

Argyll and Bute Council
Comhairle Earra Ghaidheal agus Bhoid

Customer Services
Executive Director: Douglas Hendry



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22 June 2011

NOTICE OF MEETING

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held in the **NORTH CONNELL VILLAGE HALL, NORTH CONNELL** on **THURSDAY, 30 JUNE 2011** at **2:00 PM**, which you are requested to attend.

Douglas Hendry
Executive Director - Customer Services

BUSINESS

- 1. APOLOGIES FOR ABSENCE**
- 2. DECLARATIONS OF INTEREST (IF ANY)**
- 3. ARGYLL PROPERTIES LTD: ERECTION OF A FLATTED DEVELOPMENT (5 FLATS): LAND EAST OF HAWTHORN EDGE, NORTH CONNELL, OBAN (REF: 10/02097/PP)**
Report by Head of Planning and Regulatory Services (Pages 1 - 22)

PROCEDURE NOTE

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

**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.
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(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 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 controls 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.

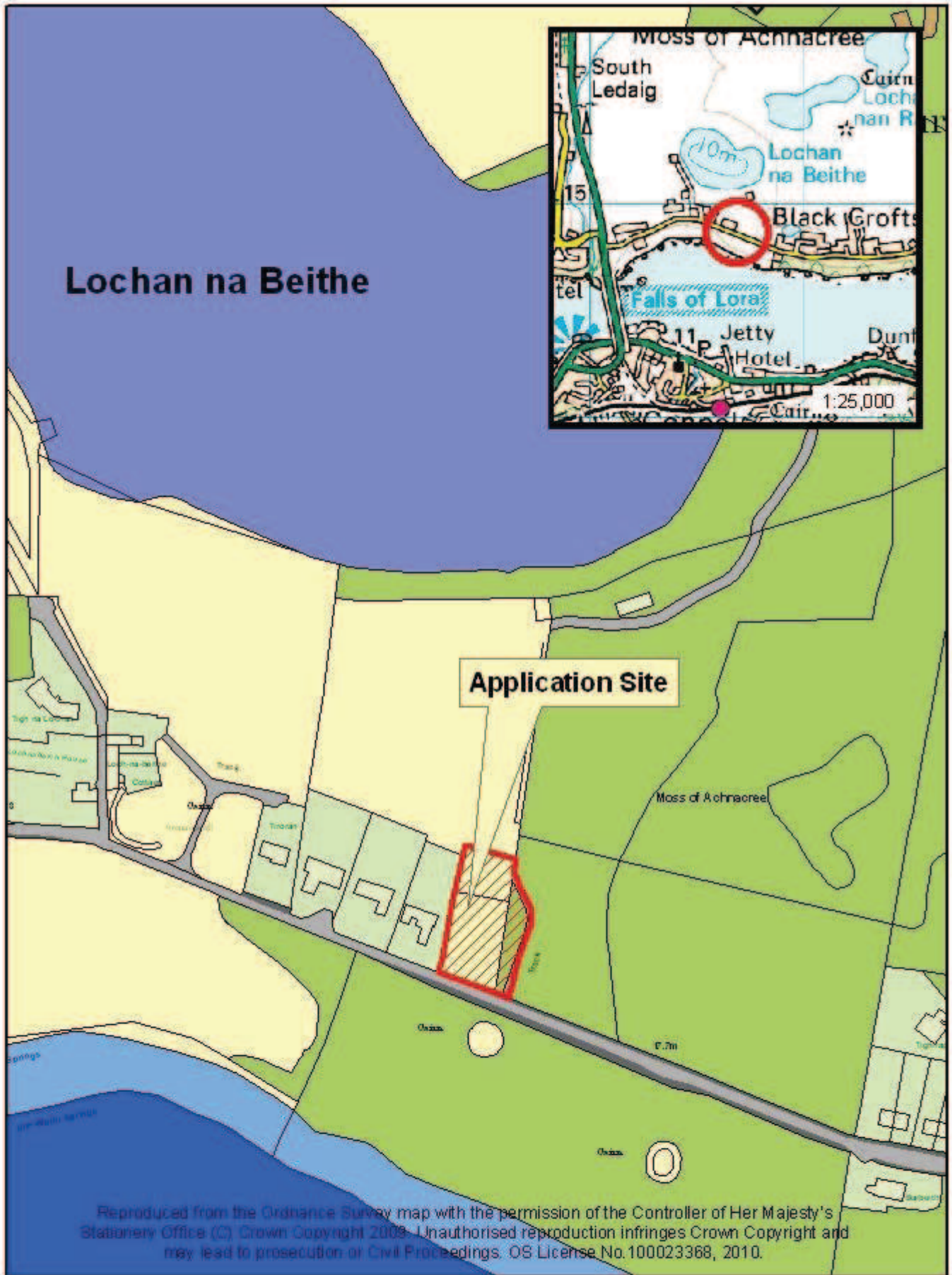
With regards to public access and rights of way, there is an existing track situated to the east of the application site which links with a woodland path which is situated to the north of the application site. With reference to the Argyll and Bute Local Plan 2009, a key aim of Policy 'LP TRAN 1 – Public 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

PROCEDURE NOTE FOR USE AT

- | | |
|--|--------------------------|
| (1) Statutory Pre Determination Hearing | <input type="checkbox"/> |
| (2) Pan 41 Hearing | <input type="checkbox"/> |
| (3) Council Interest Application | <input type="checkbox"/> |
| (4) Discretionary Hearing | x |

HELD BY THE PLANNING, PROTECTIVE SERVICES & LICENSING COMMITTEE

1. The Director of Customer Services will notify the applicant, all representees and objectors of the Council's decision to hold a Hearing and to indicate the date on which the hearing will take place. The hearing will proceed on that day, unless the Council otherwise decides, whether or not some or all of the parties are represented or not. Statutory consultees (including Community Councils) will be invited to attend the meeting to provide an oral presentation on their written submissions to the Committee, if they so wish.
2. The Director of Customer Services will give a minimum of 7 days notice of the date, time and venue for the proposed Hearing to all parties.
3. The hearing will proceed in the following order and as follows.
4. The Chair will introduce the Members of the Panel, ascertain the parties present who wish to speak and outline the procedure which will be followed.
5. The Director of Development and Infrastructure's representative will present their report and recommendations to the Committee on how the matter should be disposed of.
6. The applicant will be given an opportunity to present their case for approval of the proposal and may include in their submission any relevant points made by representees supporting the application or in relation to points contained in the written representations of objectors.
7. The consultees, supporters and objectors in that order (see notes 1 and 2), will be given the opportunity to state their case to the Council.
8. All parties to the proceedings will be given a period of time to state their case (see note 3). In exceptional circumstances and on good case shown the Panel may extend the time for a presentation by any of the parties at their sole discretion.

Ref: ABH1/2009

9. Members of the Panel only will have the opportunity to put questions to the Director of Development and Infrastructure's representative, the applicant, the consultees, the supporters and the objectors in that order.
10. At the conclusion of the question session the Director of Development and Infrastructure's representative, the applicant, any consultees present, the supporters and the objectors (in that order) will each be given an opportunity to comment on any particular information given by any other party after they had made their original submission and sum up their case.
11. The Chair will ascertain from the parties present that they have had a reasonable opportunity to state their case.
12. The Panel will then debate the merits of the application and will reach a decision on it. No new information can be introduced at this stage.
13. The Chair or the Committee Services Officer on his/her behalf will announce the decision.
14. A summary of the proceedings will be recorded by the Committee Services Officer.
15. If at any stage it appears to the Chair that any of the parties is speaking for an excessive length of time he will be entitled to invite them to conclude their presentation forthwith.

NOTE

- (1) Objectors who intend to be present and speak at a hearing are encouraged to appoint one or a small number of spokespersons to present their views to concentrate on the matters of main concern to them and to avoid repetition. To assist this process the Council will provide a full list of the names and addresses of all objectors.
- (2) Supporters who intend to be present and speak at a hearing are encouraged to appoint one or a small number of spokespersons to present their views to concentrate on the matters of main concern to them and to avoid repetition. To assist this process the Council will provide a full list of the names and addresses of all supporters.
- (3) Councillors (other than those on the Panel) who have made written representations and who wish to speak at the hearing will do so under category (1) or (2) above according to their representations but will be heard by the Panel individually.
- (4) Recognising the level of representation the following time periods have been allocated to the parties involved in the Hearing.

Ref: ABH1/2009

The Director of Development Services' representative – not more than half an hour

The Applicant - not more than half an hour.

The Consultees - not more than half an hour.

The Supporters - not more than half an hour.

The Objectors - not more than half an hour.

- (4) The purpose of the meeting is to ensure that all relevant information is before the Panel and this is best achieved when people with similar views co-operate in making their submissions.
- (5) Everyone properly qualified as a representee recorded on the application report who wishes to be given an opportunity to speak will be given such opportunity.
- (6) The Council has developed guidance for Councillors on the need to compose a competent motion if they consider that they do not support the recommendation from the Director of Development and Infrastructure which is attached hereto.

I:data/typing/planning/procedure note

COMPETENT MOTIONS

- Why is there a need for a competent motion?
 - Need to avoid challenge by “third party” to local authority decision which may result in award of expenses and/or decision being overturned.
 - Challenges may arise from: judicial review, planning appeal, ombudsman (maladministration) referral. All appeal/review processes have rights to award expenses against unreasonable/unlawful behaviour.
- Member/Officer protocol for agreeing competent motion:
 - The process that should be followed should Members be minded to go against an officer’s recommendation is set out below.
- The key elements involved in formulating a competent motion:
 - It is preferable to have discussed the component parts of a competent motion with the relevant Member in advance of the Committee (role of professional officers). This does not mean that a Member has prejudged the matter but rather will reflect discussions on whether opinions contrary to that of professional officers have a sound basis as material planning considerations.
 - A motion should relate to material considerations only.
 - A motion must address the issue as to whether proposals are considered consistent with Adopted Policy or justified as a departure to the Development Plan. Departure must be determined as being major or minor.
 - If a motion for approval is on the basis of being consistent with policy reasoned justification for considering why it is consistent with policy contrary to the Head of Planning’s recommendation must be clearly stated and minuted.
 - If a motion for approval is on the basis of a departure reasoned justification for that departure must be clearly stated and minuted. Consideration should be given to holding a PAN 41 Hearing (determined by policy grounds for objection, how up to date development plan policies are, volume and strength of representation/contention)
 - A motion should also address planning conditions and the need for a Section 75 Agreement.
 - Advice from the Scottish Government on what are material planning considerations is attached herewith. However, interested parties should always seek their own advice on matters relating to legal or planning considerations as the Council cannot be held liable for any error or omission in the said guidance.

DEFINING A MATERIAL CONSIDERATION

1. Legislation requires decisions on planning applications to be made in accordance with the development plan (and, in the case of national developments, any statement in the National Planning Framework made under section 3A(5) of the 1997 Act) unless material considerations indicate otherwise. The House of Lord's judgement on *City of Edinburgh Council v the Secretary of State for Scotland* (1998) provided the following interpretation. If a proposal accords with the development plan and there are no material considerations indicating that it should be refused, permission should be granted. If the proposal does not accord with the development plan, it should be refused unless there are material considerations indicating that it should be granted.
2. The House of Lord's judgement also set out the following approach to deciding an application:
 - Identify any provisions of the development plan which are relevant to the decision,
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies,
 - Consider whether or not the proposal accords with the development plan.
 - Identify and consider relevant material considerations for and against the proposal, and
 - Assess whether these considerations warrant a departure from the development plan.
3. There are two main tests in deciding whether a consideration is material and relevant:
 - It should serve or be related to the purpose of planning. It should therefore relate to the development and use of land, and
 - It should fairly and reasonably relate to the particular application.
4. It is for the decision maker to decide if a consideration is material and to assess both the weight to be attached to each material consideration and whether individually or together they are sufficient to outweigh the development plan. Where development plan policies are not directly relevant to the development proposal, material considerations will be of particular importance.
5. The range of considerations which might be considered material in planning terms is very wide and can only be determined in the context of each case. Examples of possible material considerations include:
 - Scottish Government policy, and UK Government policy on reserved matters
 - The National Planning Framework
 - Scottish planning policy, advice and circulars
 - European policy
 - A proposed strategic development plan, a proposed local development plan, or proposed supplementary guidance

Ref: ABH1/2009

- Guidance adopted by a Strategic Development Plan Authority or a planning authority that is not supplementary guidance adopted under section 22(1) of the 1997 Act
 - A National Park Plan
 - The National Waste Management Plan
 - Community plans
 - The Environmental impact of the proposal
 - The design of the proposed development and its relationship to its surroundings
 - Access, provision of infrastructure and planning history of the site
 - Views of statutory and other consultees
 - Legitimate public concern or support expressed on relevant planning matters
6. The planning system operates in the long term public interest. It does not exist to protect the interests of one person or business against the activities of another. In distinguishing between public and private interest, the basic question is whether the proposal would unacceptably affect the amenity and existing use of land and buildings which ought to be protected in the public interest, not whether owners or occupiers of neighbouring or other existing properties would experience financial or other loss from a particular development.