impact on Listed Buildings

LP ENV 19 – Development Setting, Layout and Design

- (ii) **List of other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009.**

Scottish Planning Policy (February 2010) – Town Centres and Retailing paragraphs 52 – 65

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

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

(M) Has a sustainability check list been submitted: No

(N) Does the Council have an interest in the site: Yes

(O) Requirement for a hearing (PAN41 or other): No

(P) Assessment and summary of determining issues and material considerations

Planning permission is sought for the change of use of an area of footpath to form a small outside seating area at Bossard's Patisserie, 1 Gibraltar Street, Oban. The application only requires committee referral as the Council owns the land.

The proposal falls within the Oban settlement zone where there is a general presumption in favour of appropriate development that underpins the vitality and vibrancy of the town centre.

The proposal accords with Local Plan policy ENV 1 as it is of an appropriate form and scale in an appropriate location. Barriers will be erected to enclose the seating area in

the interests of public safety and to define the cafe customer space from the remaining public footpath. The use of the outside seating area will contribute to the character of Oban, particularly in the summer months; it will also benefit the business by increasing footfall. With the seating area in place there remains ample space in this location for safe pedestrian access as well as easy through access for prams and wheelchairs.

Whilst the building adjacent to the patisserie – ‘1 High Street’ or ‘13 Argyll Square’ is a Category B listed building, the outside seating area will have a localised visual impact and will not unacceptably detract from the setting of the listed building.

The Area Roads Manager confirms no objection to the proposal subject to a condition requiring suitable barriers to enclose the seating area. It is highlighted that separate permission to occupy the footway under roads legislation is required from Development and Infrastructure Services, which is appropriately highlighted by a note to the applicant. The Area Roads Manager has recommended that the consent be limited to a period of one year given that it is development involving use of part of the highway, but as occupation of the footway will need to be the subject of an annual permit issued by them, it is not considered necessary to limit permission to a temporary period for planning purposes, as the Council will retain direct control over the duration of the use under roads legislation.

With the above assessment in mind I recommend that planning permission be granted subject the conditions attached to this permission.

Members should note that this is an alternative proposal for a larger seating area to that which is subject to planning application 11/00464/PP which appears elsewhere on the agenda.

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

(R) Reasons why planning permission should be granted

The proposal is acceptable in terms of location, appearance and setting. The proposal raises no adverse privacy or amenity issues, nor unacceptable impacts on pedestrian safety. The formation of the outdoor seating area will contribute to Oban’s cafe culture and vitality. The proposal accords with structure plan policy STRAT DC 1 and local plan policies LP ENV 1, ENV 13a and ENV 19 of the adopted local plan.

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

N/A

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

Author of Report: Daniel Addis

Date: 09 June 2011

Reviewing Officer: Richard Kerr

Date: 09 June 2011

**Angus Gilmour
Head of Planning**

CONDITIONS AND REASONS RELATIVE TO APPLICATION 11/00710/PP

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

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

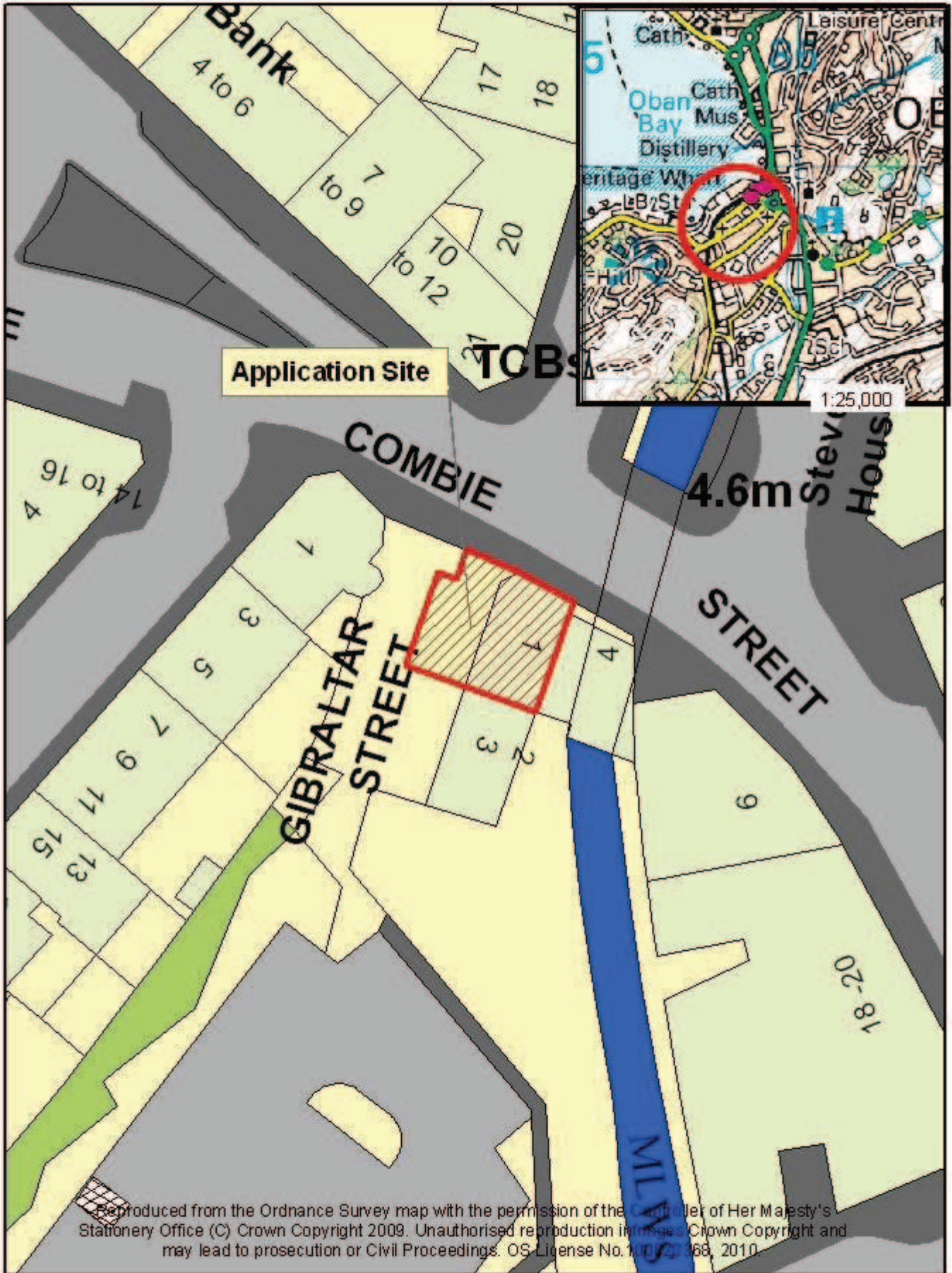
Plan 1 of 1 (Location Plan and Site Plan at scale of 1:2500 and 1:100)

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.

NOTE TO APPLICANT

- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the planning authority specifying the date on which the development will start.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997(as amended), it is the responsibility of the developer to submit the attached 'Notice of Completion' to the planning authority specifying the date upon which the development was completed.
- The Area Roads Manager has highlighted that in addition to this planning permission separate permission to occupy the footway is required directly from Development and Infrastructure Services under roads legislation. Contact: 01631 569170.



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Committee Plan Relative to Planning Application Ref: 11/00710/PP

Date: May 2011

Scale: 1:500



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ARGYLL AND BUTE COUNCIL**PLANNING, PROTECTIVE SERVICES &
LICENSING COMMITTEE****DEVELOPMENT AND
INFRASTRUCTURE****22 JUNE 2011**

**REQUEST FOR DISCHARGE OF S75 AGREEMENT PERTAINING TO
ERECTION OF DWELLING
LAND AT ARDACHUPLE, GLENDARUEL
99/01652/OUT – DONALD R MCNAUGHTON**

1. SUMMARY

Outline planning permission was granted in October 2000 for the erection of a dwellinghouse on a holding of 200ha. In order to comply with the Council's Settlement Strategy policies at that time, the ownership of the dwellinghouse was tied to the associated land holding by a Section 75 legal agreement. A request under the provisions of S.75A(2) of the Act has been submitted by the owner, Mr B McNaughton, to have the S.75 agreement discharged to allow the separate sale of the land from the dwellinghouse. However, he has confirmed that he would be prepared to enter into a revised agreement to preclude the erection of another house on the remaining holding.

2. RECOMMENDATION

Recommend that the request to discharge the S.75 Agreement be granted 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 costs of the Council's legal fees and outlays in relation to the proposed discharge and revised Agreement.

3. PLANNING HISTORY

The original applicant, Mr D. McNaughton, had advised that the Ardachuple Farm farm holding was left in 1993 to five brothers with the eldest brother, A. McNaughton, retaining the remainder of Ardachuple Farm including the farmhouse and outbuildings. The family decided that one of the brothers, N. McNaughton, who was engaged in farming in Perthshire, would return and take up the new holding at Ardachuple, hence the requirement for a new dwelling. It was envisaged that the Ardachuple holding would carry about approximately 200 ewes and 12 cows and, as such, on site supervision would be required.

In 1997, the Bute and Cowal Area Committee agreed to grant outline planning permission (reference 97/00108/OUT) for the erection of a dwelling on this site, but subject to a Section 75 Agreement to secure non-severance of the dwelling from the farmland. Upon further consideration of this by the applicant, he intimated that an agricultural occupancy condition was preferable to a Section 75 Agreement. Accordingly, on 14th September 1998 the Area Committee granted outline planning permission subject to 5 planning conditions, including condition 5 which restricted the occupation of the dwelling to agricultural employees. This permission was later revoked on 3 October 2000.

Application 99/01652/OUT was based on the original Bute and Cowal Area Committee decision of 2 December 1997 i.e. a planning permission with a Section 75 Agreement in respect of a non-severance agreement, but without the agricultural occupancy condition. The principle of the erection of a dwelling on the site had been established by the previous outline permission. It was considered that a Section 75 Agreement in respect of non-severance tying the dwelling to the surrounding land would ensure that a viable farm enterprise would remain, since the sale of the entire holding from the dwelling may lead to pressure for an additional dwelling in the future based on further agricultural justification. Planning permission was therefore granted on 17 October 2000, subject to conditions, after the completion of a Section 75 Agreement. Clause FIRST of the Agreement states “...*the said proposed new dwellinghouse shall not be sold, leased, disposed or otherwise alienated from the surrounding land holding amounting to some 500 acres...*”.

Reserved matters were approved for Mr Brian McNaughton on 11 April 2002 (02/00338/REM). The house was completed in 2005.

4. POLICY CONSIDERATIONS

Argyll and Bute Structure Plan 2002

STRAT DC 5 – Development in Sensitive Countryside

STRAT DC 8 – Landscape and Development Control

Argyll and Bute Local Plan 2009

LP ENV 1 – Development Impact on the General Environment

LP ENV 9 – Development Impact on National Scenic Areas

LP HOU 1 – General Housing Development

Scottish Government Circular 1/2010 – Planning Agreements

5. ASSESSMENT

The subject property is a detached house situated east of Loch Riddon on the east side of the A886, approx 2km south of its junction with the B836 Stronafian to Sandbank road.

At the time of determination of the original application (99/01652/OUT), the provisions of the Cowal Local Plan set out a general presumption against development at this location. Under POL RUR 1, the Council sought to resist prominent or sporadic development which would have an adverse environmental impact within the Kyles of Bute National Scenic Area. However, the proposal was justified under the relevant POL RUR 1 criteria on the grounds of locational/operational need. The development pattern of the area is one of widely scattered single properties and farm clusters and the proposal was considered to be consistent with this pattern but a justified locational/operational need was considered necessary to underpin the proposal and to prevent sporadic development in the area. The application was, however, supported by a valid claim for a new dwellinghouse at this location to ensure the management of livestock on an extensive holding. In order to underpin the locational/operational justification, the ownership of the dwellinghouse was tied to the associated land by means of a S.75 agreement.

The present owner, Brian McNaughton, has advised that, following purchase of the land in 2000, he rented the land to John McNaughton of Ardachuple Farm to undertake sheep and cattle grazing. He has confirmed that the land has formed part of the holding registered to John McNaughton at Ardachuple Farm, in breach of the terms of the agreement. Consequently he has never erected any agricultural buildings. He is a Railway Signalling Design Engineer and, for a number of reasons, emigrated to Australia in 2008 and has been unable to let the dwelling successfully, on either a long-term or holiday let basis. He has also had requests to purchase the land for forestry, game and farming ventures which he has had to turn down because of the S.75 Agreement. He confirms that he has made no attempt to market or sell either the house or land. He now seeks to return to the community and requests that the S.75 Agreement be revoked. However, he has confirmed that he would be prepared to enter into a revised agreement to preclude the erection of another house on the remaining holding.

The Argyll & Bute Local Plan 2009 includes this property within Sensitive Countryside and within the Kyles of Bute National Scenic Area which the provisions of policies STRAT DC 5 and LP HOU 1 advise does not have a general capacity to absorb any scale of new housing. A planning application for a new dwelling at this site would not therefore be supported by the current development plan.

However, although no evidence of any attempt to sell the house and land together has been submitted and no satisfactory case has been demonstrated which would overcome the reason for restricting the ownership of the dwellinghouse only six years after it has been completed, it has to be accepted that the premise upon which permission was originally granted never came about. Under the circumstances, little purpose would be served by retaining the restriction in its present form. In agreeing to the removal of the occupancy restriction it should be noted that there are sufficient residential properties (existing and consented) in association with the farm at Ardachuple to avoid future requirement for the provision of additional accommodation in association with the management of the holding and therefore occupation of this building for farm purposes is not essential to satisfy either current or likely future requirements. Nevertheless, it would be prudent to enter into a revised agreement to preclude the erection of another house on the remaining 200ha held by the present owner.

6. IMPLICATIONS

Policy: Consideration needs to be given to tighter scrutiny of claims for agricultural need, such as evidence of a separate registered farm holding.

Financial: None

Personnel: None

Equal Opportunities: None

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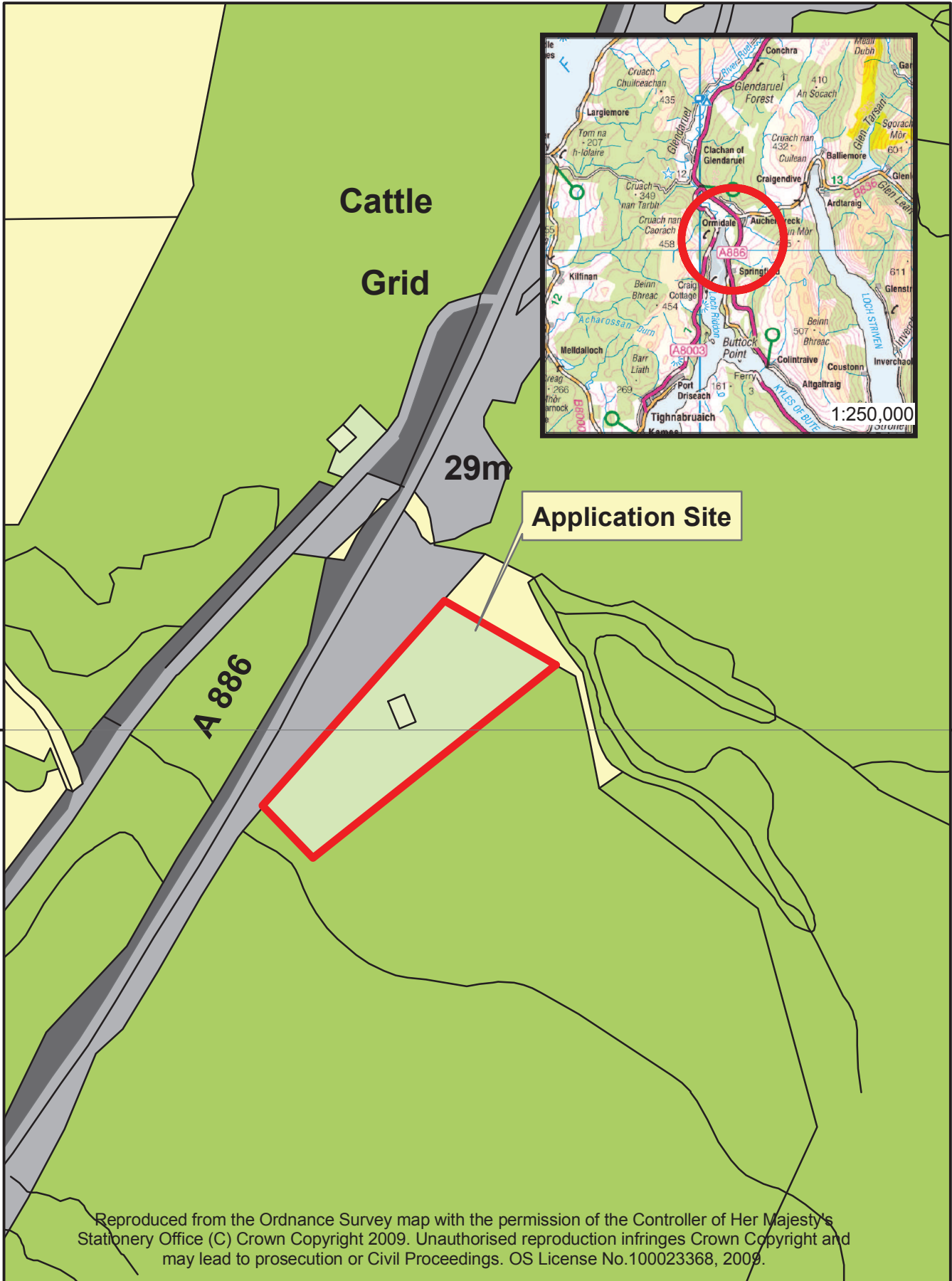
Reviewing Officer: Richard Kerr

Contact: 01546 604845

Angus J Gilmour
Head of Planning and Regulatory Services

3 June 2011

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Location Plan relative to Application Ref: 99/01652/OUT



Date: 28.04.11

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